

No.: 25-7547

IN THE SUPREME COURT OF THE UNITED STATES

DERRICK G. JAMES,
Petitioner,

v.

THE GEO GROUP, INC., et al.,
Respondents.

_____ /

PETITIONER'S REPLY TO RESPONDENTS
BRIEF IN OPPOSITION

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Respondents Brief In opposition does not answer the question presented. Instead, Respondents principally argue that Petitioner was required to comply with procedural rules and that this case is fact-specific. Petitioner does not contend that a *pro se* litigant is categorically exempt from following procedural rules.

The issue before This Honorable High Court is whether the Lower Courts properly applied the liberal-construction requirement established in **Haines v. Kerner**, 404 U.S. 519 (1972), to an incarcerated litigant proceeding *pro se* without an attorney.

I-II Even Though Petitioner Didn't specifically style his petition as a Petitioner's request for leave to remove Attorney from case and request to proceed *pro se*, The District Court did initially conclude that **Haines v. Kerner**, Instructions should have been applied to the issue now before this Honorable High Court.

While both **Haines v. Kerner**, 404 U.S. 519 (1972) **and McNeil v. United States**, 508 U.S. 106 (1993), do not exempt a *pro se* litigant from following procedural rules the issue before this Honorable Court is, if Petitioner's pleading in itself required a Haines analysis. The answer is absolutely. Secondly, the Lower Courts failed to apply **Haines** correctly when determining what Petitioner's filing meant and what relief was Petitioner requesting. Initially, the District Court clearly knew what Petitioner's intentions were; concluded and understood that **Haines** did apply. Being that the District Court initially granted Petitioner's request to remove Attorney from case and request to proceed *pro se* it is apparent that Petitioner's styled language petition was initially liberally construed per **Haines**. And due to the fact that Petitioner's request to remove Attorney from case and Request to proceed *pro se* was accompanied by the *pro se* complaint, therefore, having left no doubt what Petitioner was actually requesting. Where as in the case of **McNeil**, A "letter" was

submitted by him for which he argues should have been liberally construed per Haines. Yet in the case before this Honorable High Court the issue concerns an “**actual filed petition, i.e. Pleading - not a letter.**” And, the circumstances are completely different.

Not until after Respondents had filed a response requesting that Petitioner's pleading be struck was then when the District Court reversed itself by striking Petitioner's *pro se* filed pleading, therefore ignoring and failing to comply with the **Haines** standard. In **Foman v. Davis**, 371 U.S. 178, 182, 83 S.Ct. 227, 9 L. Ed. 2d 222 (1962). Where this Honorable Court held that the Court of Appeals error in failing to treat the appeal from the second judgment as an inept but effective attempt to appeal from the first judgment as well, since the defect in the second notice of appeal did not mislead or prejudice the Appellee. This Honorable High Court went on to say that, it is too late in the day and entirely contrary to the spirit of the Federal Rules of Civil Procedure for decisions on the merits to be avoided on the basis of such mere technicalities.

III. Petitioner did not perse violate the Southern District Court's local Rule nor disregard consulting with Respondents Counsels concerning his *pro se* filing as alleged by the Respondents.

Once again, the Haines standard must be and should have been applied but was disregarded by the Lower Courts. Although the U.S. Eleventh Circuit Court of Appeals incorrectly upheld the District

Court's decision to strike Petitioner's *pro se* filed pleading, in the case of **Brye v. Secretary of FL. D.O.C.**, 228 F. App'x 843-44 (11th Cir. 2007)(per curiam), the U.S. Eleventh Circuit held that a "District Court should not dismiss the action of a *pro se* [party] based on a local rule when" nothing indicates the *pro se* party was aware of the rule "prior to dismissal" (quoting **Michell v. Inman**, 682 F. 2d 886, 887 (11th Cir. 1982)). See **Simon v. Pierre**, U.S. Dist. LEXIS 57968:: February 26,, 2025, where District Court granted leave to file a Third Amended Complaint but requiring Plaintiff to make certain revisions in order to correct technical concerns identified in this Order. See also, **Wilhelm v. Roman**, 680 F. 3d 1113, 1121 (9th Cir. 2012), where the Ninth U.S. Circuit Court of Appeals applied the **Haines** standard by acknowledging that where the Petitioner is *pro se*, particularly in civil rights cases, Courts should construe the pleading liberally and afford the Petitioner the benefit of the doubt.

Unfortunately Petitioner wasn't afforded this opportunity.

As to failure to confer with the Respondents Attorneys... during the time of the *pro se* filing Petitioner had not yet been granted *pro se* status by the District Court. Therefore, technically, Petitioner was still being represented by Attorney Ana Davide and was not himself

obligated nor required to consult with the Respondents Attorneys at that point in time.¹ See Fed. R. Civ. P. 15, 15(a)(2) and Local Rule 7.1(a)(3), where the district court 'specifically' cites Local Rule 7.1(a)(3) not 7.1(a)(2).²

In closing, this issue before this Honorable High Court is not fact-specific and is one that presents an important unresolved legal question warranting THIS HONORABLE HIGH COURT'S REVIEW.

CONCLUSION

Wherefore, the case before this Honorable High Court presents a very important question concerning the treatment of incarcerated *pro se* litigants proceeding without an Attorney and of whether the Lower Courts properly applied the established liberal-construction rule when evaluating Petitioner's filing under the circumstance presented.

This question warrants review because the application of **Haines** should not depend upon a Court simply disregarding the substance and circumstances of a *pro se* filing. For these reasons, and for the reasons stated in the petition. Petitioner respectfully

¹ In *Burton v. State*, 425 So.3d 624 (2nd DCA 2025), the Court held that under Florida Rule of General Practice and Judicial Administration 2.505(f), Counsel's representation continues until either, (1) The Court grants a Motion to Withdraw, (2) substitute Counsel appears, or (3) the case is fully concluded and the time to appeal has expired. See also, F.R. of Appellate Procedure 9440(d)(3).

² Rule 7.1(a)(2) is incorrectly alleged by Respondents.

request that this Honorable High Court grant the Petition for a Writ of Certiorari.

Respectfully submitted,

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CERTIFICATE OF SERVICE

I hereby certify that a true and correct copy of the foregoing has been furnished into the hands of Dade C.I.'s prison officials to be mailed by U.S. Postal Service to:

Wicker, Smith, O'Hara, McCoy and Ford, P.A. at 515 E. Las Olas Blvd., Suite 1400, Fort Lauderdale, FL. 33301, on this 17th day of September, 2026.

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