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No. **26-5465** **ORIGINAL**

Supreme Court, U.S.
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IN THE

SUPREME COURT OF THE UNITED STATES

MITCHELL STUKEL — PETITIONER
(Your Name)

vs.

STATE OF FLORIDA — RESPONDENT(S)

ON PETITION FOR A WRIT OF CERTIORARI TO

THE DISTRICT COURT OF APPEAL OF FLORIDA, FOURTH DISTRICT
(NAME OF COURT THAT LAST RULED ON MERITS OF YOUR CASE)

PETITION FOR WRIT OF CERTIORARI

MITCHELL STUKEL
(Your Name)
MARTIN CORRECTIONAL INST.
1150 S.W. ALLAPATTAH ROAD
(Address)

INDIANTOWN, FLORIDA 34956
(City, State, Zip Code)

NONE
(Phone Number)

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QUESTION(S) PRESENTED

- 1.) Whether or not Petitioner is being confined in prison illegally in violation of his Due Process rights under the Fourteenth Amendments of the United States Constitution.
- 2.) Can the Florida Legislature consistent with Article X section 9 Florida Constitution retroactively supply parole jurisdiction through a newly created agency when the original parole statutes had been repealed and no saving clause to preserve their application.¹
- 3.) If the sentencing Court lacked jurisdiction to impose punishment under F.S. 775.082(1) since jurisdiction was lost when the Florida Parole Commission was repealed in 1982 F.S. 947.16 (1) (e) and abolished in 1983. And specifically because at sentencing there was no parole agency to execute the sentence, is Petitioners sentence illegal under Rule 3.800(a).
- 4.) Does the Florida Commission on Offender Review (FCOR) have the right under Article 4 section 8 (c) to make parole decisions in cases of prisoners sentenced under F.S. 775.082 (1) such as this defendant without statutory authority at that time.
- 5.) Is parole eligibility, parole jurisdiction and parole authority governed by the law in effect at the time as the United States Supreme Court and Florida Courts holding states: Weaver v. Graham, 450 U.S. 24 (1981) Lynce v. Mathis, 519 U.S. 433 (1997), Woldrop v. Dugger, 562 So. 2d 687 Fla. (1990).
- 6.) Is Petitioner's sentence rendered non-executable and void because the mechanism "parole" was not functionally at the time of the conviction and causing the statute to be incomplete as purpose would have it?
- 7.) With the United States Supreme Court having final authority to determine meaning and application of those words of constitution which require interpretation to resolve judicial issues according to Article III.: Judicial Power Sec 1 Supreme Court and inferior courts, can it do so here.²

¹ Ex Parte McCardle, 74 U.S. 506, 514, 19L, Ed 264 (1868)

² Pennekamp v. Florida, 90 Led 1295, 328 U.S. 331 (1946)

8. Does the FCOR have statutory authority over parole eligibility inmates pre-1996?

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:

MITCHELL STUKEL - PETITIONER

STATE OF FLORIDA - RESPONDENT

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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 C 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 NINETEENTH JUDICIAL CIRCUIT court appears at Appendix A to the petition and is

☐ reported at _____; 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 NOV. 20, 2025.
A copy of that decision appears at Appendix C.

☒ A timely petition for rehearing was thereafter denied on the following date: JANUARY 15, 2026, and a copy of the order denying rehearing appears at Appendix D.

☐ 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).

CONTITUTIONAL AND STATUTORY PROVISIONS INVOLVED

AMENDMENT 14

SEC.1 [CITIZENS OF THE UNITED STATES]

All persons born or naturalized in the United States, and subject to the jurisdiction thereof, are citizens of the United States wherein they reside. 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.

CONSTITUTION OF THE STATE OF FLORIDA

Article X. Sec. 9: Repeal of a criminal statute shall not affect prosecution for any crime committed before such repeal.

§ 947.16(1)(e), eligibility for parole; initial parole interviews; powers and duties of commission.

(1) Every person who been convicted of a felony or who has been convicted of one or more misdemeanors and whose sentence or cumulative sentences total 12 months or more, who is confined in execution of the judgment of the Court, and whose record during confinement or while under supervision is good, shall, unless otherwise provided by law, be eligible for interview for parole consideration of her or his cumulative sentence structure as follows.

CONSTITUTIONAL AND STATUTORY PROVISIONS INVOLVED

(e) An inmate who has been convicted and sentenced under ss.958.011-958.15, or any other inmate who has been determined by the Department to be a youthful offender, shall be interviewed by a parole examiner within 8 months after the initial date of confinement in execution of the judgment.

F.S.775.082(1)- A person who has been convicted of a capital felony shall be punished by life imprisonment and shall be required to serve no less than twenty-five calendar years before becoming eligible for parole unless the proceeding held to determine sentence according to procedure set forth in § 921.141 results in findings by the Court that such person shall be punished by death, and in the latter event such person shall be punished by death.

F.S.947.146(14) Provides that effective July 01 1996 – All Control Release Dates, (CRD) established prior to such date become void and no prisoner shall be eligible for release under any previously established Control Release Date...

CONSTITUTIONAL AND STATUTORY PROVISIONS INVOLVED

Fla. Rule of Criminal Procedure 3.800(a) states in pertinent part: (a) A Court may at any time correct an illegal sentence imposed by it, or an incorrect calculation made by it in a sentencing scoresheet, when it is affirmatively alleged that the Court records demonstrate on their face an entitlement to that relief. The intent of Rule 3.800(a) is "to balance the need for finality of convictions and sentences with the goal of ensuring that criminal defendants do not serve sentences contrary to the requirements of law."

STATEMENT OF THE CASE

In 1995 I was tried and convicted and went on to be sentenced too consecutive Life sentences under F.S. 775.082(1) with the possibility of parole after a minimum/mandatory 25 years is served. I filed a 3.800(a) Motion to correct an illegal sentence after having found out that there is no parole in Florida. My motion was denied as not cognizable, and the 4th District Court of appeal issued a per curiam affirmed opinion and the Florida Supreme Court could not take discretionary review. That is why I am appealing to this court to resolve this matter of great public importance and answer the questions put forth.

At the time of my offense in 1988-89 and my arrest in 1995 there was no lawful parole available in Florida for those convicted and sentenced under F.S. 775.082(1). In 1982 the Florida Legislature repealed and amended F.S. 947.16(1)(e) which struck down the FLA. Parole Commission (FPC) discretion to interview a prisoner to determine parole release Ch. 82-171 Laws of Florida. One year later in 1983 the Legislature abolished the FLA. Parole Comm. Completely leaving Florida without a parole agency. This was during the "get tough on crime period. Since parole was officially repealed and abolished, defendant was sentenced to an illegal sentence that functions as Life without possibility of parole as mandated under F.S. 775.082(1).

In 1996 Florida created the Florida Commission on Offender Review (FCOR) to take over parole matters. While F.S. 946 establishes the (FCOR) and outlines it's duties, there is no explicated legislative provision granting it retroactive authority over parole matters for offenses committed before 1996. There enabling laws in CH. 96-422 laws of Florida do not give them the retroactive jurisdictional authority over pre-1996 matters or over those sentenced under F.S. 775.082(1).

So between 1983 abolishment and 1996 creation, and a gap period was left in place with the Courts unwittingly still sentencing defendants to Life with the possibility of parole after 25 years F.S. 775.082(1) which still used the phrase "parole eligibility" after 25 years has some 3500 individuals currently being held illegally. In this "gap period," the Courts may not assume what the legislative intent was when none was expressed. If parole (the mechanism) which is a part of the package was not available the sentence cannot function properly and is illusory and non-executable and

violates due process rights. Article X Sec. 9 of the FLA. Constitution says a repealed statute cannot be applied retroactively unless it is written into a savings clause, which it was not, since (FCOR's) authority to impose post 1996 parole standards over pre-1996 offenses is not codified in any statute, it's actions and deeds constitute unlawful retroactive jurisdiction. This is not merely a procedural or policy dispute-this is a jurisdictional defect that invalidates the legal foundation of the (FCOR). Without statutory direction expressly extending (FCOR's) jurisdiction to pre-1996 sentences, any attempt by the (FCOR) to exercise authority amounts to jurisdictional overreach. And as the FLA. Supreme Court held constitutional permissiveness does not substitute for statutory command.

The power an authority of agencies must derive and be grounded in statutory enactment. If the (FCOR) was just a name change as Florida courts would have us believe, they would not have needed their own enabling laws as stated in CH. 96-422 laws of Florida and could have used the (FPC's) enabling laws which came about under Ch. 20519 (1941) S.B. 355. It is well established doctrine in both State and Federal law, that a law is not to be applied retroactively unless the legislature clearly expresses it's intent and under Florida law, administrative agencies like the (FCOR) are creatures of statutes, and have no power inherent or implied beyond what the legislature expressly grants.

REASONS FOR GRANTING THE PETITION

I was tried and convicted in Florida under F.S. 794.011(2)(a) and sentenced under F.S. 775.082(1) the sentencing statute two consecutive Life terms with a minimum/mandatory 25 years before parole eligibility. The problem with that is the fact that Florida is in clear violation of Article X Sec. 9 of the Florida Constitution which deals with repealed statutes. By the time of my sentence, parole was effectively repealed and abolished for offenses committed after 1982-83 abolishment. So like me, roughly 3500 inmates in Florida are under an illegal sentence. Florida created the Florida Parole Commission (FPC) in 1941 under Ch. 20519 laws of Florida S.B. 335 which were there enabling laws. Some years later during the "Get Tough ON Crime" era in 1982 Florida repealed parole and in 1983 abolished parole. They did retain jurisdiction over pre 1982 cases but post 1983 supervision was gone. This was when the sentencing guideline structure came into play, but Courts were still using F.S. 775.082(1) to give inmates Life with the chance of parole after 25 years as the statute read. This was probably done unwittingly but still rendered the sentence illegal on its face. Florida created the "Florida Commission on Offender Review" (FCOR) in 1996. But they never gave them the retroactive authority to oversee pre-1996 offenders. Ch. 96-422 laws of Florida which are there separate enabling laws. This clearly left a gap period for those who were sentenced during the 1984-96 window. If truth be told, these sentences function as a true Life sentence without the possibility of parole.

To this day, the (FCOR) is in clear violation of Article X Sec.9 of the Florida Constitution which prohibits a repealed statute from being applied retroactively unless it was written into a saving's clause, which it was not. Florida would have Courts believe that the (FCOR) was just a name change and would point to Article 4 Sec. 8 (c) of the Florida Constitution which is only permissive in nature. By granting the (FCOR) retroactive authority when none was conferred by statute raises serious ex post facto, separation of powers and Due Process violations.

Here Florida is in clear violation of Constitutional boundaries between the Judicial and Executive branches of government and of the United States Constitution Article 1 and 10.

I originally filed this claim in the 19th Judicial Circuit Court of Martin Co. 5 other inmates filed the exact same motion in various other Courts, and are

working there was through the system. One of the individuals was told by the State that he gets a parole interview in 2028 so his motion was denied and subsequently per curiam affirmed. The problem with that, is in his parole hearing, and he's had several in his 38 years of incarceration 13 years past his mandatory 25 years it is the (FDOR) who denies him parole. See: Appendix (K).

I myself have been incarcerated for 32 years with zero prison infractions against me, yet because of my consecutive sentence the (FCOR) has not seen me. The Judge in my case ruled that my claim was not cognizable under a Rule 3.800(a) motion. But this is exactly what a 3.800 (a) is for. And by the 4th DCA issuing a per curiam affirmed opinion my rights to be heard on this Constitutional question of the (FCOR) in violation of Article X Sec 9 has me and 3500 inmates suffering under illegal sentences. In § 1:34 Jurisdiction to Impose Sentence: Fla. States that a Court has the authority to impose sentence if the requirements of venue and jurisdiction are met. Jurisdiction includes subject matter jurisdiction over the defendant. The statutes in effect at the time of the commission of a crime controls as to the offenses for which the perpetrator can be convicted, as well as the punishment which may be imposed.

90.202 (12) "Erhardt Rules of Evidence" says the Court may take judicial notice of the following matters, decisional, constitutional and public statutory laws of every other state, territory or jurisdiction of the United states. 90. 202 (12) states, facts that are not subject to dispute because they are capable of accurate and ready determination by resort to sources whose accuracy cannot be questioned.

Upon both principle and authority, Florida holds that Article III § 6 of our Constitution which provides that every law shall embrace, but in one subject and matter property connected therewith and the subject briefly expressed in the title only. No law shall be revised or amended by reference only. Laws to revise or amend shall be set out in full. The Revised or Amended Act, Section, subsection or paragraph of a subsection. The enacting clause to every law shall read "Be it enacted by the legislature of Florida." The objective of the enacting clause is to show authority by which the implication of which the cases speak must be a necessary implication. Wood v. U.S., 16 Pet. 342, 362, 363 10 L. ED. 987,

REASONS FOR GRANTING WRIT

995. It is not sufficient, as was said by Mr. Justice Story in that case "to establish that subsequent laws cover some or all of the cases provided for by "the prior act"; for they may be merely affirmative, or cumulative or auxiliary. The question whether a statute is repealed by a later one containing no repealing clause, on the ground of repugnancy or substitution, is a question of legislative intent to be ascertained by the application of the accepted rules for ascertaining that intention. U.S. v. Claflin, 97 U.S. 546, 551, 24 L. Ed 1082, 1084 and U.S. v. Eastern Extension A+C Teleg. Co., 231 U.S. 326, 332, 58 L. Ed. 250, 255, 345 Ct. 57. So I am appealing to this Court to resolve this great important question and look forward to a chance at being heard.

The requirement of Fla. Const. Art. III § 16 is that the title of an act, taken as a whole, must be sufficient by fair intendment to cover the subject matter of the act, and must not be so worded as to mislead an "ordinary mind" as to the real purpose and scope of the enactment. The language employed in the title should not receive a narrow or technical construction, but should be construed liberally. State, Ex Rel. Cary D. Landis, Attorney General, v. Carl Ault et. el. Fla. Supreme Court 129 Fla. 686: 176 So. 789; 1937 Fla. Lexis 1166 and Moore v. State, Ex Rel McDonald, Fla. 41 So. 2d 310 under Fl. Law, when a statute that provided for a purely statutory right is repealed, without reenactment the statute is treated as if never existed Bureau of Crimes Compensation, Dept. of Labor and Employment Sec. v. Williams 405, So. 2d 747, 748 Fl. 2d DCA 1981. SEE STATES "SHOW CAUSE ORDER" RESPONSE IN APPENDIX (L).

CONCLUSION

The petition for a writ of certiorari should be granted.

Respectfully submitted,

MITCHELL STUKEL

Date: 4/10/26