

No. _____

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IN THE

SUPREME COURT OF THE UNITED STATES

JERRY N. ALFRED — PETITIONER*
(Your Name)

VS.

JULIE L. JONES — RESPONDENT(S)

ON PETITION FOR A WRIT OF CERTIORARI TO

FLORIDA SUPREME COURT

(NAME OF COURT THAT LAST RULED ON MERITS OF YOUR CASE)

PETITION FOR WRIT OF CERTIORARI

Jerry N. Alfred

(Your Name)

Apalachee Correctional Institution

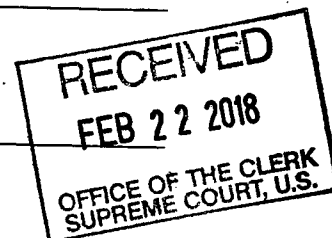
35 Apalachee Drive

(Address)

Sneads, FL 32460

(City, State, Zip Code)

(Phone Number)



*As a pro-se litigant, the Petitioner is entitled to a liberal reading of this pleading. See Haines v. Kerner, 404 U.S. 519 (1972).

QUESTION(S) PRESENTED

COULD THE FLORIDA SUPREME COURT UNILATERALLY RESCIND A CONSTITUTIONAL RIGHT CONFERRED BY THE FLORIDA CONSTITUTION CONSISTENT WITH ARTICLE IV, SECTION 4, OF THE UNITED STATES CONSTITUTION, WHICH GUARANTEES A "REPUBLICAN FORM OF GOVERNMENT" TO THE FIFTY STATES?

DID THE FLORIDA SUPREME COURT EFFECTIVELY AMEND THE FLORIDA CONSTITUTION OUTSIDE THE CONSTITUTIONAL PROCESS THAT IT SETS FOR PROSPECTIVE AMENDMENTS UNDER ARTICLE XI, SECTION 5(a), THEREOF BY UNILATERALLY RESCINDING A CONSTITUTIONAL RIGHT WITHOUT THE ELECTORATE'S PARTICIPATION MUCH LESS RATIFICATION?

LIST OF PARTIES

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

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IN THE
SUPREME COURT OF THE UNITED STATES

PETITION FOR WRIT OF CERTIORARI

Petitioner respectfully prays that a writ of certiorari issue to review the judgment below.

OPINIONS BELOW

☐ For cases from **federal courts**:

The opinion of the United States court of appeals appears at Appendix _____ to the petition and is

☐ reported at _____; or,
☐ has been designated for publication but is not yet reported; or,
☐ is unpublished.

The opinion of the United States district court appears at Appendix _____ to the petition and is

☐ reported at _____; or,
☐ has been designated for publication but is not yet reported; or,
☐ is unpublished.

☒ For cases from **state courts**:

The opinion of the highest state court to review the merits appears at Appendix A 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 _____ court appears at Appendix _____ to the petition and is

☐ reported at _____; or,
☐ has been designated for publication but is not yet reported; or,
☐ is unpublished.

JURISDICTION

☐ For cases from **federal courts**:

The date on which the United States Court of Appeals decided my case was _____.

☐ No petition for rehearing was timely filed in my case.

☐ A timely petition for rehearing was denied by the United States Court of Appeals on the following date: _____, and a copy of the order denying rehearing appears at Appendix _____.

☐ An extension of time to file the petition for a writ of certiorari was granted to and including _____ (date) on _____ (date) in Application No. ____ A ____.

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

☒ For cases from **state courts**:

The date on which the highest state court decided my case was 11 / 14 / 17.
A copy of that decision appears at Appendix A.

☐ A timely petition for rehearing was thereafter denied on the following date: _____, and a copy of the order denying rehearing appears at Appendix _____.

☐ An extension of time to file the petition for a writ of certiorari was granted to and including _____ (date) on _____ (date) in Application No. ____ A ____.

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

CONSTITUTIONAL AND STATUTORY PROVISIONS INVOLVED

ARTICLE IV, Section 4,

UNITED STATES CONSTITUTION

ARTICLE I, Section 13,

FLORIDA CONSTITUTION

ARTICLE V, Section 3(6)(9),

FLORIDA CONSTITUTION

ARTICLE XI, Section 5(a),

FLORIDA CONSTITUTION

STATEMENT OF THE CASE

On August 14, 2017, the Petitioner Forwarded a petition for writ of habeas corpus to the Honorable Justice Barbara Pariente of the Florida Supreme Court. In it, he presented a single claim arguing that he was wrongfully convicted through fraud on the court and, consequently, was entitled to a judicial inquiry into the legality of his natural life imprisonment.

To support his claim that he had been wrongfully convicted, the Petitioner attached five exhibits to his petition. Collectively, these exhibits (see APPENDIX B) conclusively established that the State falsified an "updated" transcription of a key witness's taped statement, lied to the trial judge that it rather than the original transcription accurately reflected the contents of the taped statement, and allowed the key witness to falsely testify in a manner consistent with the falsified "updated" transcription as well as affirmatively demonstrated that the original transcription was truly accurate.

Three months subsequent to its filing, the Florida Supreme Court dismissed the Petitioner's petition. Reviewing the dismissal order discloses

that the Florida Supreme Court's decision was a result of its determination that "relief is not authorized" notwithstanding the Florida Constitution and the Florida Statutes provisions conferring it habeas corpus jurisdiction.

In view of this fact, the Petitioner now seeks a writ of certiorari from the Honorable Court directed at the Florida Supreme Court.

¹ See Article V, Section 3(6)(9), Florida Constitution and § 79.01, Florida Statutes.

REASONS FOR GRANTING THE PETITION

COULD THE FLORIDA SUPREME COURT UNILATERALLY RESCIND A CONSTITUTIONAL RIGHT CONFERRED BY THE FLORIDA CONSTITUTION CONSISTENT WITH ARTICLE IV, SECTION 4, OF THE UNITED STATES CONSTITUTION, WHICH GUARANTEES A "REPUBLICAN FORM OF GOVERNMENT" TO THE FIFTY STATES?

It is an ancient maxim of constitutional law that EVERY court within the United States MUST adhere to the United States Constitution. See Marbury v. Madison, 1 CRANCH 137 (1803); Ex parte Royall, 117 U.S. 241 (1886); see also U.S. ex rel. Kennedy v. Tyler, 269 U.S. 13 (1925) ("... its [state court of original jurisdiction] obligation to render such decisions as will give full effect to the supreme law of the land and protect any right secured by it to the accused is the same that rests upon the courts of the United States.").

One of the fundamental principles set forth in the various articles enshrined in the United States Constitution is that guaranteeing to

the Fifty States a republican form of government. See Article IV, Section 4, United States Constitution. Under a republican form of government, sovereign power resides in the people and the constitution represents the expression of their sovereign will which cannot be vitiated without their blessing. See People v. Harris, 470 Mich. 882 (2004).

In violation of the aforementioned maxim, the Florida Supreme Court unilaterally rescinded a constitutional right conferred by the Florida Constitution. See Baker v. State, 878 So. 2d 1236 (Fla. 2004). In Baker, it held that it would simply dismiss as unauthorized habeas corpus petitions challenging a conviction or sentence filed by an imprisoned person who has not been sentenced to die - notwithstanding the Florida Constitution. See Article I, Section 13, and Article V, Section 3(6)(9), Florida Constitution.

Under the former article, the Great Writ is revealed to "be grantable of right, freely and without cost... and shall never be suspended unless... suspension is essential to the public safety." Whereas, under the latter article, the Florida Supreme Court is saddled with unqualified jurisdiction to entertain ha-

habeas corpus petitions. Combined, these two articles precluded the Florida Supreme Court's unilateral rescission of a constitutional right within the hierarchical framework of a republican form of government in which it is subordinate to the Florida Constitution relative to the political power structure in the State of Florida.

Given this reality, the Petitioner's habeas corpus petition, contrary to the Florida Supreme Court's determination, was not unauthorized. Therefore, it committed a constitutional error in failing to adjudicate on the merits the single claim presented challenging the State's use of false testimony to obtain his wrongful conviction.

DID THE FLORIDA SUPREME COURT EFFECTIVELY AMEND THE FLORIDA CONSTITUTION OUTSIDE THE CONSTITUTIONAL PROCESS THAT IT SETS FOR PROSPECTIVE AMENDMENTS UNDER ARTICLE XI, SECTION 5(a), THEREOF BY UNILATERALLY RESCINDING A CONSTITUTIONAL RIGHT WITHOUT THE ELECTORATE'S PARTICIPATION MUCH LESS RATIFICATION?

Each of the three co-equal branches of government is created by a constitution. Thus, as

a creature of constitutional creation, each is subject to the strictures of the constitution that created it. See Fletcher v. Peck, 6 CRANCH 87 (1809) ("... the legislature of Georgia, unless restrained by its own constitution, possesses the power of disposing of the unappropriated lands within its own limits, in such manner as its own judgment shall dictate, is a proposition not to be controverted").

Previously, the Petitioner established the existence of three consequential facts absolutely indispensable to the ultimate resolution of the present question. These are: one, the Florida Constitution confer the right of habeas corpus; two, the Florida Constitution saddles the Florida Supreme Court with unqualified jurisdiction to entertain habeas corpus petitions; three, the Florida Supreme Court subsequently rendered a decision restricting its habeas corpus jurisdiction relative to non-deathrow imprisoned persons.

More so than the first two consequential facts, the last one reveals that the Florida Supreme Court violated the Florida Constitution. See Article XI, Section 5(a), Florida Constitution. The above-cited article sets forth the exclusive method whereby a prospective amendment to the

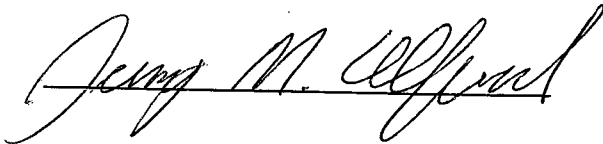
Florida Constitution could be made. See id. Because it does not entail any of the state courts rendering a decision that restricts the scope of a constitutional right, the Florida Supreme Court very clearly acted in a fashion contrary to the Florida Constitution. Record Harvard v. Singletary, 733 So.2d 1020 (Fla. 1999) (Overton, Senior Justice, dissenting) (opining that majority, by holding that it would simply transfer habeas corpus petitions "that do not require immediate resolution by this Court... has rewritten article V, section 3(6)(9), Florida Constitution."). As such, the Florida Supreme Court's decision restricting its habeas corpus jurisdiction in relation to non-deathrow imprisoned persons is undeniably a violation of the constitutional process enshrined in the Florida Constitution for a prospective amendment and, consequently, a clear violation of a basic principle of republican government that the constitution serves as a check on the power and actions of the three co-equal branches of government. See Fletcher supra. (holding that "[l]aw will not be declared unconstitutional unless opposition between law and Constitution is clear and plain."); see also Cohens v. Virginia, 6 Wheat 264 (1821) (affirming judicial review authority of United States Supreme Court over state courts' decisions.).

Based on the foregoing arguments and authorities, it is clear that the answers to the two questions presented are negative and affirmative, respectively; the Florida Supreme Court could not unilaterally rescind a constitutional right consistent with Article IV, Section 4, of the United States Constitution and violated the same when it effectively amended the Florida Constitution by restricting its habeas corpus jurisdiction outside the constitutional process.

CONCLUSION

The petition for a writ of certiorari should be granted.

Respectfully submitted,



Date: February 12, 2018