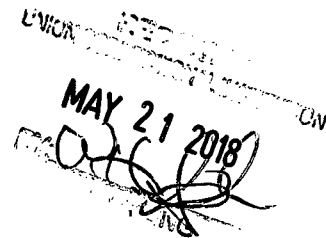


NO. _____



IN THE
SUPREME COURT OF THE UNITED STATES

WILLIAM H. PAIGE – PETITIONER

V.

JULIE JONES, D.O.C. – RESPONDENT(S)
ON *PETITION* FOR A WRIT OF *CERTIORARI* TO

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

PETITION FOR WRIT OF *CERTIORARI*

WILLIAM H. PAIGE 024779

UNION C. I. P. O. BOX 1000

RAIFORD, FLORIDA 32083

N/A
(Phone Number)

“QUESTION(S) PRESENTED”

(1). Did the Trial Court commit a substantial denial of Petitioner's 14th Amendment Right of the United States Constitution, denying Petitioner Due – Process of Law when sentencing Petitioner to Sixty (60) years for an uncharged offense not made in the information or indictment? State v. Gray, 435 So. 2d. 816 (Fla. 1983); Thornhill v. Alabama, 310 U.S. 88, 60 S. Ct. 736, 84 L. Ed. 1093 (1940); DeJonge v. Oregon, 299 U.S. 353, 57 S. Ct. 255, 81 L. Ed. 278 (1937).

(2). Did the Trial Court commit fundamental error when it barred Petitioner from challenging his illegal sentence that appears on the face of the record? Figueroa v. State, 84 So. 3d. 1158, (Fla. 2nd DCA 2012).

(3). Did the Florida Supreme Court commit fundamental error when it disregarded its own ruling? “The Oral Pronouncement,” Williams v. State, 957 So. 2d. 600, (Fla. 2007).



LIST OF PARTIES

[] All parties appear in the caption of the case on the cover page.

[X] 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:

- 1). The First Judicial Circuit Court, Escambia County, Pensacola, Florida.
- 2). The First District Court of Appeal, Tallahassee, Florida.
- 3). The Attorney General of the State of Florida.

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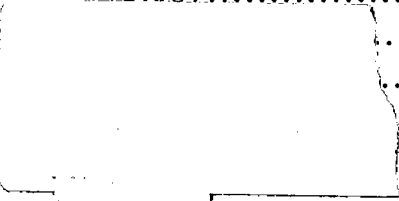
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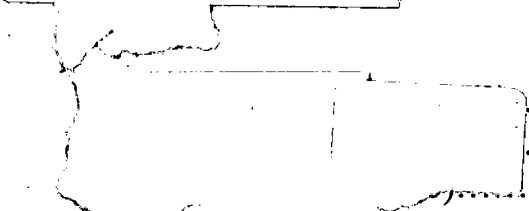
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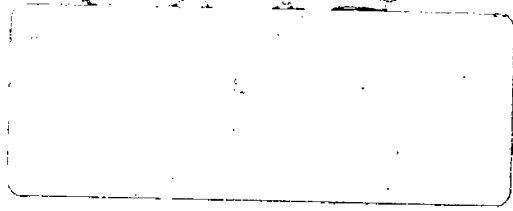
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IN THE
SUPREME COURT OF THE UNITED STATES
PETITION FOR WRIT OF *CERTIORARI*

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 N/A to the petition and is

☐ reported at N/a; 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 First District of Appeal court appears at Appendix B to the petition and is

☐ reported at _____; or,

☐ has been designated for publication but is not yet reported; or,

[X] is unpublished.

JURISDICTION

[] For cases from **federal courts**:

The date on which the United States Court of Appeals decided my case was N/A.

[] 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: N/A, 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 N/A (date) on N/A (date) in Application No. A.

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

[X] For cases from **state courts**:

The date on which the highest state court decided my case was Feb. 22, 2018. A copy of that decision appears at Appendix A.

[✓] A timely petition for rehearing was thereafter denied on the following date: Feb. 22, 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 N/A (date) on N/A (date) in Application No. N/A.

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

CONSTITUTIONAL AND STATUTORY PROVISIONS INVOLVED:

- 1). The Fourteenth Amendment of the United States Constitution:
- 2). Article 1, Section 16, **FLORIDA** Constitution:
- 3). Article 1, Section 9, **FLORIDA** Constitution:

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"STATEMENT OF THE CASE AND FACTS"

This matter came before the First Judicial Circuit Court in and for Escambia County, Florida. The Honorable John P. Kuder, Circuit Judge presided on July 29, 2002.

Petitioner was charged with a three (3) Count Information of: (1) Carjacking with a Firearm or deadly weapon, F.S. 812.133(2)(a) and 775.087; (2) Aggravated Assault by threat F.S. 784.021(a) and 775.087; and (3) Armed Kidnapping with a weapon, F.S. 787.01(1)(a) and F.S. 775.087. On July 29, 2002, the State proceeded to Jury Trial on Count One (1) and on Count Three (3).

Petitioner was found guilty by the Jury of a lesser-included offense of Carjacking in Count One (1); and guilty of a lesser-included offense of Kidnapping in Count Three (3).

On September 17, 2002, at sentencing, the Trial Judge erroneously orally pronounced Petitioner guilty of a lesser included offense of Kidnapping as Count One (1) and sentenced Petitioner to sixty (60) years; and in Count Two (2), the Trial Judge erroneously orally pronounced Petitioner Guilty of a lesser-included offense of Robbery and sentenced Petitioner to sixty (60) years in prison.

1). Petitioner argues, the Trial Judge Orally pronounced the sentence for Robbery in Count Two (2) and committed a substantial denial of Petitioner's 14th Amendment right of the United States Constitution denying Petitioner due process of Law when sentencing Petitioner to sixty (60) years for an uncharged offense not made in the information.

Petitioner argues, Due Process of Law requires the state to allege every essential element when charging a violation of law to provide the accused with sufficient notice of the allegations against him. Article 1, Section 9, Fla. Const.; M.F. v. State, 583 So. 2d. 1383, 1386-87 (Fla. 1991). There is a denial of Due Process when there is a conviction on a charge not made in the information or

indictment. See, State v. Gray, 435 So. 2d. 816, 818 (Fla. 1983); see, also Thornhill v. Alabama, 310 U.S. 88, 60 S. Ct. 736, 84 L. Ed. 1093 (1940); De Jonge v. Oregon, 299 U.S. 353, 57 S. Ct. 255, 81 L. Ed. 278 (1937); also see, Weatherspoon v. State, 214 So. 3d. 584, for an information to sufficiently charge a crime it must follow the statute, clearly charge each of the essential elements, and sufficiently advise the accused of the specific crime with which he is charged. See, Rosin v. Anderson, 155 Fla. 673, 21 So. 2d 143, 144 (Fla. 1945): An information is fundamentally defective where it fails to cite a specific section and totally omits an essential element of the crime. See, Figueroa v. State, 84 So. 3d. 1158, 1161 (Fla. 2d. DCA 2012).

2). The Petitioner argues, that any sentence that patently as to comport with constitutional and statutory limitation is by definition an Illegal Sentence that can be raised at any time. See, State v. Callaway, 658 So. 2d. 983, 988, (Fla. 1995); and Hopping v. State, 708 So. 2d 263, (Fla. 1998), any Illegal Sentence can not be barred by *Resjudicata* and *Collateral Estoppel* will not lie to bar a miscarriage of Justice which has occurred in this present case, and can not be deemed successive. Furthermore, in order to prevent a Manifest Injustice and a denial of Due Process, Relief may be afforded even to a litigant raising a successive claim. See, Figueroa v. State, 84 So. 3d. 1158, (Fla. 2d. DCA, 2012).

The Petitioner has suffered a plain fundamental error which has resulted in a miscarriage of Justice and Relief is warranted at any time due to the constitutional violation of the Due Process Clause of the 14th Amendment of the United States Constitution.

Petitioner contends, that these are the Illegal Sentences he has been appealing *pro se* that the Trial Court won't address, saying I must have an attorney to raise these issues, or be barred from raising it *pro se*. See, Trial Court's Order, prohibiting future *pro se* filing, Appendix D, pages 1 and 2.

I have shown the Trial Court on the face of the record that the imposition of the sixty (60) year sentences are a Manifest Injustice that must be corrected. When a Petition For Writ of Habeas Corpus alleging that the Petitioner is entitled to relief sets out plausible reason and specific factual basis in some detail, the custodian should be required to respond to the Petition. The very nature of the Writ demands that it be administered with the initiative and flexibility essential to insure that miscarriages of justice within its reach are surfaced and corrected. See, Harris v. Nelson, 394, U.S. 286, 291, 89 S. Ct. 1082, (1969).

(3). The Petitioner argues, that the Florida Supreme Court disregarded its own ruling and dismissed Petitioner's Writ of Habeas Corpus that violated his Due Process by not addressing an Illegal Sentence that was a plain fundamental error on the face of the record, and this Supreme Court quoted "They Generally will not consider the repetitive Petitions of persons who have abused Judicial Processes of the Lower Court such that they have been barred from filing actions there." See Appendix A, **ON** the dismissal of Petitioner Writ of Habeas Corpus.

The Petitioner argues, that this issue was a constitutional violation all over the pre-trial proceeding and, had Petitioner been granted an evidentiary hearing on this issue it would have been in his favor and the Trial Judge knew this.

The Jury verdict clearly demonstrates that the Petitioner was found guilty of a lesser-included offense of Carjacking in Count One (1), and a lesser-included offense of Kidnapping in Count Three (3). The Jury demonstrated that there was no Firearm or weapon used in the committing of the offense. See, Appendix E.

Petitioner argues, at sentencing, on September 17, 2002, the Trial Judge orally pronounced Petitioner guilty as Count One (1) to a lesser-included offense of Kidnapping and sentenced Petitioner to sixty (60) years, that is contrary to the statutory sentence for a lesser-included offense of Kidnapping, because under the

Florida Laws, F.S. 787.021(1)(a) which in essence is a Third-degree Felony, namely False Imprisonment that is punishable to a maximum of 5 years. See, Appendix G sentencing transcript.

The Petitioner argues, that the Florida Supreme Court held, that when there is a Discrepancy between the written sentence, and the "Oral Pronouncement," "The Oral Pronouncement" must prevail over the written sentence. See, Williams v. State, 957 So. 2d 600 (2007), Akins v. State, 69 So. 3d. 261 (Fla.), and U.S. v. Bonnilla, 579 f. 3d. 1233, 1245, 11th Cir. (2009).

FURTHERMORE, in this present case, the written order of Judgment is merely a record of the Oral Pronouncement, well to the contrary in the present case the written order of Judgment does not comport with the Petitioner's sentences, Orally announced. See, Appendix G, sentencing transcripts.

REASONS FOR GRANTING THE PETITION

The State Courts have committed a substantial denial of Petitioner's Fourteenth (14) Amendment of the United States Constitution by:

- (1) Denying Petitioner's Due Process of Law when the Trial Judge legislated from the bench a conviction and a sentence against Petitioner for Robbery, where there was no such charge in the information;
- (2) The First District Court of Appeal has ignored the facts on appeal by *per curiam affirming* the Trial Court;
- (3) The Florida Supreme Court has refused to hear the facts due to a procedural bar against Petitioner in the Lower Courts;
- (4) There is an exclusion in the Florida Courts and the Federal Courts of enforcing procedural bars where doing so would prevent the ends of Justice, and uphold the Manifest Injustice that exist in this case.

The Petitioner prays that this Court would grant him an Order for his Immediately Release.

CONCLUSION

The petition for a writ of *certiorari* should be granted.

Respectfully submitted,

William H. Paige #024779

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