

No.25-5826

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IN THE

# Supreme Court of the United States

October Term 2025

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Dover Davis Jr.

Petitioner

v.

Aaron Swann,  
Police Officer City of Atlanta

Respondent

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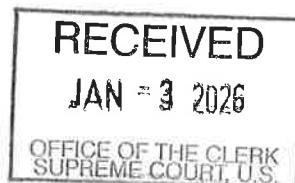
On Petition for a Writ of Certiorari To The  
United States Court of Appeals for the Eleventh Circuit

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## PETITION FOR REHEARING

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## **INTRODUCTION**

Petitioner Dover Davis Jr. petitions for rehearing of this Court's December 8, 2025 decision denying his petition for a writ of certiorari pursuant to Rule 44.2.

## **REASONS FOR GRANTING REHEARING**

This Court's Rule 44 authorizes a petition for rehearing based on "intervening circumstances of a substantial or controlling effect".

1.

**The Supreme Court set "Controlling Precedents" in Thompson v. Clark, 20-659(2022) and Laskar v. Hurd No 19-11719 (11<sup>th</sup> Cir. 2020),.**

On February 19, 2025, the Eleventh Circuit issued its Opinion in the petitioner's appeal and dismissed his appeal for a "statute of limitations" violation relating to a "favorable termination" in a criminal case. The Eleventh Circuit's intervening decision created a conflict between the Supreme Court's decisions in Thompson v. Clark, 20-659 and Laskar v. Hurd No 19-11719 (11<sup>th</sup> Cir. 2020),.

In Thompson v. Clark, 20-659 (2022) the issue was whether the rule that a plaintiff must await favorable termination before bringing a Section 1983 action alleging unreasonable seizure pursuant to legal process requires the plaintiff to show that the criminal proceeding against him has "formally ended in a manner not inconsistent with his innocence".

This Court resolved this issue in Thompson v. Clark by deciding, "To demonstrate a favorable termination of a criminal prosecution for purposes of the

Fourth Amendment claim under 1983 for malicious prosecution, a plaintiff need not show that the criminal prosecution ended with some affirmative indication of innocence. A plaintiff need only show that his prosecution ended without a conviction. Thompson has satisfied the requirement here”.

And this Court stated in *Thompson v. Clark*, “To maintain that Fourth Amendment claim under Section 1983 a plaintiff such as Thompson must demonstrate among other things, that he obtained a favorable termination of the underlying criminal prosecution.” The petitioner received a favorable termination when the prosecutor dismissed criminal charges in May 2021.

In addition, *Thompson v. Clark* resolved the conflict in the Appellate Courts. The U.S. Court of Appeals for the 11<sup>th</sup> Circuit decided in *Laskar v. Hurd* that a proceeding must “end in a manner that affirmatively indicates his innocence”. And the Eleventh Circuit stated that a “favorable termination” accrued the statute of limitations. But the U.S. Court of Appeals for the 2<sup>nd</sup> Circuit stated that a dismissal wasn’t enough to show “favorable termination” under circuit precedent requiring that a proceeding must end in a manner that affirmative indicates a defendant’s innocence.

This Court set the standard for a favorable termination in *Thompson v. Clark*. In *Laskar v. Hurd*, this Court affirmed the decision of the Eleventh Circuit that a favorable termination “accrues” the statute of limitations in a Section 1983 malicious prosecution claim for illegal seizure under the Fourth Amendment. The *Thompson v. Clark* and the *Laskar v. Hurd* decisions created a new Supreme Court opinion that became the new controlling precedent and law that the Eleventh

Circuit overlooked.

However, the Eleventh Circuit overlooked this “controlling precedent” and did not apply the “accrual” rule of the statute of limitations to the petitioner’s criminal case that ended with a “favorable termination” in which this Court affirmed in Thompson and Laskar. Instead, the Eleventh Circuit “tolled” the statute of limitations in the petitioner’s 1983 malicious prosecution civil claim filed after a favorable termination in his criminal case rather than “accruing” the “statute of limitations”. The Eleventh Circuit even decided in *Laskar v. Hurd*, “that dismissal for untimeliness was a favorable termination” even though it dismissed the petitioner appeal for untimeliness”. The Eleventh Circuit’s overlook clearly shows this issue must be resolved again. The “favorable termination” rule was an issue that confused the courts for years until *Thompson v. Clark* and *Laskar v. Hurd* settled the issue.

In the Eleventh Circuit’s “Writ of Certiorari”, it argued, “Put simply, Laskar’s malicious-prosecution claim would fail under the consensus test, but it would proceed to discovery under the Eleventh Circuit’s test. Because the resolution of Thompson will control the disposition of this case, the Court should hold this petition pending its decision in Thompson”. And this Court did, but the Eleventh Circuit overlooked its own test.

This Court’s denial of the petitioner’s “writ of certiorari” overlooked its decision in *Thompson v. Clark* and *Hurd v. Laskar*. In both appeals, this Court stated that a “favorable termination” in a 1983 civil case accrues the statute of limitations. Precedent or “Stare Decisis” should have applied to the petitioner’s appeal. When *Thompson v. Clark* and *Laskar v. Hurd* became the law, this Court’s decisions

should have been applied to all lower courts and the entire nation.

This Court's "controlling precedent" warrants the petitioner's rehearing.

## **A.**

### **The Rule of Law**

As this Court is aware, "The Rule of Law" is a principle under which all persons, individuals, institutions and the government itself are accountable to laws that are publicly known, equally enforced and independently adjudicated, ensuring a just and orderly society where no one is above the law, fundamental rights are protected through clear processes and an independent judiciary and individuals and groups have access to justice. It promotes equality, transparency and accountability meaning laws are applied consistently, fairly and without arbitrary power.

#### **Publically known laws**

The Supreme Court decisions are law. A "favorable termination" accrues the "statute of limitations". The Eleventh Circuit Court of Appeals held that a "favorable termination accrues the" statute of limitations" in *Laskar v. Hurd* No. 19-11719 (11<sup>th</sup> Cir. 2020) and this Supreme Court affirmed.

The petitioner is asking this Court to apply the "The Rule of Law" to his petition. Then, the petitioner's fundamental rights will be protected and he would have received justice.

The "Rule of Law" was overlooked for a second time in the lower courts when the petitioner's Fourth, Sixth and Fourteenth Amendment were overlooked; These laws and Supreme Court decisions were publicly known but not equally enforced. The Respondent did not answer the complaint.

## **A.**

The “Rule of Law” was overlooked for a third time by the Eleventh Circuit when it refused to acknowledge the Northern District Court of Georgia ruled the petitioner appeal was not “time barred” regarding the “Statute of Limitations”. (Ex. “1.2”).

The petitioner’s “writ of certiorari” met Certiorari Standards (Rule 10). He showed a conflict between the Eleventh Circuit Court of Appeals and the Northern District Court.

## II.

### **The petitioner suffered an “Injury in Fact”**

The petitioner has an “injury in fact” and met the prerequisite to initiate his lawsuit because Officer Aaron Swann arrested and illegally seized him without probable cause and continued the prosecution for three years despite evidence proving his innocence. The harm was specific to the petitioner, has already occurred and continues to harm his financial, physical and emotional interest.

The petitioner’s injury was concrete and particularized and specific to him; his injury was actual and imminent that started in 2018 and imminent because it continues today; and it is a legally protected interest that is financial and emotional. In *Lexmark Int’l, Inc. v. Static Control Components, Inc.*, 572 U.S. 118, 125 (2014), this Court held: “To establish the ‘irreducible constitutional minimum’ of standing, the ‘plaintiff must [1] have suffered or be imminently threatened with a concrete and particularized ‘injury in fact’ that is [2] fairly traceable to the

challenged action of the defendant and [3] likely to be redressed by a favorable judicial decision. The first element requires 'an injury that is both concrete and particularized.'

On August 5, 2018 the petitioner was arrested/seized without probable cause and incarcerated but released on August 21, 2018. He was later arraigned and indicted. The petitioner was indicted on August 24, 2018 based on a police report filled with contradictions. (Exs: 5-9). His accuser, Frederick Bushau Boyd, was arrested in March 2019. (Ex. 10). On May 20, 2021, the petitioner's charges were dismissed. (Ex. 11)

He was hired as an insurance salesman in 2018; his future was financially stable and lucrative, but he lost that job because he did not receive his insurance license in six months because the Respondent charged him with two felonies for pointing a gun and continued his criminal case for three years. After the criminal case was dismissed, his record was cleared one year later. (Ex. 11)

The petitioner has been physically disabled since 2012, but he has two degrees and was hired by an insurance company in 2018. He lost his job and his residence. Since, he could neither find professional employment nor adequate housing, he slept in his personal vehicle 2018 to 2022, with housing relief from shelters for short 30-day periods. He was denied housing due to felony charges. (Ex. 2 & Ex 14)

The petitioner slept in his vehicle during the pandemic when the streets were clear of people and without traffic and when the temperature dipped below 10 degrees. Years passed and his health deteriorated due to the horrible weather and climate changes from winter to summer. Bad nutrition and sleeping in his vehicle affected his health and created more physical problems.

Since he was charged with two felonies he was denied Covid-19 financial assistance; he was also denied Pandemic Unemployment assistance. He survived on a small Social Security benefit until 2021. The loss of income created financial chaos for the petitioner. His financial losses are past, present and future and he cannot recover from this loss. His insurance license was withheld pending the outcome of his criminal case which lasted four years. The Respondent, the prosecutor and the petitioner's First attorney Muhammad continued his criminal case for three years. (Ex. 3)

The petitioner's has been embroiled in litigation for eight years and with this Court's denial of his petition, he stands of the precipice of poverty. He will be 66 years-old in two months and not hireable. During this eight-year period, the petitioner has lost over a million dollars in income. And the sources of his harm was the Respondent, the prosecutor and his first private attorney.

### **Conclusion**

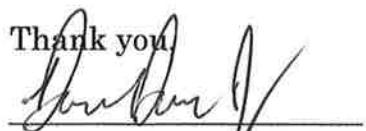
The Bell of Liberty tolls not only for freedom but also for justice and fairness; it tolls for the poor in spirit and income, for the darker and the lighter Americans, for the pro se and the represented, for those citizens whose lives have been forever shattered by the illegal actions of law enforcement and the judiciary, for those citizens who have been unjustly incarcerated and harmed, for the mothers and fathers who lost their sons and daughters to forceful and intentional dominance and oppression and for the protectors of justice and equality and the "Trier's of fact"; This bell tolls for "thee" and for "me".

Given the "Controlling Precedent" the petitioner is requesting this Court to grant

his petition for rehearing, vacate the order denying certiorari, grant his petition for writ of certiorari and then vacate and remand for further proceedings in light of Thompson and Laskar to give him "Justice".

Respectfully Submitted,

Thank you



Dover Davis Jr.

Pro Se

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470.618.2786

## **CERTIFICATE OF SERVICE**

I certify that a copy of this petition for rehearing was served upon counsel for Respondent, Officer Aaron Swann, Zone 1, 2315 Donald Lee Hollowell Pky. N.W., Atlanta, Georgia 30318.

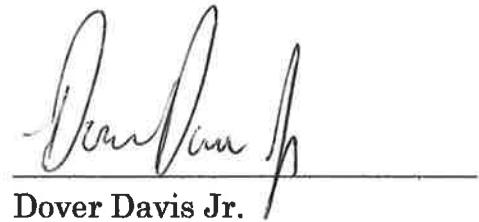


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Dover Davis Jr.

## CERTIFICATE

I certify that this petition for rehearing complies with United States Supreme Court Rule 44.2, is restricted to grounds specified by that rule and is presented in good faith and not for delay.



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Dover Davis Jr.

# EXHIBITS

IN THE UNITED STATES DISTRICT COURT  
FOR THE NORTHERN DISTRICT OF GEORGIA  
ATLANTA DIVISION

DOVER DAVIS, JR.,

Plaintiff,

v.

OFFICER AARON SWANN, *in his individual capacity,*

Defendant.

Civil Action No.  
1:21-cv-03311-SDG

OPINION AND ORDER

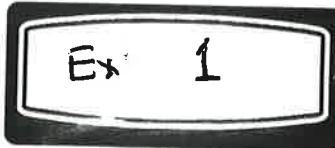
This matter is before the court on a frivolity review of Plaintiff's Amended Complaint [ECF 10] pursuant to 28 U.S.C. § 1915(e)(2), as well as Plaintiff's motion to reopen his case [ECF 11] and motion to appoint counsel [ECF 9]. The Court finds that Plaintiff's Amended Complaint does not survive frivolity review and must be dismissed. Plaintiff's motion to appoint counsel and motion to reopen his case are therefore **DENIED AS MOOT**.

**I. BACKGROUND**

In his original Complaint, Plaintiff alleged several Section 1983 violations.<sup>1</sup> Specifically, Plaintiff complained that his public defender, "Officer Swann," and

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<sup>1</sup> ECF 3, at 19-32.



Second, Plaintiff argues that the prosecutor's actions violated the Equal Protection Clause of the Fourteenth Amendment.<sup>19</sup> Plaintiff alleges he was "treated differently 'under the law' because his charges of Aggravated Assault were not dismissed when Boyd's charges of Aggravated Assault were dismissed."<sup>20</sup> He contends that this difference amounts to malicious prosecution.

**A. Plaintiff cannot bring a claim against the prosecutor pursuant to Section 1983.**

As a preliminary matter, Plaintiff's malicious prosecution claim is not time-barred. Plaintiff had two years from the date his charges were dismissed to file a malicious prosecution action under Section 1983. *See Smith v. Mitchell*, 856 F. App'x 248, 249 (11th Cir. 2021). Plaintiff's criminal case was dismissed on May 20, 2021,<sup>21</sup> and he brought his first claim for malicious prosecution in his Amended Complaint less than two years later, on October 28, 2022.<sup>22</sup> Consequently, Plaintiff's malicious prosecution claim is not time-barred.

Plaintiff's malicious prosecution claim fails nonetheless as it is barred by the doctrine of absolute immunity. Prosecutors have absolute immunity under Section

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<sup>19</sup> See *id.* at 43–44.

<sup>20</sup> *Id.* at 43.

<sup>21</sup> ECF 10, ¶ 48.

<sup>22</sup> ECF 10.

Amended Sentence  Modified Sentence  Revoked 1<sup>st</sup> Offender Sentence  Re-Sentence

IN THE SUPERIOR COURT OF FULTON COUNTY, STATE OF GEORGIA

STATE OF GEORGIA

vs

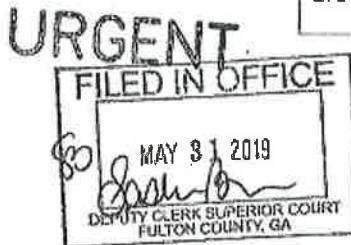
FREDERICK BUSHAU BOYD  
BOOKING:1906101

Clerk to complete if incomplete:

OTN(s):  
DOB: 12/26/1990  
GA. ID#:

CRIMINAL ACTION #:  
19SC166915

MAY-JUNE Term of 2019



Final Disposition:  
FELONY WITH PROBATION

First Offender/ Conditional Discharge entered under:

O.C.G.A. § 42-8-60  O.C.G.A. § 18-13-2

Repeat Offender as Imposed below

PLEA:

VERDICT:

Repeat Offender Waived

Negotiated

Non-negotiated

Jury

Non-Jury

The Court enters the following judgment:

Count	Charge (as Indicted or Accused)	Disposition	Sentence	Fine	Concurrent/ Consecutive, Merged, Suspended Commute to Time Served
1	Robbery by force	16-8-40 GUILTY	5 YRS PROBATION	0.00	
2	Aggravated Assault (means likely to cause serious injury)	16-5-21 NOL PROS			
3	BATTERY	16-5-23.1 GUILTY	12 MONTHS PROBATION		CONCURRENT W/ CT 1

The Defendant is adjudged guilty or sentenced under First Offender/Conditional Discharge for the above-stated offense(s); the Court sentences the Defendant to confinement in such institution as the Commissioner of the State Department of Corrections may direct, with the period of confinement to be computed as provided by law.

**Sentence Summary:** The Defendant is sentenced for a total of 15 YRS, with the first 5 to be served in confinement and the remainder to be served on probation; or X to be served on probation.

19SC166915 FREDERICK BUSHAU BOYD

Ex. 10

**Additional material  
from this filing is  
available in the  
Clerk's Office.**