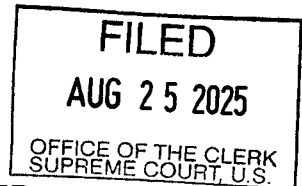


No. 25-5880

IN THE
SUPREME COURT OF THE UNITED STATES

ORIGINAL



Derrick G. James — PETITIONER
(Your Name)

vs.

Secretary of FLDOC — RESPONDENT(S)

ON PETITION FOR A WRIT OF CERTIORARI TO

United States Court of Appeals for The Eleventh Circuit
(NAME OF COURT THAT LAST RULED ON MERITS OF YOUR CASE)

PETITION FOR WRIT OF CERTIORARI

Derrick G. James, DC No. 536293
(Your Name)

Columbia C.I., 216 S.E. Corrections Way
(Address)

Lake City, FL 32025
(City, State, Zip Code)

(Phone Number)

QUESTION(S) PRESENTED

What constitutes the legal meaning of the word "Active"?

and

Does a Double Jeopardy Violation and Due Process Violation Occur

Whenever a Dept. of Corrections or the/a Court Changes an original imposed sentence by increasing it to a higher one 19 years later?

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:

James v. Dixon, No. 24-13743 US Court of Appeals for the **11TH** Circuit,
Judgment entered July 22, 2025.

James v. Dixon, No. 4:22-cv-00158-WS-ZCB, US District Court for the Northern
District of Florida. Judgment entered October 22, 2024.

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OTHER

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 to the petition and is

☐ reported at N/A; 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☐ is unpublished.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 B 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☐ is unpublished.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 _____ 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☐ is unpublished.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 July 22, 2025.

☒ 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 _____.
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

Violation of the Fifth and Fourteenth Amendments

STATEMENT OF THE CASE

In June of 1998, Petitioner was arrested for a burglary of an unoccupied condominium unit in Miami-Dade County, case no. F98-28312. While facing this pending charge Petitioner was accused of having violated his community control in Broward County, FL, case no. 94-16096 CF10A. In October of 1998, Petitioner was found guilty of having violated his community control and was sentenced to 3.5 years in prison. "This sentence expired on October 14, 2000." In December of 1998, Petitioner proceeded to trial on the Miami-Dade case F98-28312 and was found guilty. On August 9, 1999, Petitioner was sentenced to 20 years consecutive in prison to the 3.5 year sentence. After having been found guilty in Miami-Dade of an unoccupied condominium burglary Petitioner was yet again with having committed a condominium burglary in Broward County, case no. 99-721. Petitioner proceeded to trial and was later found guilty in early 1999. Then on "August 13, 1999," the State trial court orally imposed the following sentence: "... 30 years consecutive to "any active sentence currently being served by the defendant." In November of 2001, Petitioner was sent off to prison. While at the South Florida Reception Center the Classification Dept. initially structured Petitioner's over all prison sentence to be 33.5 years. Petitioner was erroneously informed by Classification that the 30 years sentencing court had not been specific as to which sentence, i.e. 3.5 or 20 years were the 30 years to be ranned consecutive to due to the court having used the word 'any' when orally sentencing Petitioner. Classification further stated that since the 3.5 year sentence was imposed before the 20 year sentence that the 30 years would only be ranned consecutive to the 3.5 years. Then in August of "2018," FLDOC changed its initial sentencing structure by now running the 20 years consecutive not only to the 3.5 years but also to the 30 years for a total prison term of 53.5 years. Petitioner filed administrative appeals arguing Double Jeopardy and Due Process Violations.

Relief was denied. Petitioner then proceeded to the State Court by way of filing a Mandamus Petition to the Second Judicial Court in Leon County, Tall., FL., case numbers 2018CA2108 and 2018CA1820. FLDOC General Counsel's Office argued that the State sentencing court's intent was to sentence Petitioner to 30 years consecutive to the 3.5 and 20 year sentences and that that is what the sentencing court did actually do when it imposed its sentence. Petitioner's Petition was then denied on June 25, 2019. An appeal was filed to the First District Court of Appeal, and an Initial Brief was filed. Again FLDOC argued that the State sentencing court did sentence Petitioner to serve the 30 year sentence consecutive to both 3.5 and 20 year sentences. Appeal case no. NA. The First DCA affirmed the Mandamus Court relief denial.

Petitioner then filed a Federal 2254 Petition, case number 4:22-cv-00158-WS-ZCB. On July 25, 2023, the Office of General Counsel filed its response.¹ See Doc. 23. On page 6 of 8 the General Counsel representative then made and/or put forth a "direct and specific argument which was, that both 3.5 and 20 year sentences were "fully active sentences" when the 30 year sentence was imposed on 8/13/99." After noticing this first time ever argument and/or statement by the Respondent Petitioner then carefully read and reviewed the entire orally pronounced 30 year sentence then realized that the sentencing court's orally pronounced sentence had in fact been specific.

On 10/18/2023, Petitioner then filed a Motion For Leave To File Supplemental And/Or Expanded Argument To Petitioner's Reply To Respondent's Answer To Petition For Writ of Habeas Corpus. Doc. number 35. Attached to such the argument within the accompanying Petition was that the only active sentence that was actually being served when the 30 year sentence was imposed was the 3.5 year sentence being that the 20 year sentence was ordered to be ranned consecutive to the 3.5 year sentence. On October 20, 2023, Document number 37 the Magistrate Judge GRANTED Petitioner's Petition To Supplement And/Or Expand his reply.

¹ Attorney General's Office.

On September 16, 2024, the Magistrate Judge issued his Report and Recommendation requesting denial of Petitioner's 2254 Petition and a denial of a COA. Doc. number 45. * On October 7, 2024, Petitioner filed an Objection to the R & R. Doc. number 48. The Magistrate's R & R adopted the reasoning and/or conclusion of the Mandamus State Court which concluded that the State sentencing court's intent was to sentence Petitioner to 30 years consecutive to the 3.5 and 20 year sentences. Within Petitioner's Objections Ashley v. State, 850 So. 2d 1265 (Fla. 2003) where the Florida Supreme Court had stated that an intent must yield to an oral pronouncement. See also Fla. R. Crim. P. 3.700(b) oral pronouncement.

Additionally, attached to Petitioner's Objections a Motion for Leave was filed requesting to Submit Relevant Evidence which would have clearly refuted the Magistrate Judge's incorrect assertion of this issue of the word "active" having had already been addressed by the State Court whom had imposed to 30 year sentence. Doc. numbers 49, 50 & 51. On October 20, 2024, the District Court adopted the Magistrate's R & R and while doing so never mentioned nor ruled on Doc. numbers 49, 50 & 51. The District Court also denied a COA request. Doc. numbers 52 and 54. The US Eleventh Circuit Court of Appeals also denied a COA request. See Appendix A.

REASONS FOR GRANTING THE PETITION

To have a clearly established meaning of the word
"Active"
when being orally pronounced during sentencing.

CONCLUSION

In *Collins v. Hacker Heights*, 503 U.S. 115, 125, 112 S.Ct. 1061, 1068-69, 117 L.Ed. 2d 1 (1992) this Court held that Due Process Clause protects individual liberty against certain Government actions regardless of the fairness of the procedures used to implement them***** even good faith cannot obviate fundamental structure error and such is harmful error. Quoting *Daniels v. Williams*. The petition for a writ of certiorari should be granted.

Respectfully submitted,

Derrick L. James

Date: September 15, 2025