

25-6002

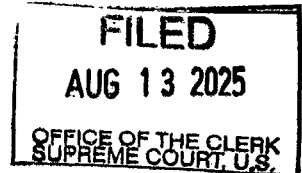
FL SC: SC2025-0746

LT. CASE NO: 3D24-1545; FD9-13518A

ORIGINAL

IN THE
SUPREME COURT OF THE UNITED STATES

LINAKER CHARLEMAQUE
Petitioner.



V.

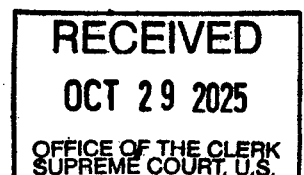
RICKY D. DIXON, SECRETARY,
FLORIDA DEPARTMENT OF CORRECTIONS
Respondent(s)

ON PETITION FOR A WRIT OF CERTIORARI
TO THE FLORIDA SUPREME COURT

AMENDED PETITION FOR WRIT OF CERTIORARI

LINAKER CHARLEMAQUE
DC# M87151

Taylor Correctional Inst.
Perry, Florida 32348
8501 Hampton Springs RD.



Question(s) PRESENTED

- 1). whether District court, departed from essential requirements of law, by not allowing the Record of Appeal to be Supplemented so as to Provide a complete rendition of the facts; the denial of constitutional rights of Due Process hinder the ability to demonstrate fully, without said supplement.
- 2). whether District court, departed from essential requirement of law, by not VOIDING the Evidentiary Hearing; and Cure the conflict that arose based on the courts failure to catch the error.
- 3). whether SUPREME COURT, departed from essential requirements of law, by basing their decision to dismiss the Notice to Invoke Discretionary Jurisdiction; on April 2, 2025, Rather Than: May 19, 2025 opinion.
- 4). whether District court, departed from essential requirements of law, by not affording Petitioner the right to "conflict free counsel" at Evidentiary Hearing on: **NEWLY DISCOVERED EVIDENCE.**

LIST OF PARTIES

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

- THE CIRCUIT COURT, ELEVENTH JUDICIAL CIRCUIT
- THE THIRD DISTRICT COURT OF APPEAL
- THE FLORIDA SUPREME COURT

NOTICE OF RELATED CASES

There are no related cases pending resolution before any state or federal court.

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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 Judgement below.

OPINION BELOW

☒ For case from state court:

The opinion of the highest state court to review
the merits appears at Appendix E to the Petition
and is

☒ Reported at Charlemagne v. State, 2025
Fla. Lexis 836 (May 28, 2025)

JURISDICTION

☒ For Case from State Court:

The date on which the highest state court decided the case was May 28, 2025.

A copy of that highest state decision appears at APPENDIX E.

The Jurisdiction of this court is Invoked under Rule 28 U.S.C. § 1257 (a)

CONSTITUTION AND STATUTORY PROVISIONS INVOLVED

1). Petitioner's Fifth Amendment and Fourteenth Amendment are violated when the District court, departed from essential requirements of law, by not allowing the Record of Appeal to be supplemented, AS authority for this motion, the Petitioner relies on U.S. Constitutional right, and Florida Rule 9.200(f)(2), which provides in Material Party that "NO Proceeding shall be determined because the record is incomplete until an opportunity to Supplement the record has been given." According to this rule, the court must allow the moving Party an opportunity to Supplement the record. *Brice v. State*, 419 So.2d 749 (Fla. 2d DCA 1982); *Starks v. State*, 423 So.2d 452 (Fla. 1st DCA 1982). See: (APPENDIX C)

2). Petitioner's U.S. Constitutional right 4, 5, 6 & 14 Amendments; Pursuant to Article V section 3(b)(3) of the Florida Constitution are violated when the Florida Supreme Court, departed from essential requirement of law, by failing to follow its requirement without following its rules and procedure by failing to based its denial, or reason for denial; for opinion or explanation for the May 19, 2025, whereas the May 19, 2025 opinion supersedes its prior ruling. See: (APPENDIX D & E)

3). Petitioner's Fifth, Sixth, and Fourteenth Amendment are violated when the Eleventh Circuit Court; District Court, departed from essential requirements of law, the Petitioner believes reasonable Jurists would find, that; by not voiding the Evidentiary Hearing; by not affording Petitioner the right to "Conflict free Counsel" debatable, or find the lower tribunal Court's denial wrong. The right to due Process and equal Protection of laws is a Constitutional right, and unless that right is secured, then Petitioner isn't Protected from fundamental miscarriage of Justice, by that right to have a fair hearing. The Severity of the Penalty in itself depriving the life, liberty of the Petitioner, and the same by Equal Protection of the United States Constitutional laws, and Florida Criminal rules of Procedures, in which Petitioner adopts. See: *Cuyler v. Sullivan*, 446 U.S. 335, 100 S.Ct. 1708 (1980); *Townsend v. Sain*, 372 U.S., 83 S.Ct. 745; to resolve the conflict.

According, under concepts of *McQuiggins v. Perkins*; *Townsend v. Sain*; and *Shlop v. Delo*, Petitioner is entitled to a new Evidentiary hearing, with Conflict free Counsel, under the Sixth and Fourteenth of the United States Constitution. See: (APPENDIX G & F)

STATEMENT OF THE CASE

Petitioner filed a Rule 3.850 motion in the Eleventh Judicial Circuit court; Judge Nushin Saffie, held an Evidentiary Hearing on Grand 2, which is based on newly discovered evidence "sworn Affidavid" from Cedric Johnson, the State's Chief Victim/Witness see: (APPENDIX F)

Petitioner had a hearing held December 14, 2017 on the Newly Discovered Evidence, and was represented by the Public Defenders Office with Conflict of Interest, and the Courts concluded the hearing with said conflict at Bar on January 17, 2018 see: (APPENDIX G)

Petitioner filed a "Notice of Inquiry on Default," on November 3, 2023, stating the facts about what the default's are based on; and In conclusion, the Petitioner informed the court's — NO Calender call was Placed for a new hearing after the (APPENDIX G) Conflict of Interest was sent to Petitioner, notifying him of the Conflict, and the case file was sent to the "regional counsels office of Criminal Conflict" see: (APPENDIX A) and (APPENDIX J)

Petitioner contacted the regional counsel's Office. The Petitioner was inform that, their office never represented the Petitioner. see: (APPENDIX E)

The Eleventh Judicial Circuit disregarded Article 14 Secotion 1... by depriving Petitioner Due Procee of law, and equal Protection of law, the Denial of said Circuit isn't in accordance to equal Protection, whereas the Court failed to Protect the Petitioner's right at a Proceeding of Actual Innocent depriving the Petitioner of life and liberty. The Circuit court miscrewed the Petitioner "Notice of Inquiry on Default," into a 3.850; The Stipulation of time limitation infect the Petitioner, Instead of agreeing, the Court's error, and is still inerror see: (APPENDIX B)

On May 19, 2025 the District Court issued its Mandate with opioion, after due consideration, Chief Judge Honorable Thomas Logue Override the April 2, 2025 Per Curiam. Affirmed. see (APPENDIX D)

The District Chief Judge, issued its opioion Based on the Eleventh Circuit Court denial; The Court departed from essential requirment of law by not Curing the conflict of Interest and allowing the Evidentiary Hearing Conclusion in Bad faith. see: (APPENDIX D)

REASON FOR GRANTING THE WRIT

This court should grant writ based on, During the course of the Actual Innocence Evidence Hearing; The Petitioner was represented at the hearing by a conflict attorney (Public Defender office). The Conflict of Interest wasn't acknowledge until after the conclusion of the evidentiary hearing. see: (APPENDIX G)

The Eleventh Circuit and District court, departed from essential requirements of law, by not curing the conflict of Interest in violation of the Fifth, Sixth and Fourteenth Amendment of the United States Constitution. Because the New Evidence / Sworn Affidavit from surviving victim will exonerate Petitioner.

Conclusion

WHEREFORE, based on the foregoing statement of the case, constitutional and Statutory provisions involved, and authority, the Petitioner requests that this Honorable Court grant the instant Petition for writ of Certiorari and resolve the Constitutional questions presented above.

Date: October 17, 2025

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8501 Hampton Springs Rd.
Perry, Florida 32348

CERTIFICATE OF COMPLIANCE

FL SC: SC2025-0746

LT. CASE 3D24-1545; F09-13518A

LINAKER CHARLEMAGNE
Petitioner

V.

RICKY D. DIXON, SECRETARY,
FLORIDA DEPARTMENT OF CORRECTIONS
Respondent (s)

As required by Supreme Court Rule 33.1(h), I certify that the petition for a writ of certiorari contains 903 words, excluding the parts of the petition that are exempted by Supreme Court Rule 33.1(d).

I declare under the penalty of perjury that the foregoing is true and correct.

Executed on this 17th day of October 2025.

15/ 