

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

ORIGINAL

25-6014

IN THE

SUPREME COURT OF THE UNITED STATES

FILED

OCT 17 2025

OFFICE OF THE CLERK  
SUPREME COURT, U.S.

HARRY LEE GOLDSBORO II — PETITIONER  
(Your Name)

vs.

STATE OF FLORIDA — RESPONDENT(S)

ON PETITION FOR A WRIT OF CERTIORARI TO

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

PETITION FOR WRIT OF CERTIORARI

HARRY LEE GOLDSBORO II  
(Your Name)

LIBERTY C.I. ATTN: LEGAL MAIL  
(Address)

11064 NW DEMPSEY BARRON ROAD

BRISTOL, FL 32321

(City, State, Zip Code)

N/A

(Phone Number)

### QUESTION(S) PRESENTED

1. Does a manifest injustice occur when the Court and counsel fail to explain the potential collateral consequences of a plea, which renders the plea involuntary, resulting in a fundamental error and due process violation under the 5th, 6th, and 14th Amendments?
2. Does a manifest injustice occur when counsel provides affirmative advice regarding the potential collateral consequences of a plea, which renders the plea involuntary, resulting in a fundamental error and a due process violation and ineffective assistance of counsel under the 5th, 6th, and 14th Amendments?
3. Does the discovery of new evidence, that was unknown and not able to be discovered through due diligence, create an exception to the two-year time limit, as long as the post conviction motion is filed within the time limit for the discovery of new evidence?
4. Does a miscarriage of justice occur when a district court of appeals affirms the lower court's ruling summarily denying all of the defendant's claims without holding an evidentiary hearing, when the claims were not conclusively refuted by the record? In doing so, did the district court depart from the essential requirements of law when its denial is in direct conflict with other district court rulings?

## 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:

1. 18th Judicial Circuit - Lower Tribunal
2. 5th District Court of Appeals - Appellate Court
3. 6th District Court of Appeals - Appellate Court
4. Florida Supreme Court - Highest State Court
5. United States Supreme Court

## RELATED CASES

1. 18th Judicial Circuit - 3.850 Post Conviction Motion 6/11/2021
2. 18th Judicial Circuit - Notice of Filing 8/10/2022
3. 18th Judicial Circuit - Order Denying 3.850 5/24/2023
4. 5th DCA and 18th Judicial Circuit - Notice of Appeal and Emergency Appeal 5/24/2023
5. 6th DCA - Initial Brief 12/15/2024
6. 6th DCA - Order Denying 3.850 7/08/2025
7. Florida Supreme Court - Order Denying Appellate Review 8/15/2025.

## TABLE OF AUTHORITIES CITED

### CASES

1. Johnson v. State, 971 So.2d 212 Fla. App. 2008
2. Murphy v. State, 820 So.2d 375, 376 Fla. 4th DCA 2002
3. Gomez v. State, 28 So.3d 114 Fla. App. 2010
4. State v. Leroux, 649 So.2d 235, 238 Fla. 1996
5. Graham v. State, 779 So.2d 604 Fla. 2d DCA 2007
6. Williams v. State, 716 So.2d 644 Fla. 1975
7. Nicol v. State, 892 So.2d 1164 1171 Fla. 5th DCA 2005

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### STATUTES AND RULES

1. FL R. Crim. P. Rule 3.170(L) Motion to Withdraw Plea After Sentencing
2. FL R. Crim. P. Rule 3.171 (C) Responsibilities of Defense Counsel
3. FL R. Crim. P. Rule 3.172 (L)(1) and (7)
4. FL R. Crim. P. Rule 3.850(L) Related Appeals and Discretionary Review
5. FL ST 394.925
6. FL ST 9.140
7. FL ST 924.05
8. FL ST 924.06
9. 5th and 14th Amendments of the United States Constitution For due process of law
10. 6th Amendment of the U.S. Constitution for ineffective assistance of counsel

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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 \_\_\_\_\_ 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 A to the petition and is

- ☒ reported at GOLDSBERG V. STATE, SC 2025-1215 (FLA. APP. AUG. 15, 2025); or,  
☐ has been designated for publication but is not yet reported; or,  
☐ is unpublished.

The opinion of the 6TH DISTRICT court appears at Appendix B to the petition and is

- ☒ reported at GOLDSBERG V. STATE, 6D2023-2892 (FLA. APP. JUL. 08, 2025); 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: \_\_\_\_\_, 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 8/15/2025.  
A copy of that decision appears at Appendix   A  .

☐ 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

1. 5th and 14th Amendments of the U.S. Constitution; 6th Amendment of the U.S. Constitution
  - A. Due process of law violation and Failure to provide effective assistance of counsel for court's and counsel's Failure to advise and explain the potential collateral consequences of a plea, which renders the plea involuntary and results in a fundamental error.
  - B. Due process of law violation and Failure to provide effective assistance of counsel by providing affirmative misadvice regarding the potential collateral consequences of a plea, which renders the plea involuntary and results in a fundamental error.
  - C. The lower tribunal's Failure to accept the Appellant's belated motion to withdraw plea as timely filed, as it was filed within the two-year time limit of finding the newly discovered evidence and uncovering the collateral consequences, results in a violation of due process and is a reversible error.
  - D. The district court of appeals' Failure to use a reasonable amount of time to consider the Appellant's summary record and the merits of his claims, instead of expeditiously and cursorily reviewing the case in less than one week during a major hurricane that caused court closures on a holiday weekend, resulted in a miscarriage of justice and an abuse of discretion that violated due process and represents a reversible error.
  - E. The district court of appeals' departure from the essential requirements of law by per curiam affirming the lower tribunal's summary denial of the Appellant's claims that were not conclusively refuted by the record and without holding an evidentiary hearing resulted in a miscarriage of justice and violated the Appellant's right to due process of law and represents a reversible error.
  - F. The district court of appeals' departure from the essential requirements of law by per curiam affirming the lower tribunal's summary denial of the Appellant's claims that were not conclusively refuted by the record and without holding an evidentiary hearing, is in direct conflict with other district court rulings, which results in a miscarriage of justice and violated the Appellant's right to due process of law and represents reversible error.
2. Fla. R. Crim. P. Rule # 3.170 (L) Motion to Withdraw Plea After Sentencing
3. Fla. R. Crim. P. Rule # 3.171 (C) Responsibilities of Defense Counsel
4. Fla. R. Crim. P. Rule # 3.172 (C)(1) and (7)
5. Fla. R. Crim. P. Rule # 3.850 (L) Belated Appeals and Discretionary Review
6. Fl. ST. 394.925
7. Fl. ST. 9.140
8. Fl. ST. 924.05
9. Fl. ST. 924.06

## STATEMENT OF THE CASE

1. On 6/11/2021, the Petitioner Filed a pro se 3.850 Postconviction motion challenging the conviction based on an involuntary plea and the discovery of new evidence that justified an exception to the two-year time limit.
2. On 5/24/2023, the lower tribunal denied the motion.
3. On 5/24/2023, the Petitioner Filed an Emergency Appeal of the Order Denying 3.850 Motion to the 5th DCA.
4. In July 2023, the 5th DCA transferred the case to the 6th DCA.
5. In July 2024, the 6th DCA ordered the clerk of the lower tribunal to submit the correct record on appeal.
6. Between July - November 2024, the Petitioner requested multiple extensions to file his Initial Brief because he had not received the record. On 12/15/2024, the Petitioner was finally able to receive the record and file his Initial Brief; however, the Petitioner informed the court that a critical portion of the record was missing.
7. On 7/08/2025, the 6th DCA denied the Petitioner's appeal without an opinion and per curiam affirmed the lower court's ruling.
8. On 7/09/2025, the Petitioner Filed a Motion For Rehearing, and on 8/04/2025, the 6th DCA denied rehearing.
9. On 8/15/2025, the Florida Supreme Court denied the appeal.
10. On 9/09/2025, this timely Writ of Certiorari Follows.

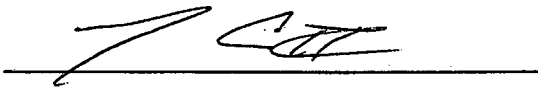
## REASONS FOR GRANTING THE PETITION

1. The Petitioner was denied his 5th and 14th amendment constitutional rights to due process of law by submitting to an involuntary plea predicated by the court's and counsel's failure to advise and explain the potential collateral consequences of the plea. The Petitioner's counsel also provided ineffective assistance and affirmative misadvice by failing to advise the Petitioner of the collateral consequences of being subject to civil commitment and having to register as a felon despite the withholding adjudication clause. These issues render the plea involuntary and represent a fundamental error that will result in a manifest injustice if the court's ruling is not overturned.
2. The lower tribunal departed from the essential requirements of law by summarily denying all of the Petitioner's claims that were not conclusively refuted by the record, without holding an evidentiary hearing. The court's denial of the Petitioner's motion will result in a manifest injustice if the court's ruling is not overturned.
3. The lower tribunal departed from the essential requirements of law by summarily denying all of the Petitioner's claims and by failing to follow the district court's rulings in precedent setting cases. The court violated the Petitioner's right to due process and a manifest injustice will occur if the court's ruling is not overturned.
4. The District Court of Appeals violated the Petitioner's right to due process by per curiam affirming the lower court's ruling and also departed from the essential requirements of law by failing to follow district court rulings in other precedent setting cases. A manifest injustice will occur if the district court's ruling is not overturned.
5. The State filed a Petition for Civil Commitment based on a conviction for a technical violation of probation for which the underlying charge was False Imprisonment and Indecent Exposure, which are not sexually violent crimes; however, the court's failure to explain the requirements for civil commitment and define "sexually motivated" crimes, in conjunction with counsel's affirmative misadvice led the Petitioner to submit to a plea that had severe, long-term collateral consequences that were unknown at the time the Petitioner signed the plea. This is a situation that affects every single defendant who submits to a plea because although the court is required to read the plea colloquy, there is no requirement for the court to define "sexually motivated" crime, which is a vague term that can easily include crimes that are not inherently sexual in nature, but can later be used to seek civil commitment and if counsel fails to explain the risk and provides affirmative misadvice, then thousands of defendants are at risk of facing the collateral consequences of being civilly committed without their knowledge, until it is too late. The Supreme Court's intervention is necessary to correct the court's surreptitious and cunning manipulation of the language included in the plea colloquy that misdirects a defendant into accepting a plea to which they are unaware of their vulnerability to the severe collateral consequences, which undermines the fairness of the proceedings and results in a manifest injustice, a miscarriage of justice, fundamental error, and requires a reversal to correct the injustice.

### CONCLUSION

The petition for a writ of certiorari should be granted.

Respectfully submitted,

A handwritten signature, likely "J. C. H.", is written over a horizontal line.

Date: 09 SEPTEMBER 2025