

No. 25-6196

ORIGINAL

Supreme Court, U.S.
FILED

OCT 28 2025

OFFICE OF THE CLERK

In The
Supreme Court OF The United States

Jason Attride - Petitioner
VS.

Fifth District Court OF Appeal - Respondent
State OF Florida

On Petition For A Writ OF Certiorari To
Fifth District Court OF Appeals State OF Florida

Petitioner's:

name: Jason W. Attride.

DC # V52532, Filing pro se

address: Mayo Correctional Institution

Annex, 8784 U.S. Hwy 27

West, Mayo FL, 32066

(a) Questions Presented For Review

1. Is a plea invalid where the state prosecutor offers a defendant to enter a plea, and the Court accepts the defendant's plea, for a felony offense that does not exist anywhere under the criminal statutes involved and does not exist anywhere under that state's law?
2. Is a plea invalid where a defendant entered a plea for a lesser offense, where the state's own evidence affirmatively shows that the defendant could not have been convicted for the lesser offense and could not have been convicted for the more severe, initially charged offense, as a matter of law?
3. Can a defendant's previously alleged conduct which ended in a favorable ruling for the defendant of a Nolle Prosequi filed by the State's Attorney's Office, be used against the defendant in a later, different prosecution where the state then finds the defendant's previous alleged conduct from the Nolle Prosequi to later be found he committed the previous crime by clear and convincing evidence, without any new evidence, out of a necessity for corroborating evidence in the later, different prosecution, using the previous conduct that resulted in a Nolle Prosequi as the sole corroborating evidence against defendant in the later, different prosecution to obtain a conviction upon defendant for a felony criminal offense?

4. Can police and or their agents intentionally fabricate material evidence of a child's video recorded interview through video editing to create false appearance of a child sexual abuse crime and the State knowingly use that fabricated material evidence against the child's own parent in order to obtain a conviction upon the parent for a child sexual abuse crime, that the State knew was based upon fabricated material evidence that the police and or their agents intentionally fabricated?

5. Is a plea voluntarily, intelligently entered where the plea offered by the State, entered by the defendant, and accepted by the Court, included a sentence that is an illegal sentence?

6. Can a plea entered by a defendant for a felony offense be based upon evidence that is not competent, substantial evidence as a matter of law, of unreliable inadmissible child hearsay statements?

List Of All Parties

- ☒ The list of all parties appear in the caption of the case.

Related Cases

- State v. Attride, No. 2014-301631-CEDB, 7th Judicial Circuit Court for Volusia County of Florida. Judgement entered Oct. 16, 2017. Illegal Sentence granted. Judgement and Amended Updated Sentence filed April 26, 2023.
- Attride v. State, No. 5D2023-1810, Court of Appeal For the Fifth District of Florida. Judgement entered June 17, 2025. rehearing denied July 30, 2025.

Table Of Contents

	page(s)
Opinions Below	I
Index of Appendices	V
Table of Authorities	VI
Jurisdiction	I
Constitutional and Statutory Provisions Involved	1-2
Statement Of The Case	2-5
Reasons For Granting The Petition	6-13
Conclusion	14
Proof Of Service	15

Index Of Appendices

Appendix A Decision Of State Court Of Appeals

Appendix B Order of State Court Of Appeals Denying Rehearing

Appendix C Decision Of State Trial Court On Defendants

Rule 3.800(B), Fla. R. Crim. P. Motion To
Correct Sentencing Error

Appendix D Decision Of State Trial Court On Defendants
Motion To Withdraw Plea

Appendix E Leud and Lascivious criminal statute
§800.04, Fla. Stat.

Appendix F Criminal Attempt Statute
§777.04, Fla. Stat.

Appendix G Rule Governing a Nolle Prosequi
Rule 3.191(b), Fla. R. Crim. P.

Appendix H Sworn Affidavit dated 4-31-2023.

Table Of Citations

<u>Berger v. U.S.</u> , (U.S.) 55 Sup. Ct. Rep. 629 (1935)	9
<u>Bousley v. U.S.</u> , 523 U.S. 614, 623 (1998)	7
<u>Giglio v. U.S.</u> , 405 U.S. 150 (1972)	9
<u>Shiro v. Farley</u> , 510 U.S. 222, 232 (1994)	8
<u>U.S. v. Edenfield</u> , 995 F.2d 197, 200 (11th Cir. 1993)	10
<u>Hill v. Lockhart</u> , 474 U.S. 52, 59 (1985)	7

Opinions Below

The opinions of the lower courts have not been published and have not been designated for publication.

Statements Of The Basis For Jurisdiction

The petitioner seeks review of a decision of a state court of his direct appeal from a sentence and judgement in a criminal case.

Attitude v. State, No. 5D2023-1810, Court of Appeal For The Fifth District Of Florida. Judgement entered June 17, 2025. Timely motion for rehearing denied July 30, 2025.

Rule 13(3) of the Rules of the Supreme Court of the United States provides that the time to file a petition for a writ of certiorari runs from the date of the denial of rehearing, which began on July 31, 2025 and the 90 day period expires on October 28, 2025.

Constitutional And Statutory Provisions Involved

- Constitutional Rights under the U.S. Constitution:
- Due Process and or Procedural Due Process
- Equal Protection and or Equal Application of the law
- Separation of Powers Doctrine
- Effective Assistance of Counsel

Statutory Provisions Involved:

Criminal Attempt Statute, § 777.04, Fla. Stat., See: Appendix-F
Lewd and Lascivious Statute, § 800.04, Fla. Stat., See: Appendix-E

Statement Of The Case

RE: Criminal Case No: 2014-301631-CFDB, Seventh Judicial Circuit Court For Volusia County, Fla. The defendant's criminal case is based upon the child hearsay statements of what his ex girlfriend, Jennifer Shafer says that their 8 year old daughter told to her (R. 2091-2119) and what their 8 year old daughter, B.A., stated during a 11/20/2013 video recorded C.P.T. interview of B.A. (R. 2129-2168). B.A.'s mother, Shafer, alleged that B.A. told her that her father, the defendant, "put his pee-pee in her mouth" (R. 2103-04) and on a separate occasion that B.A.'s father had touched B.A.'s private area while he was drying B.A. off after a bath (R. 2107). Shafer admitted that she did not make these accusations to police against the defendant until after the defendant notified Shafer that he was making a complaint against Shafer for child neglect of their two children B.A. and C.A. and that he will be seeking full custody of B.A. and C.A. (R. 2114-2116). B.A. was interviewed by the Child Protection Team (C.P.T.) on 11/20/2013. During the C.P.T. video recorded interview of B.A., B.A. stated that no oral sex or sex acts of any kind ever took place between B.A. and her ~~Father~~ Father (R. 2150-52). B.A. repeatedly denied that no touching of her private/genital area ever took place, that her Father has never touched her private area (R. 2149, 2156, 2158). B.A. even stated that she never told her mother any differently (R. 2162-2163). B.A. is the only states witness with any direct knowledge of whether or not any crime actually took place or not because during the alleged incident B.A. stated she was alone with ~~her~~ her father at her father's home, alone in a playroom with her father, there are no other eye witnesses (R. 2153-54; 2103-04; R. 38-42 Police Probable Cause Charging Affidavit). B.A. did say that one time her Father embraced her briefly on his way to go take a shower, while he had on boxer shorts a t-shirt and socks. (R. 2152-2154). B.A.

Stated that her Father never touched her in any way, never took off any of his clothes, never tried to get B.A. to look at his privates, never tried to show B.A. his privates, never exposed himself, never touched himself, never made B.A. make any contact with him, and never said anything to make B.A. make any contact with him, and never asked B.A. to make any contact with him. That after the brief embrace her father stopped the embrace and left the room (R. 2153-2168). Later B.A. was interviewed during a 2nd video recorded interview on 8/29/2017 (R. 4172-4197) where B.A. admitted the embrace in question only lasted 3-seconds (R. 4188) and B.A. admitted that she has no idea what part of her father's body made contact with her during the brief embrace of 3-seconds. B.A. admitted that she did not know whether it was her father's thigh, stomach, or private area of his boxer shorts, that she did not know if it was above or below his stomach area even (R. 4187-4192).

On October 16th, 2017 a plea hearing was held where the state offered the defendant to enter a plea to the lesser offense of Attempted First Degree Lewd and Lascivious Child Molestation, instead of the initial more severe charge of Life Felony Lewd and Lascivious Child Molestation under § 800.04(5)(b), Fla. Stat. The Lewd and Lascivious statute did not have its own "attempt" charge so, the defendant pled under the attempt statute § 777.04 to the criminal attempt of a life felony offense. The court accepted the plea from the defendant to the crime of Attempted First Degree Lewd and Lascivious Child Molestation (R. 2047-2055 Judgement and Sentence, see also 10/16/2017 plea hearing, R. 2649-2689).

Later the defendant filed a motion for correction of an illegal sentence, pro se under Rule 3.800(A),

Fla. R. Crim. P. (R. 3559-3584, filed July 9th, 2021). The trial Court ordered that the defendant's sentence is illegal (R. 4500-4502, March 31st, 2023). The Defendant was resentenced on April 24th, 2023. During resentencing the Defendant raised the issue that his plea was invalid because the felony Attempted "First" Degree Lewd and Lascivious Child Molestation does not exist under either statute involved or anywhere else in Fla. law (R. 5178-5210).

The Defendant's first direct appeal of his criminal case judgement and sentence was dismissed for lack of jurisdiction (R. 2927-2928, case # 5017-3617, filed April 10th, 2019).

After his resentencing on April 24th, 2023, the trial Court ~~the~~ upheld his plea for the crime of Attempted First Degree Lewd and Lascivious Child Molestation (R. 4555). During resentencing the trial Court informed him that even though his sentence is illegal that he cannot withdraw his plea and does not have to agree to his new sentence (R.).

After resentencing the Defendant filed a timely Motion to withdraw plea (R. 4925-5021) and the defendant filed a timely Motion to correct sentencing errors, under Rule 3.800(B), Fla. R. Crim. P. The trial Court summarily denied all grounds raised by defendant's motion to withdraw plea (R. 5087-5100, Trial Court's Order dated July 25th, 2023) and the trial Court summarily denied all grounds raised by defendant's Motion to correct sentencing errors (R. 5494-5496, trial Court's order dated Nov. 28th, 2023). The defendant appealed the trial Court's summary denials of his motions. The defendant submitted an initial brief on appeal, the state filed an answer brief, and the defendant filed a reply brief. The Fifth District Court of Appeal affirmed the trial Court's rulings on the seven grounds raised by defendant on his appeal (See: Case number 5D2023-1810, 4

Fifth Dist. Court of Appeal, order dated June 17th, 2025). The defendant filed a timely motion for rehearing, denied by the Fifth Dist. Court of Appeal (See: Fifth Dist. Court of Appeal, order dated July 30th, 2025, case number 5D2023-1810).

Reasons For Granting The Petition

1. Question #1 ~~was~~ was raised by the appellant during resentencing (R. 5183-5189), and was also raised as grounds in his initial brief on direct appeal case # 500023-1810. Raised in ground(s) one of his initial brief, pgs. 12-20, as ground two, pgs. 21-23, and ground three, pgs. 24-26 of the initial brief. One can easily see that by reviewing the statutes involved that no crime of Attempted "First" degree lewd and lascivious child molestation exists anywhere in the lewd and lascivious statute, § 800.04, Fla. Stat. (Appendix-E) and does not exist anywhere under the criminal Attempt statute § 777.04, Fla. Stat. (Appendix-F). The plain language under § 777.04 clearly states under § 777.04(4)(c), Fla. Stat. that "if the offense attempted... is a life felony or a felony of the first degree, the offense of criminal attempt... is a felony of the second degree". The crime attempted was a life felony, as Lewd and Lascivious child molestation of a child under 12 years of age is a life felony, see § 800.04(5)(b), Fla. Stat. (Appendix-E), therefore the correct felony would be attempted "Second" degree Lewd and Lascivious child molestation, however the trial court has repeatedly upheld the non-existent offense of attempted "First" degree Lewd and Lascivious child molestation, a felony which clearly does not exist under either statute involved and does not exist under any other statute anywhere else in Florida Law. As the defendant raised in his initial brief it is a violation of his constitutional rights under the U.S. Constitution of Due process and or procedural due process, equal protection under the law and or equal application of the law, and separation of powers doctrine, for a trial court and or appellate court to uphold a conviction for a felony that does not exist anywhere under that states law and or to sentence a person as a Sexual Predator requiring lifetime registration as a sexual predator for a felony that does not exist anywhere under that states law.

for it is done without any legal authority to do so.

Think of how unconstitutional it is if around the United States Courts began improperly creating felonies that do not exist to convict and sentence parents or sexual predators and child molesters without any legal authority to do so.

2. Question #2, Ground Four of the defendant's motion to withdraw plea (R. 494b-496d) showed in great detail that the conduct alleged by the state's own child victim, "B.A." of the defendant's alleged conduct committed, both physical and verbal conduct, simply did not constitute any felony lewd and lascivious conduct and or manner, as a matter of law. There are no other eye witnesses to the alleged crime, only B.A. has any direct knowledge of whether or not ~~any~~ any lewd and lasc. crime occurred or not. Because no felony lewd and lasc. conduct took place at all, the defendant could not have been found guilty of committing any lewd and lasc. felony offense, not the lesser offense he pled to of Attempted First Degree Lewd and Lasc. Child Molestation, and not the initial more severe charge of Life Felony Lewd and Lasc. Child Molestation under § 800.04 (5)(b), Fla. Stat. or § ~~800~~ § 777.04(4)(c), Fla. Stat. Contrary to Bousley v. U.S., 523 U.S. 614, 623 (1998); and or Hill v. Lockhart, 474 U.S. 52, 59 (1985). The Defendant provided these 2 federal caselaws in Ground Five of his initial brief on direct appeal, pgs. 29-34, see Lockhart pg. 29, Bousley pg. 33-34 case # 5D2023-1810. It cannot be tolerated for states to allow persons to enter a plea for a crime the state's own evidence shows did not take place, for there is no legal error more fundamental than a person incarcerated for a crime that did not take place. The defendant again raised Bousley, Lockhart, and Strickland in his reply brief, pg. 11, direct appeal case No. 5D2023-1810, which the 5th Dist. Ct. of Appeal

per curiam affirmed, as if they never even read his briefs, which provided the District appeal with a clear miscarriage of justice.

3. Question # 3

The trial court denied ground four of defendant's motion to withdraw plea by relying upon erroneously admitted collateral crimes evidence that was not clearly proven the defendant committed the prior alleged conduct, because the prior alleged conduct was nolle prosequi by the State Attorneys Office (See: Trial Court's order denying defendant's motion to withdraw plea (Appendix-D, denial of ground four). In defendant's initial brief of his direct appeal defendant addressed this issue (See: ground five, initial brief, pgs. 29-34, specifically pg. 32-34, case No: 5D2023-1810). Defendant stated that using a nolle prosequi in such a way, by taking a ruling favorable to the defendant of a Nolle prosequi filed by State, and then later in a different prosecution out of a need for corroborating evidence, a lack thereof, to find the same conduct resulting in a Nolle Prosequi to now be found "clearly proven by clear and convincing evidence" required for admissibility, to be in violation of the rule governing a Nolle Prosequi, rule 3.191(c), and to be in violation of the clearly established principle of law of collateral estoppel. Defendant provided the federal caselaw of: *Shiro v. Farby*, 510 U.S. 222, 232 (1994) which cites *Ache v. Swenson*, 397 U.S. 436 (1970). See: ground five, pg. 32 of initial brief, and ground five of reply brief, pg. 13-14, of direct appeal case No: 5D2023-1810, affirmed by Fifth Dist. Court of Appeal.

This improper and/or unlawful tactic by the State of Florida is a serious legal issue for all Americans. If a person is accused of committing a crime and

the outcome is favorable to the defendant/accused by the State Attorney's office filing a nolle prosequi, it is completely unfair to a person, that if later on if another allegation comes your way that the State can say, man I wish we hadn't nolle prosequi that previous allegation. . . . So let's just get it erroneously ruled as clearly proven by clear and convincing evidence that the accused did commit the ~~per~~ previous conduct that resulted in a nolle prosequi, because if the State didn't do this, they would have no corroborating evidence that any crime occurred in the new, prosecution, so out of a total lack of any corroborating evidence, and a need for corroborating evidence, the State now violate the principle of law of collateral estoppel, ~~to~~ use the prior alleged conduct a second time, improperly, to now be able to obtain a conviction upon a person that the State could not have obtained otherwise due to a lack of any corroborating evidence. Such is my case which is a child hearsay case which as a statutory requirement there must be some other corroborating evidence in order for the child hearsay to have even been admissible in the first place, See: § 90.803 (23)(A), Fla. Stat.

4. Question # 4 was raised by the defendant/Petitioner for the first time in direct appeal under the fundamental error exception and/or miscarriage of justice/manifest injustice exception, See: Ground 7, pgs. 36-37, initial brief, appeal case No. 5D2023-1810, affirmed by Fifth Dist. Court of Appeal of Florida. The Defendant provided Federal Caselaw of: Giglio v. U.S. ~~State~~, 405 U.S. 150 (1972); Berger v. U.S., (U.S.)

55 Sup. Ct. Rep. 629, 79 L. Ed (1935), See: pg. 37
ground five, initial brief, appeal case No: 5D2023-1810.
In his reply brief he provided Federal caselaw of:
U.S. v. Edenfield, 995 F.2d 197, 200 (11th Cir. 1993).
(See: Reply Brief, pg. 15, appeal case No: 5D2023-1810).

The defendant provided the appellate court with his
sworn affidavit which stated that he is an eye witness
that he watched/viewed the unedited, complete version
of the 11/20/2013 C.P.T. int. of states alleged child victim
B.A., video recording, and viewed it in the Volusia County
Branch Jail, and took detailed notes. His affidavit stated
that he viewed the child interviewer demand/coerce his
8 year old child B.A. to repeat verbatim an inculpatory
Statement the child interviewer and police wanted B.A.
to repeat so the state could prosecute and convict B.A.'s
father, the defendant. He then viewed the full recantation
made by B.A. to the child interviewer. The state then
simply deleted the child interviewer's coercion of B.A.
and deleted the full recantation made by B.A., leaving
only the 8 year old B.A. repeating the inculpatory
accusation. This unlawful, and devious conduct by
police and their agents amounted to the manufacturing
of a child sexual abuse crime against a parent
where no such crime ever took place.

The petitioner has included his sworn affidavit
he provided the Fifth Dist. Court of Appeal, dated 4-31-
2023, See: Appendix-H. Clearly, this is a very
serious issue for Americans where their own local
police and/or their agents take it upon themselves to
manufacture a child sexual abuse crime against
an unsuspecting parent, "framing" the parent for
a child sex crime that never actually took place.

Such outrageous, evil, conduct by police and or their agents must not ever be allowed to occur, it must be stamped out where ever it appears otherwise this evil conduct will be repeated again and again across the United States, if nothing else, but to "solve" criminal cases by devious detectives.

5. Question #5 The defendant/Petitioner raised this issue as ground four of his initial brief, pgs. 27-28, appeal case: 5D2023-1810, and ground four of his reply brief, pgs. 5-7. In his reply brief he provided Federal Caselaw of: *McMann v. Richardson*, 397 U.S. 759, 766 (1970), See: pg. 5-7 of reply brief. This issue was raised by defendant as ground 5 of his Amended Rule 3.800(B) motion to the lower Court, (trial) R. 5351-5355, which trial Court summarily denied in its Order dated Nov. 28, 2023, summary denial of all grounds raised in Defendant's Rule 3.800(B) motion, See: Appendix-C (R. 5494-5496).

Americans must not be subjected to plea offers from the State, which include an illegal sentence, and then later be forced by the trial Court to remain trapped in such a plea offer, in order for a State to protect its convictions at the expense of the accused constitutional rights and or Federal Caselaw of the ~~U.S.~~ S.C.O.T. U.S.

6. Question #6 The defendant raised this issue as ground Five of his initial brief, pgs. 29-34, and as ground five of his reply brief, pgs. 11-13, appeal case No: 5D2023-1810. He provided Federal caselaw of: *Ohio v. Roberts*, 448 U.S. 56 (1980), See: pg. 11-13, reply brief, appeal case No: 5D2023-1810.

Just by viewing the statement of facts one can plainly see that the defendant/petitioners ex only accused him of sexually abusing their 8 year old child "B.A." only after he notified their child's mother that he was going to report her to D.C.F. for child neglect and would be seeking full custody of their 2 children B.A. and C.A. (R. 2114-2116). At a child hearsay hearing the trial Court heard the child hearsay from B.A.'s mother, of what B.A. allegedly told her mother (R. 2091-2119, 12/17/2015 child hearsay hearing, crim. case No: 2014-301631CFDB) and what hearsay that B.A. made during the 11-20-2013 vid./rec. CPT int. of BA (R. 2129-2168) (12/17/2015 child hearsay hearing, crim. case No: 2014-301631CFDB). The child's mother alleged B.A. told her that B.A.'s father put his pee-pee into B.A.'s mouth (oral sex of a child) (R. 2103-2104) and that her father had touched her private/genital area while he was drying B.A. off after a bath (R. 2107). Then B.A.'s hearsay testimony made during the vid./rec. 11-20-2013 CPT int. of B.A. was played in open court during the same child hearsay hearing, where B.A. stated that her father never put his pee pee into her mouth, that she's never even seen her father's private/genitals before, and never seen her father naked at all (R. 2150-2152) and that her father has never touched her private/genital area before (R. 2149, 2156, 2158) and that B.A. never told her mother any differently than this (R. 2162-63).

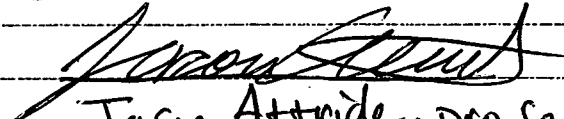
Clearly, that is completely contradictory hearsay that is not worthy of any exception to hearsay, and has been "erroneously" admitted by the trial Court. Therefore, the defendant's

case is based upon evidence that is not competent substantial evidence as a matter of law.

This must not be permitted by State Courts to blatantly ignore the Federal 6th Amend. to the U.S. Constitution, in order for State Courts to be able to prosecute and convict persons of such child sexual abuse cases based upon such incompetent evidence that is not substantial evidence as a matter of law. Such unreliable, inadmissible child hearsay on its face should never be permitted to sustain any judgement upon any American.

Conclusion

Wherefore, the foregoing facts, applicable law, argument, and documents show that the petition for writ of Certiorari should be granted.


Jason Attitude, pro se
DC # VS3532
Date: October, 28, 2025