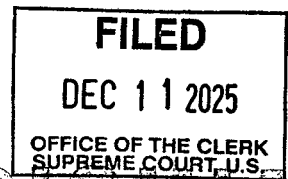


25-6577

No. _____

IN THE
SUPREME COURT OF THE UNITED STATES,



ORIGINAL

Charles D. Milbry, Petitioner

v.

STATE OF FLORIDA, Respondent.

On Petition for Writ of Certiorari to Second District Court of Court of Appeals
State of Florida

PETITION FOR WRIT OF CERTIORARI

Charles D. Milbry, prose
Dc# 512955
NWFRM M/U
4455 Sam Mitchell Dr.
Chipley, Fl. 32428

QUESTIONS PRESENTED

Petitioner played a relatively minor role in his acceptance of plea. A trial judge was assigned to petitioner's case when it was filed in 1996 and presided over his acceptance of a plea. The proceedings were marked with irregularities from the outset, when a state trial judge, contrary to decisional law, failed to determine if the petitioner had actually forfeited his rights to affirmative election (which current sentence is in violation of ex post facto laws) to choose which sentence guidelines would be imposed under the guidelines at the time of his offenses as opposed to at the time of his sentence or to consult with the petitioner's public defender to ensure that the petitioner would intelligently understand his rights to affirmative election during the acceptance of a plea. Despite this and other errors, the court recognized this issue and failed to address that there was no clear and unequivocal choice by the petitioner. In 2013 and 2015, petitioner sought relief from sentence, and his motion under 3.800(a) was assigned to the Thirteen Judicial Circuit Court, In and For, Hillsborough County, State of Florida. In these claims the petitioner was raising his illegal habitualization. Substantive action was taken by the trial court on the case, thus, denying petitioner's motion without a hearing. On May 13, 2025, petitioner file a 3.800(a) addressing that he was not allowed to affirmative election which caused his sentence to increase in violation of ex post facto laws, where he was entitled to the election process, citing the Florida Supreme Court case Logan v. State, 921 So.2d 556 (Fla. 2005); Also see Bogan v State, 502 So.2d 1341 (Fla.2nd DCA 1897). In an order that misstated the record and ignored decisional laws that directly undermined the factual basis for petitioner's sentence, the state trial court refused a to reverse, foreclosing appellate review of the merits of petitioner's claims and the state district court's denial of fact PCA. There is no State statute that holds discretionary support, thus the constitutional violating issue would by the State court would constitute a "defect in the integrity" of the proceedings, as similar recognized in Logan, as a proper basis for constitutional consideration under the U.S. Const. 8th Amendment. The following questions are presented. 1. Did the State trial court err in its reading of Logan, given that other state appeal courts read Logan to allow state courts to remedy a wide range of procedural defects in 3.800(a) proceedings, similar to the one alleged by Petitioner here? 2. If a claim seeking relief will certify a manifest injustice qualifies as the sort of "defect in the integrity of the State court proceedings" that would support a 3.800(a) motion under Logan, and may a reviewing court in determining that motion consider the reasonableness of that judge's prior disposition of the petitioner's claims for relief? 3. Did the State trial court, which to date, has never identified any debatable issue in any post-conviction appeal, where there is no state statute but the highest State Court decisional law where such is bound by

constitution relief, err in denying a sentencing error concerning the application of Logan under Rule 3.800(a)?

LIST OF PARTIES

All Parties appear in the caption of the case on the cover page.

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STATUTE AND RULES:

8th Amendment of the United States Constitution
14th Amendment of the United States Constitution

PETITION FOR WRIT OF CERTIORARI

Charles D. Milbry petitions the Court for a writ of certiorari to review the judgment of the State Court of Appeals for the Second District.

OPINIONS BELOW:

The opinion of the highest state court to review the merits appears at Appendix 1 to the petition and is unpublished. The opinion of the state trial court of appeal denial Petitioner's motion under Fla. R. Crim. P. 3.800(a), and attached as Appendix 2.

III JURISDICTION

The date on which the highest state court decided my case was 12 10 25. A copy of that decision appears at Appendix _____. The jurisdiction of this Court is invoked under 28 U.S.C. Section 1257(a).

STATUTORY PROVISIONS INVOLVED

This case involves the relationship between Fla.R.Crim.P., 3.800(a), the primary avenue for collateral review of State Court sentencing claim, which authorizes a state court to grant relief from an illegal sentence case on equitable grounds. It also implicates the State Court of Appeals' application, which does not bar plenary appellate review in a Motion to Correct Sentence proceeding unless the issue is without merit and/or creates a manifest injustice Under the 8th Amendment of the United States by the State Court of Florida. The caselaw text of each of these provisions is contained in Appendix: 2

STATEMENT OF THE CASE

Introduction Prior Proceedings leading up to Petitioner's Certiorari: Petitioner was sentenced to Life as a habitual on several counts. Petitioner then sought several Motion to Correct illegal Sentence, 3.800(a) alleging State Court Habitual Statute was illegally applied in violation of ex post facto laws and affirmative election. Ignoring the facts within the sentencing record, as evidence,

State trial court turned aside Petitioner's 3.800(a) motion without a hearing. Appeal proceeded: As to how he was entitled to relief. Petitioner returned to court in an effort to reopen the sentence.

How the Questions Presented were Raised and Decided Below:

The State court declared Petitioner's 3.800(a) motion denied because if granted it would require petitioner to re-sentence to the guidelines at the time of offense instead of at the time sentence was held on Petitioner's previously rejected claims. In denying 3.800(a), the state court held that petitioner previously raise claims or substantially similar allegation in prior motions. By that judge's treatment of the merits in the prior proceeding, is "clearly merits-based," and thus falls outside the range of "defect[s] in the integrity of [the] proceedings" that Florida Supreme Court in *Logan v. State*, 921 So.2d 556 (Fla. 2005) ruled on.

Reading *Logan v. State*, 921 So.2d 556 (Fla. 2005) to foreclose the possibility of Rule 3.800(a) relief in this case creates a manifest injustice on the state courts. This Court's intervention is warranted because the court below continues to apply an unfairly constitution standard under the 8th amendment in state prisoner's motion to correct illegally sentence cases and does so (as here) in cases where the factual record is inadequately developed. This Court may soon consider another petition raising the same issues presented here; if it grants review there, it should hold this Petition pending its decision.

REASONS FOR GRANTING THE WRIT

This Court's intervention is necessary to resolve a Manifest unconstitutional constrains held against the petitioner by the state court. Among the Court's regarding the circumstances under which, as *Logan* contemplated, a procedural defect in the integrity of a sentencing proceeding during the acceptance of a plea can warrant later reopening the judgment in that action on equitable grounds under State and Federal Laws. Beyond the State Court's substantive misreading of *Logan*, its having denied a resentencing on this issue reflects yet another failure by that court to properly apply Rule 3.800(a), particularly as it relates to challenges brought by sentenced state prisoners. Even though this Court has the authority to corrected earlier misapplications of the same constitutional violations by the same court in cases involving state prisoners, further guidance is required. Reading *Logan* to foreclose the possibility of the Florida Supreme Court relief in this case creates a constitutional guaranteed from intrusion by the state courts from a conflict with the 8th Amendment. No reasonable jurist could debate the district

court's conclusion that, under Logan and Bogan Petitioner's motion was actually a successive application for habeas relief, even though the motion challenged the presiding judge's lack of duties and its impact on his procedural rulings in Petitioner's Rule 3.800(a) action. In so concluding, the state district court aligned itself with the state trial court, which has refused to treat allegations that a state court unjustly failed to establish that petitioner's rights to affirmative elect was on the record or order a resentencing hearing to guarantee him of this right, and as asserting procedural defects cognizable via Rule 3.800(a) under Logan. See, e.g., Logan v. State, 921 So.2d 556 (Fla. 2005). The state court a substantial risk of a manifest, where a procedure requirement by a judge (denying a petitioner an opportunity to elect the appropriate guidelines) is importance issues that creates a violation of ex post facto laws upon the state court depriving the petitioner of adequate review, relief, and/or remedy. The state court's confidence in its ultimate conclusion finding Petitioner's appeal unworthy of plenary consideration is especially unwarranted given the incomplete state of the district court record, which itself should have weighed in favor of granting a resentencing hearing as afforded due process. This Court may soon consider another petition raising the same issues presented here (as a manifest injustice claim), if it grants review there, it should hold this Petition pending its decision. If the Court concludes that the disposition of the issues in this Petition might be affected by its decision in any pending action in the state or federal court, Petitioner asks that the Court defer final action on his petition pending that decision. If the Court ultimately grants certiorari in any state or federal action, Petitioner urges the Court to grant review here and consolidate the cases for decision, or, in the alternative, to hold his case pending its decision in the state or federal action that was pending its review and relief.

CONCLUSION AND PRAYER FOR RELIEF

The state court need guidance about how to apply the Florida Supreme Court's holding in Logan should be available to 3.800(a) petitioners in circumstances where affirmative election is required and is to subject ex post facto violations. The defect in the integrity of the proceedings led to the denial of relief. At present, the state trial and district courts are taking a significantly narrower view of what constitutes an actionable "procedural defect" than in the Florida Supreme Court, a conflict that deserves resolution by this Court. Absent this Court's intervention, the state circuit and district court's misapplication of Logan means that no court will review whether state courts serious substance ethical infirmities constituted such a defect and unfairly deprived Petitioner of his sole opportunity for post-conviction review of his sentence. And the State Circuit and District Court continued misapplication of the Logan and Bogan means that Petitioner and other sentenced state defendants will never get an appropriate

chance at appellate review of substantial legal and factual disputes in their post-conviction sentencing proceedings. This Court should grant certiorari to review the state Court's sentence refusing to grant resentencing on the issues raised in Petitioner's Rule 3.800(a) motion, summarily reverse the decision below, hold this case as it considers the scope of Logan in similar state court cases, or grant such other relief as justice requires.

Respectfully submitted,

Charles D. Milbry

DC #: 512955

/s/ 

Date: 12-10-25

PROOF OF SERVICE

I, Charles D. Milbry, do swear or declare that on this date, December 10, 2025, as required by Supreme Court Rule 29, I have served the enclosed MOTION FOR LEAVE TO PROCEED *IN FORMA PAUPERIS* and PETITION FOR A WRIT OF CERTIORARI on each party to the above proceeding or that party's counsel, and on every other person required to be served, by depositing an envelope containing the above documents in the United States mail properly addressed to each of them and with first-class postage prepaid, or by delivery to a party commercial carrier for delivery within 3 calendar days.

The names and address of those served are as follows:

Office of the Attorney General, 3507 E. Frontage Rd., Suite#200, Tampa, FL 33607-3371

I declare under penalty of perjury that the foregoing is true and correct.
Executed on December 10, 2025.