SCOTUS

No. 25-6191 ORIGINAL

IN THE

SUPREME COURT OF THE UNITED STATES

DUANE E. ADAMS

Petitioner

v.

SEC'Y, FLA. DEP'T OF CORRECTIONS

Respondent

ON PETITION FOR A WRIT OF CERTIORARI
TO THE CIRCUIT COURT OF APPEALS FOR THE ELEVENTH CIRCUIT

PETITION FOR WRIT OF CERTIORARI

DUANE E. ADAMS
DC # U51926
Madison Correctional Institution
382 S.W. MCI Way
Madison, FL 32340-4430

PETITIONER

QUESTION(S) PRESENTED

WAS ADAMS' CONSTITUTIONAL RIGHT TO DUE PROCESS VIOLATED WHEN THE TRIAL COURT CONDUCTED A TRIAL AND ENTERED A JUDGMENT, WITHOUT HAVING SUBJECT MATTER JURISDICTION BECAUSE NO VALID CHARGING DOCUMENT EXISTED OR WAS IN FORCE AND EFFECT

LIST OF PARTIES

[X] 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 cove page. A list of all parties to the proceeding in the court whose judgment is the subject of this petition is as follows:

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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

[X] 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 _____; or,

[ ] has been designated for publication but not yet reported; or,

[X] is unpublished.

The opinion of the United States district court appears at **Appendix-B** to the petition and is

[ ] reported at _____; or,

[ ] has been designated for publication but not yet reported; or,

[X] is unpublished.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[ ] is unpublished.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 state postconviction 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[ ] is unpublished.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

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

The date on which the United States Court of Appeals decided my case was **July 9, 2025** .

[X] 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._____.

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 highest state 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 and Mandate appears at Appendix _____.

[ ] An extension of time to file the petition for writ of certiorari was granted to and including_____(date) on _____(date) in Application No._____
_____.

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

CONSTITUTIONAL AND STATUTORY PROVISIONS

The Fifth Amendment to the U.S. Constitution – Prohibits "a person from being... ***deprived of life, liberty, or property, without due process of law.***" Amendment V, U.S. Constitution (emphasis added).

The Fourteenth Amendment to the U.S. Constitution – Section 1 provides in pertinent part that "no State shall make or enforce any law which shall abridge the privileges or immunities of citizens of the United States; ***nor shall any State deprive any person of life, liberty, or property, without due process of law; nor deny to any person within its jurisdiction the equal protection of the laws.***" Amendment XIV, U.S. Constitution (emphasis added).

STATEMENT OF THE CASE AND FACTS

(A) Course of Proceedings and Dispositions Below:

On February 25, 2014, Adams was charged by Amended Information (Case No. 2014-CF-000132A) in the Circuit Court of the Fifth Judicial Circuit of Florida (Marion County), alleging four counts of sexual activity with a minor 12 years or older, by a person with familial or custodial authority – F.S. §794.011(8)(b) (Counts 1-4); One count of Lewd and Lascivious Conduct – F.S. §800.04(6)(a)1., (b) (Count 5); Three counts of Lewd and Lascivious Molestation – F.S. §800.04(5)(a), (c)2. (Counts 6-8); and one count of Interfering with Child Custody – F.S. §787.03(1) (Count 9) (Doc. 24-2 at 52-54).[1] Adams proceeded to a jury trial and was found guilty of all counts except Count 7. (Doc. 24-3 at 8-16). Adams testified at trial.

On December 16, 2024, Adams was adjudicated guilty and sentenced to four (4) consecutive twenty-year terms of imprisonment on Counts 1-4; a concurrent five-year sentence on Count 9; followed by three concurrent ten-year terms of sex offender probation on Counts 5, 6, and 8. (Doc. 24-6 at 82-100).

Adams appealed his Judgment and Sentence to Florida's Fifth District Court of Appeal (Fifth DCA) under case number 5D14-4542. On direct appeal, court-appointed appellate counsel raised three issues: (1) The trial court erred in denying the Motion for Judgment of Acquittal on Counts 2, 3, and 4; (2) The trial court erred in instructing the jury on Count 5, and including language pertaining to the uncharged conduct of "kissing;" and (3) Dual convictions for Counts 4 and 6 violated Double Jeopardy. (Doc. 24-7 at 761-804). The Fifth DCA *per curiam* affirmed without a written opinion on the merits by Order entered on February 9, 2016. *Adams v. State*,

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[1] References to "Doc." numbers/pages identify documents filed in the U.S. District Court. References to "CA Doc." numbers/pages identify documents filed in the U.S. Circuit Court of Appeal for the 11th Circuit.

185 So.3d 1252 (Fla. 5th DCA 2016). The Mandate issued on March 4, 2016. (Doc. 24-7 at 3020).

On July 1, 2016, Adams filed a state habeas petition in the Fifth DCA alleging ineffective assistance of appellate counsel (IAAC) for failing to argue, on direct appeal, that the trial court lacked jurisdiction to try the case because no valid charging Information existed as a matter of law. (Doc. 24-7 at 855-868). The Fifth DCA denied the petition on October 13, 2016. (*Id.* at 885), and denied Rehearing by Order entered on November 16, 2016. (*Id.* at 896).

On April 26, 2017, Adams filed a state motion for postconviction relief under Fla.R.Crim.P. 3.850, where he raised one claim challenging the trial court's jurisdiction to try the case because there was no valid charging document as a matter of law, and he also raised eleven claims of ineffective assistance of trial counsel (IAC). (Doc. 24-7 at 921-970).

The postconviction court set the matter for an evidentiary hearing; and Adams sought the appointment of postconviction counsel for the evidentiary hearing. The postconviction court denied appointment of counsel (*Id.* at 997-98).

An evidentiary hearing was held on October 10, 2018, where Adams was represented by private counsel retained by his family. On November 27, 2018, the postconviction court denied all twelve claims raised by Adams in his Rule 3.850 motion. (Doc. 24-7 at 1108-1132).

Adams appealed the denial of his Rule 3.850 claims with the assistance of retained counsel under Fifth DCA case number 5D18-3976. The Fifth DCA *per curiam* affirmed without a written opinion on the merits by Order entered on November 26, 2019. See *Adams v. State*, 284 So.3d 1070 (Fla. 5th DCA 2019). The Mandate issued on December 20, 2019. (Doc. 24-7 at 3020).

On February 5, 2020, Adams timely filed his federal habeas petition under 28 U.S.C. §2254. (Doc. 1). Adams originally filed his petition in the Northern District of Florida, however, it was eventually transferred to the Middle District of Florida, Ocala Division (Doc. 15); and given a new case number (5:20-cv-330-OC-35PRL) on July 21, 2020.

On August 20, 2020, the District Court entered an Order directing the State to file response to Adams' petition. (Doc. 19). On November 18, 2020, the Respondent filed its Response with an Appendix of Exhibits (Doc. 24, et seq); and on March 10, 2021 Adams filed his Reply to the State's Response (Doc. 29).

On September 15, 2023, the District Court entered an Order denying the federal habeas petition filed by Adams (Doc. 32); and on September 19, 2023, the Court entered its final Judgment. (Doc. 33).

On October 19, 2023, Adams filed Notice of Appeal seeking review of the Order (Doc 32), and final Judgment (Doc. 33).

On June 5, 2024, this Court entered an Order granting a COA on Grounds 9 and 11 of Adams' federal habeas petition. (CA Doc. 12-2). Thereafter, this Court granted an extension of time for Adams to file his Principal Brief of Appellant by September 13, 2024.

On September 13, 2024, Adams filed his Principle Brief of Appellant in the 11th circuit court of appeals under case number 23-13455.

On June 10, 2025, the 11th circuit court of appeals entered an unpublished Order affirming the decision of the U.S. District court, and refusing to address Adams' claim alleging that the trial court lacked subject matter jurisdiction (CA Doc. 26-1). The final judgment was entered on July 9, 2025 (CA Doc. 26-1).

The instant Brief timely follows.

(B) Statement of Facts

The instant case stems from allegations made against Adams by B.G. (a minor), who was a student at the Francis Military Academy in Marion County, Florida, where Adams was also employed as a teacher, athletic director, and coach.

B.G. was an outgoing and sexually active teenager who showed particular interest in being around Adams. She would often sneak out of her home after lights-out and return in time to make it look like she slept in her room all night.

Adams was B.G.'s coach, and her "zero period" (homeroom) teacher. As such, they saw each other and had interactions daily in both the classroom and the school's athletic field, as well as during field trips.

At trial B.G. testified that her first romantic contact with Adams occurred in the morning of October 1, 2013, while they were in Adams' "zero period" classroom; and that someone from the school actually walked in the room. This person was later identified as a "Tach Officer" named Mark Tuggle, who testified regarding the surprise encounter. This incident caused B.G. to be suspended from school for two days.

The statements provided to police by B.G. were precipitated by the fact that B.G.'s mother (R.C.) discovered her late night escapades on January 10, 2014. When confronted in this occasion by her mother, she asked Adams to come pick her up for school – as he had many other times, with her mother's knowledge. Eventually she told Adams to leave because she got into a physical altercation with her mother, and had a swollen eye socket.

R.C. (the mother) testified that she eventually drove her daughter B.G. to school on the morning of January 10, 2014, and did not see B.G. again until January 14, 2014, when she picked her up at a restaurant after she had been missing for three days.

R.C. also testified that she received a letter postmarked in Orlando, Florida on January 11, 2014, where B.G. was informing her that she was running away with her girlfriend, with whom she had a lesbian romantic relationship.

R.C. had reported B.G missing after she failed to come home on January 10, 2014. The police started investigating her disappearance and traced back all possible places where B.G. could be, including contacting Adams as a person B.G. relied upon often. The first responding officer to speak with R.C. was officer Joshua Hoffman.

At trial, Officer Hoffman testified that he first responded to B.G.'s mother's missing persons report. He indicated that he contacted Adams by phone and left a message. Then, on January 12, 2014, he located Adams and interviewed him around three o'clock in the afternoon at the police station. Officer Hoffman testified that Adams informed him that B.G.'s mother had allowed him to pick-up B.G. and take her to school on many occasions in order to help the mother with B.G.'s behavioral problems. He testified that Adams gave a written statement confirming what he had told him during the interview, including that he normally gave B.G. rides home from school after practices, except on the morning of January 10, 2014, when B.G. had sent him away after the fight with her mother.

During the investigation, Crime Scene Technician Andrew Rocafort collected swabs from Adams for DNA testing. Officer Shawn Municci testified that he Made extraction copies of Adams' I-Phone, and later, of B.G.'s I-Phone. He testified that he recovered a text message dated January 14, 2014, from Adams' phone, where he asked B.G. to "turn herself in," that he couldn't go to jail, and that he left her stuff at a cabin where they usually met.

Upon her return, Officers collected DNA samples from B.G. and later, from her underwear to test for the presence of semen and other DNA.

FDLE Analyst Edward Pollick testified that he conducted DNA testing of samples taken from twelve (12) pairs of B.G.'s underwear, and compared them with the baseline samples collected from Adams' and B.G.'s cheek-swab DNA samples.

Notably, Mr. Pollick testified that his comparison tests initially revealed a "presumptive positive" result for the presence of semen in two of B.G.'s underwear, but that further testing revealed there was no semen present, and that no male donor profile match was developed, and no DNA match was found to Adams' baseline DNA profile.

FDLE Supervisor Laboratory Analyst Leigh Clark testified that she performed a Y-STR DNA test to look for the presence of the "Y" male chromosome in the "left-over DNA" extracted from a pair of B.G.'s red-lace underwear. Ms. Clark testified that her tests revealed a presumptive match to Adams' DNA profile, but also revealed the presence of DNA from another male contributor.

There was other testimony from law enforcement personnel regarding cellular tower location records indicating Adams' whereabouts during the relevant period of investigation into B.G's disappearance and subsequent return home.

Adams' ex-wife (Ms. Paredes) testified that after he failed to come home on his birthday (November 3, 2013), and showed up in the early morning hours of the next day, only to leave again, she decided to track his I-phone which indicated his location as the Best Western motel at 200 and I-75. She testified that she went to the motel and obtained a receipt showing that Adams had stayed at the motel.

Ms. Paredes testified that after the Best Western incident she asked Adams to leave their home on November 6, 2013, and that by December 2013, they were divorced. She testified that in January 2014, she too was contacted by police as part of their investigation into B.G.'s missing persons report.

Police had circulated a theory they suspected would motivate B.G. to return. This theory was that she, and Adams were facing charges, but if B.G. "turned herself in" they (Adams and B.G.) would get "immunity" from prosecution. Sgt. Brian Young was a long-time friend of Adams, and he used his position of trust to convey the "immunity" narrative to Adams suspecting that if B.G. was in contact with Adams, he would scare her into "turning herself in." The tactic worked and B.G. turned herself in (to her mother), on January 14, 2014. Just the day after Sgt. Young had met with Adams.

During the meeting with Sgt. Young, Adams confirmed giving B.G. rides to and from school. Adams also confided to Sgt. Young that he had given B.G. a prepaid phone but could not remember the number. Of course, by this time police had records of Adams' text messages with B.G. where he had asked her to "turn herself in," in order to get "immunity.""

Once B.G. returned, law enforcement turned up the pressure on her, and she fully cooperated with law enforcement and their investigation narrative. B.G. offered a chronological account of her romantic relationship with Adams, and took police to the Ocala RV and Resort Campground where Adams had rented a cabin, and where she and Adams had spent time together and engaged in consensual sexual activity[2].

All evidence recovered by police pointed to what appears to be a genuine consensual romantic relationship between Adams and B.G. Regretfully for Adams, however, B.G. was below the age of consent in Florida. As such, any evidence showing that Adams' and B.G.'s relationship was consensual was irrelevant as a defense to the charges filed against Adams.

Adams was candid with Det. Young and admitted to the relationship and the details of his physical contact with B.G. Those admissions, along with statements from B.G. and other witnesses formed the factual basis for the charges filed against him, and his eventual conviction.

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[2] Sgt. Young had assured Adams that as long as B.G. confirmed that their relationship was consensual, there would be no criminal charges. That, of course, was a ruse.

REASON FOR GRANTING THE PETITION

ADAMS' CONSTITUTIONAL RIGHT TO DUE PROCESS WAS VIOLATED WHEN THE TRIAL COURT CONDUCTED A TRIAL AND ENTERED A JUDGMENT, WITHOUT HAVING SUBJECT MATTER JURISDICTION BECAUSE NO VALID CHARGING DOCUMENT EXISTED OR WAS IN FORCE AND EFFECT

Adams primary claim is that his Due Process has been violated under the 5th and 14th Amendments to the U.S. Constitution because he was tried, convicted and sentenced in a court that lacked subject matter jurisdiction because no valid charging document existed, and the trial court *sua sponte* vested itself with such jurisdiction to proceed in Adams' criminal case.

After the State had filed a motion to "remove and destroy filing" of the last amended charging Information; and never filed a superseding Information, the court unilaterally decided to revive a prior version of the charging Information which was no longer in force and effect, in order to proceed with Adams' criminal prosecution at trial. In sum, the trial court lacked subject matter jurisdiction because a valid charging document did not exist.

Throughout his direct and collateral postconviction litigation, Adams has presented the instant claim alleging that the trial court lacked subject matter jurisdiction to enter the judgment authorizing his current detention, which renders that judgment void *ab initio*. In adjudicating his claims below, every reviewing court has deferred to the previous court's flawed analysis relying upon cases which are procedurally distinguishable from Adams' case.

The State judgment under attack herein as void *ab initio* because there was no valid charging document in force and effect when the trial court entered a judgment and a composite sentence of 80 years' incarceration, followed by 10 years probation, without having the necessary subject matter jurisdiction.

In Florida, a court obtains subject matter jurisdiction in felony cases only upon the filing of a charging document, and jurisdiction does not exist until that charging document is filed and remains in force and effect. See Fla.R.Crim.P. 3.140(a)(2); *L.L.H. v. State*, 873 So.2d 1252 (Fla. 5th DCA 2004).

Federal courts have recognized how vital subject matter jurisdiction is to the administration of justice and deemed it a foundational cornerstone of the judicial system in the United States which, unlike other rights under the constitution, it cannot simply be conferred or

waived by consent, estoppel, or even failure to challenge jurisdiction early in the proceedings. See *Laughlin v. K-Mart*, 50 F.3d 871, 873 (10th Cir. 1995)

In Florida, this principle has been equally recognized by the courts which have held that "[a] defendant, or defense counsel, may not stipulate to jurisdiction when it is absent." *Sterling v. State*, 682 So.2d 694 (Fla. 5th DCA 1996). Neither may a defendant confer jurisdiction on the trial court by waiver, acquiescence, estoppel, or consent. See *State v. Shafer*, 583 So.2d 374 (Fla. 4th DCA 1991); *Izquierdo v. State*, 890 So.2d 1263 (Fla. 5th DCA 2005); *Golden v. State*, 84 So.3d 396 (Fla. 1st DCA 2012). Under such legal precedents, a trial court lacks constitutional or statutory authority to *sua sponte* confer jurisdiction upon itself. That is precisely the type of action that jurisdictional guardrails were intended to prevent, and what the trial court did in Adams' case.

Notably, the "time-of-filing" rule is particularly salient in Adams' case because it provides that jurisdiction of the court depends upon the state of things at the time of the action in question. See *Mollan v. Torrance*, 22 U.S. 537, 539, 6 L.Ed. 154 (1824). See also *In re Katrina Canal Breaches Litigation*, 342 Fed. Appx. 928, 931 (5th Cir. 2009) ("While a plaintiff may amend a complaint to cure inadequate jurisdictional allegations, amendment may not create subject matter jurisdiction when none exists.").

Adams was originally charged by Information in January 2014, the Information was superseded by a "Second Amended Information" filed on February 25, 2014. Finally, the State filed a "Third Amended Information" on October 3, 2014, which superseded the prior "Second Amended Information" and added additional counts not previously charged. As such, the State filed a total of three (3) superseding Informations each invalidating the prior Information and replacing it with the amended one.

Significant to Adams claim herein, on October 3, 2014, the State filed a "Motion to Remove or Destroy Filing" of the last amended charging Information, effectively withdrawing it and having the effect of a *nolle prosequi* filing.

The State failed to file another superseding amended Information after it removed/destroyed the last amended Information it had filed against Adams. Consequently, no valid charging Information existed after October 3, 2014, and the court was without jurisdiction.

In Florida, the filing of a superseding amended Information vitiates or invalidates the prior Information. See *State v. Pereira*, 160 So.3d 944 (Fla. 5th DCA 2015). In fact, courts have held that the filing of an amended Information is the functional equivalent of filing a notice of *nolle prosequi* on the prior Information. See *State v. Belton*, 468 So.2d 495 (Fla. 5th DCA 1985).

Accordingly, once the State withdrew its last amended Information by filing a "Motion to Remove or Destroy Filing" on October 3, 2014, that was the functional equivalent of announcing a "*nolle prosequi*," also referred to as a "no action" notice. In *Sadler v. State*, 949 So.2d 303 (Fla. 5th DCA 2007), the court held that *nolle prosequi* ends the proceeding, and *anything that occurs thereafter is a nullity*. See also *State v. R.J.*, 763 So.2d 370, 371 (Fla. 4th DCA 1998) Therefore, as of October 3, 2014, the trial court in Adams' case was devoid of jurisdiction because there weas no valid charging document in force and effect. See Fla.R.Crim.P. 3.140(a)(2); *L.L.H.*, supra

Inexplicably, on October 6, 2014, after the trial court had been without subject matter jurisdiction for three (3) days, the trial court held a hearing and *sua sponte* decided, without jurisdiction, that it would proceed based on an Amended Information filed on February 25, 2014. Even more egregious, trial counsel failed to object to the court proceeding without jurisdiction. Thankfully jurisdiction cannot be waived by acquiescence.

In adjudicating Adams' attack on the Judgment due to the court's lack of subject matter jurisdiction, the State postconviction court provided that "the State and the Defendant [through counsel] agreed to proceed to trial on the amended Information" which had been unilaterally resurrected by the court under self-conferred jurisdiction, at a time when none existed. As provided herein, jurisdiction cannot be stipulated to by agreement between the State and a defendant; or by waiver or acquiescence. See *Waggy v. State*, 935 So.2d 571 (Fla. 1st DCA 2006); *Sterling*; *Shafer*; *Izquierdo*; and *Golden*, supra.

Next, the postconviction court relied upon an "apple and oranges" comparison by citing to the decision in *State v. Anderson*, 935 So.2d 1373 (Fla. 1989), as the controlling authority over Adams' claim.

The facts in the *Anderson* case are distinguishable from those in Adams' case. In *Anderson*, the relevant point of law in question assumed subject matter jurisdiction because at all relevant times a valid charging document existed. As such, the controversy in *Anderson* stemmed

from the entry of a plea to charges that had been revived by mutual agreement between the State before the entry of the plea, and all changes to those charges had taken place while a valid charging document remained in force and effect at all stages of the proceeding, including during the entry of the plea. Simply put, in *Anderson* the trial court never lost jurisdiction.

In contrast to *Anderson*, in Adams' case, the court was without jurisdiction because the State withdrew the last Information filed on the same day it filed it (October 3, 2014). At that point, the trial court lacked subject matter jurisdiction because the State never filed a superseding Information after withdrawing its last amended Information – which amounted to announcing a *nolle prosequi.*

On October 6, 2014, the trial court called a hearing and, without having subject matter jurisdiction, unilaterally revived one of the prior Informations filed by the State – which had been rendered null and void by subsequent amendment,. Thereafter, the court proceeded with Adams' prosecution at trial. At the conclusion of trial, the court entered a Judgment and Sentenced Adams to a composite sentence of 80 years' incarceration followed by 10 years probation – all while lacking subject matter jurisdiction.

Therefore, the postconviction court's decision to deny relief in a claim challenging the trial court's jurisdiction – which was thereafter shown judicial deference by subsequent State and Federal courts that reviewed the claim, constitutes an objectively unreasonable application of the law to the facts of Adams' case; and likewise constitutes an unreasonable application of Federal constitutional law under the AEDPA standard of review.

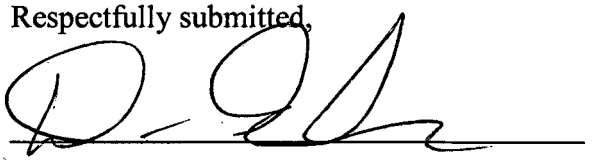
There can be no more egregious violation of a citizen's due process rights under the U.S. constitution than being tried and sentenced by a court that lacks the subject matter jurisdiction to do so.

Adams believes in good faith that he was, and continues to be subjected to a miscarriage of justice from the flagrant violation of his Due Process rights under the Fifth and Fourteenth amendments to the U.S. constitution. Therefore, he requests that this Honorable Court grant the Writ of Certiorari requested herein.

CONCLUSION

WHEREFORE, based on the foregoing facts, argument and authority, the Petitioner requests that this Honorable Court grant the instant Petition for Writ of Certiorari and resolve the Constitutional question presented above.

Respectfully submitted,



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