

PROVIDED TO  
HAMILTON CI  
MAY 14 2018  
RECEIVED BY W  
FOR MAILING

No. \_\_\_\_\_

IN THE  
SUPREME COURT OF THE UNITED STATES

ROBERT R. TAYLOR — PETITIONER  
(Your Name)

Julie L. Jones, vs.  
State of Florida, — RESPONDENT(S)  
Et. AL.

ON PETITION FOR A WRIT OF CERTIORARI TO

11<sup>th</sup> Circuit Court of Appeals  
(NAME OF COURT THAT LAST RULED ON MERITS OF YOUR CASE)

PETITION FOR WRIT OF CERTIORARI

ROBERT R. TAYLOR # P34566

(Your Name)

D-2127(S) - Annex  
Hamilton Correctional Inst.

(Address)

11419 S.W. County Rd # 249  
Jasper, FL 32052-3735

(City, State, Zip Code)

(386) 792-5899

(Phone Number)

RECEIVED

MAY 22 2018

OFFICE OF THE CLERK  
SUPREME COURT, U.S.

### QUESTION(S) PRESENTED

- 1) How can a Petitioner present a Constitutional claim in a COA in the District Court where the District Court denies the COA before its filed and the District Court does not address all grounds presented on the merits?
- 2) Is a District Court required to fully address every actual and factual innocence claim on the merits where it could serve as a “gateway” to have all claims addressed on the merits?
- 3) Is a true fundamental Constitutional miscarriage of justice, supported by new reliable documents and evidence sufficient grounds to have all claims addressed on the merits?
- 4) Where there is sufficient and adequate facts to show that post conviction counsel was constitutionally ineffective, is that sufficient grounds to be allowed into the District Court and to have all claims fully addressed on the merits?
- 5) Does a Record have to be complete and reviewed in the District Court before denying relief ? And the Circuit Court?

### LIST OF ALL PARTIES

Attorney General, Pamela J. Bondi, State of Florida  
The Capitol PL-01, Tallahassee, Florida 32399-1050

District Court of Appeal First District  
2000 Drayton Dr., Tallahassee, Florida 32399-0950

First Judicial Circuit Court Escambia County  
190 Governmental Center, Rm. 23001, Pensacola, FL 32502

United States District Court, Northern Florida  
100 N. Palafox St., Pensacola, Florida 32502-6556

Julie L. Jones Secretary, Florida Dept. of Corrections  
501 South Calhoun St., Tallahassee, Florida 32399-2500

Tony Anderson, Warden Hamilton Correctional Institution  
11419 S.W. County Road #249, Jasper, Fl 32052-3735

## TABLE OF CONTENTS

|                                                       |    |
|-------------------------------------------------------|----|
| OPINIONS BELOW.....                                   | 1  |
| JURISDICTION.....                                     | 2  |
| CONSTITUTIONAL AND STATUTORY PROVISIONS INVOLVED..... | 3  |
| STATEMENT OF CASE.....                                | 4  |
| ARGUMENT.....                                         | 7  |
| REASONS FOR GRANTING THE WRIT.....                    | 10 |
| CONCLUSION.....                                       | 11 |

## INDEX TO APPENDICES

|                                                                |  |
|----------------------------------------------------------------|--|
| Appendix – A – Denial of Motion for reconsideration            |  |
| Appendix – B - Motion to Reconsider                            |  |
| Appendix –C – Denial of COA 11 <sup>th</sup> Circuit           |  |
| Appendix – D- COA in 11 <sup>th</sup> Circuit                  |  |
| Appendix – E – District Court’s Denial of Motion to Reconsider |  |
| Appendix – F – Motion to Reconsider                            |  |
| Appendix – G – COA in District Court                           |  |
| Appendix – H – District Court’s Denial of COA                  |  |
| Appendix – I – Objections to Report and Recommendation         |  |
| Appendix – J – Magistrate’s Report and Recommendation          |  |
| Appendix – K – Amended Reply to State’s Response               |  |
| Appendix – L – Memorandum of Law                               |  |
| Appendix – M –28 U.S.C. § 2254                                 |  |

## TABLE OF AUTHORITIES CITED

### **CASES**

|                                                                           |       |
|---------------------------------------------------------------------------|-------|
| <u>Haines v Kerner</u> , 404 U.S. 519 (1972).....                         | 11    |
| <u>House v. Bell</u> , 547 U.S. 518 (2006);.....                          | 8     |
| <u>Ingram v. Stephens</u> , ___ U.S. ___, 134 S. CT. 367 (2013); .....    | 9     |
| <u>Johnson v. Avery</u> , 393 U.S. 483 (1969) .....                       | 11    |
| <u>Mancil v. Freeman</u> , ___ U.S. ___, 133 S. Ct. 2764 (2013).....      | 9     |
| <u>Martin v. Stephens</u> , ___ U.S. ___, 134 S. Ct. 550 (2013). .....    | 9     |
| <u>McQuiggan supra</u> , .....                                            | 9     |
| <u>McQuiggan v Perkins</u> , 569 U.S., ___, 133 S. Ct. 1924 (2013). ..... | 10    |
| <u>McQuiggans v. Perkins</u> , 569 U.S. ___, 133 S. Ct. 1924 (2013).....  | 8     |
| <u>Miller-EL v. Cockrell</u> , 573 U.S. 322 (2003).....                   | 8, 10 |
| <u>Schulp v. Delo</u> , 513 U.S. 298 (1995);.....                         | 8     |
| <u>Slack v. McDaniel</u> , 529 U.S. 473 (2000).....                       | 8, 10 |
| <u>Stratton v. Coleman</u> , ___ U.S. ___, 133 S.Ct. 2765 (2013); .....   | 9     |
| <u>Trevino v. Thaler</u> , ___ U.S. ___, 133 S.Ct. 1911 (2013); .....     | 8, 10 |
| <u>Vizcarra v. Thaler</u> , ___ U.S. ___, 133 S. Ct. 2763 (2013); .....   | 9     |
| <u>Williams v. Taylor</u> , 529 U.S. 362 (2000). .....                    | 7, 9  |

### **RULES**

|                        |   |
|------------------------|---|
| 28 U.S.C. § 2254,..... | 3 |
| 28 U.S.C. § 2253,..... | 3 |

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 A and C 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 \_\_\_\_\_ 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: February 16<sup>th</sup>, 2018, and a copy of the order denying rehearing appears at Appendix A.

☐ 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 \_\_\_\_\_.  
A copy of that decision appears at Appendix \_\_\_\_\_.

☐ 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

5<sup>th</sup> Amendment, the right to a fair trial

6<sup>th</sup> Amendment, the right to effective assistance of counsel

8<sup>th</sup> Amendment, the right to be free from cruel and unusual punishment

9<sup>th</sup> Amendment, the right to equal application of the law

14<sup>th</sup> Amendment, the right to due process of the law

28 U.S.C. § 2254

28 U.S.C. § 2253

### STATEMENT OF CASE/FACTS

The Petitioner began these proceedings by filing his 28 U.S.C. § 2254, (See Appendix M, Writ of Habeas Corpus) and supporting Memorandum of law, (See Appendix L Memorandum of law).

The Petitioner presented four (4) grounds with numerous sub-claims, each ground presenting an actual and factual innocence sub-claims and ground four (4) which presented seven (7) sub-claims of actual and factual innocence.

The Petitioner attached 160 pages of documents that were not presented to the jury, and also set forth that he had in his possession a DVD which conclusively showed that the Petitioner was actually and factually innocent and also showed that the State knowingly presented false and perjured testimony to secure the Petitioner's wrongful conviction which does constitute a fundamental Constitutional miscarriage of justice as no court has ever seen the DVD which shows the alleged victim in her first interview with investigator Tama Barker and is 100% different than the allegations presented at trial.

The Petitioner knew that his petition was untimely and presented numerous "gateway" sub-claims and a free-standing, Constitutionally ineffective post conviction counsel ground which also should have aided the Petitioner.

### STATEMENT OF CASE/FACTS (CONTINUED)

The Petitioner should have been afforded an evidentiary hearing in the Federal Courts in accord with well-established law as determined by this Honorable Court, which was not given meaning or effect.

When the State filed their Response to the “show cause” order they only addressed ground four and each of the seven (7) sub-claims, despite there being an actual and factual innocence sub-claim in every ground.

The Petitioner filed an Amended Reply to the State’s Response located at Appendix K.

The Magistrate’s Report and Recommendation located at Appendix J followed the Petitioner’s Amended Reply to the State’s Response.

The Petitioner filed Objections to the Report and Recommendation, which is located at Appendix I.

The District Court’s denial failed to address all grounds and denied a COA BEFORE it was filed located at Appendix H.

The Petitioner in accord with well-established law as determined by this Honorable Court filed a COA in the District Court despite their denial before it was filed. (See Appendix G, COA).

### STATEMENT OF CASE/FACTS (CONTINUED)

The District Court issued their denial of the COA located at Appendix H for which the Petitioner filed a Motion to Reconsider, See Appendix F which the District Court issued its denial, See Appendix E.

The Petitioner filed his COA in the 11<sup>th</sup> Circuit (See Appendix D), for which the 11<sup>th</sup> Circuit denied COA (See Appendix C).

The Petitioner filed a Motion to Reconsider (See Appendix B) for which the 11<sup>th</sup> Circuit issued their denial (See Appendix A).

## ARGUMENT

The Petitioner would assert that a Writ of Certiorari is one of the hardest legal documents to write as a pro se litigant and possibly one of the most important.

The Petitioner, who is actually and factually innocent, did fully believe that if he stood upon controlling law as determined by this Honorable Court and the protections of the United States Constitution that at some point the Petitioner would receive relief. See Williams v. Taylor, 529 U.S. 362 (2000).

The Petitioner did beat half of the erroneous allegations lodged against him in jury trial and had the DVD of the alleged victim, the Petitioner would have beat all of the charges.

The Petitioner refused to accept a plea where, adjudication would be withheld and did not require the Petitioner to serve any prison time, due to the fact that, the Petitioner was and is actually and factually innocent.

The Petitioner's belief in the criminal justice system has cost the Petitioner his life, which is slowly coming to an end.

The Petitioner has always stood up for this country and all that his country represents.

### ARGUMENT CONTINUED

The Petitioner still believes that truth and justice must prevail and all the Petitioner wants is a day in Federal Court to prove his innocence and clear his name before leaving this earth.

The Petitioner is by no means an attorney, but cannot find, despite diligent research where the parameters and boundaries of Slack v. McDaniel, 529 U.S. 473 (2000) and Miller-EL v. Cockrell, 573 U.S. 322 (2003) have been overruled, yet these holdings mean absolutely nothing in the Florida, Federal District Courts or in the 11<sup>th</sup> Circuit.

The same goes for Trevino v. Thaler, \_\_\_ U.S. \_\_\_, 133 S.Ct. 1911 (2013); Schulp v. Delo, 513 U.S. 298 (1995); House v. Bell, 547 U.S. 518 (2006); McQuiggans v. Perkins, 569 U.S. \_\_\_, 133 S. Ct. 1924 (2013).

This present case at bar presented an unusual circumstance where the Petitioner had proof of his actual and factual innocence, but was not allowed to present the proof, despite the fact that if what the Petitioner alleged was true, the Petitioner would have been entitled to relief.

The Petitioner relied upon a true fundamental Constitutional miscarriage of justice coupled with the fact that he is actual and factual innocent for his day in Federal Court, which never transpired due to the Federal Court's total failure to

## ARGUMENT CONTINUED

follow and apply the law as determined by this Honorable Court. See Williams v. Taylor, 529 U.S. 362 (2000).

This Honorable Court has consistently followed and applied these principles in accord with Stare Decisis pertaining to McQuiggan supra, as seen in Vizcarra v. Thaler, \_\_\_ U.S. \_\_\_, 133 S. Ct. 2763 (2013); Stratton v. Coleman, \_\_\_ U.S. \_\_\_, 133 S.Ct. 2765 (2013); Mancil v. Freeman, \_\_\_ U.S. \_\_\_, 133 S. Ct. 2764 (2013); Ingram v. Stephens, \_\_\_ U.S. \_\_\_, 134 S. CT. 367 (2013); Martin v. Stephens, \_\_\_ U.S. \_\_\_, 134 S. Ct. 550 (2013).

The Petitioner request that these principles be evenly and equally applied herein in accord with each Federal Constitutional protection. U.S.C. 4<sup>th</sup>, 5<sup>th</sup>, 6<sup>th</sup>, 8<sup>th</sup>, 9<sup>th</sup> and 14<sup>th</sup> Amendments.

## REASONS FOR GRANTING THE PETITION

- 1) Each question presented represents a large class of pro se litigants who are not being afforded their day in Federal Court in accord with precedent law as determined by this Honorable Court. Pursuant to Slack v. McDaniel, 529 U.S. 473 (2000) and Miller-EL v. Cockrell, 573 U.S. 322 (2003) (pertaining to the granting of a COA)
- 2) Pro se litigants are being denied meaningful access to the Federal Court's by the District Court's and Circuit Court's failure to properly apply McQuiggan v Perkins, 569 U.S., \_\_\_, 133 S. Ct. 1924 (2013).
- 3) Post conviction attorneys are barring pro se litigants from the Federal Court's and the Federal Court's do not understand that Trevino v. Thaler, \_\_\_ U.S. \_\_\_, 133 S.Ct. 1911 (2013); created meaningful access to the Court by allowing cause and prejudice to be applied but is not being evenly and equally applied.
- 4) The record is not correct and incomplete making it impossible for the Court's to perform a meaningful review.

## CONCLUSION

The Petitioner has presented the “Questions” and “Reason for Granting the Petition” as clear and concise as possible.

The Petitioner has lost everything he spent his life accumulating and has absolutely nothing to return to society to, due to these false allegations.

This present Writ has been prepared pursuant to the doctrine of Johnson v. Avery, 393 U.S. 483 (1969), for the Petitioner by a “Fellow Inmate/Next Friend” who is also a layman at the law and as such seeks this Honorable Court’s indulgence in reviewing this pleading with the less stringent standards than pleadings drafted by a bar certified attorney.

The Petitioner believes that this present Writ of Certiorari should be issued with directions that the 11<sup>th</sup> Circuit issue an order to the District Court to hold an evidentiary hearing in this cause to SEE the DVD that does fully exonerate the Petitioner before the DVD becomes lost.

The Petitioner is actual and factual innocent and believes that if this Honorable Court will evenly and equally apply the cited controlling law that relief will be warranted and required.

Pro se motions are to be liberally construed regardless of how inartfully they are pleaded. Haines v Kerner, 404 U.S. 519 (1972).

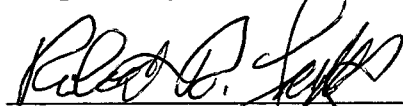
The "alleged" victim had just been caught altering 2 school report cards and sneaking her boyfriend in after curfew. She retreated to her father's house to avoid "restrictions" that were going to be placed on her.

On the Monday she left we were going to the school to see the unchanged report cards and see she had "skipped" 20 days of school.

#### CONCLUSION

The petition for a writ of certiorari should be granted.

Respectfully submitted,



ROBERT R. TAYLOR #P34566

Date: May 14<sup>th</sup>, 2018