

26-5466 ORIGINAL

in the supreme court of the united states of america

FILED

JUL 03 2026

OFFICE OF THE CLERK
SUPREME COURT, U.S.

levi jonathan
pro se petitioner

)

)

)

vs.

) florida district court case no. 6d2024-2081

)

)

state of florida
respondent

)

/.

on petition for writ of certiorari

to the sixth district court of appeal for the state of florida

prepared by:

levi jonathan

pro se litigant in proper person

currently imprisoned at:

polk south county jail, frostproof florida

mailing address:

2390 bob phillips rd. bartow fl 33830

inmate booking #24-15744

no phone

no email

questions

1. does the due process clause guarantee a defendant in a criminal proceeding the right to withdraw a plea contract that is not honored by the state?
2. does the fifth amendment in conjunction with the first amendment, extended to the states by the fourteenth, prohibit a state court from prejudicial action against a citizen for not testifying when testimony is incumbent on that individual acting against religious conviction?
3. does the equal protection clause of the fourteenth amendment, in conjunction with the free exercise clause of the first, proscribe a state court from prohibiting testimony of a defendant in a criminal matter who refuses to swear in at a plea withdrawal hearing when the court did not require the defendant to swear in for the plea colloquy?
4. does the due process clause and equal protection clause require state courts to enforce state rules and statutes equitably?
5. does a state appellate court violate the due process clause by ruling on an issue, that was not reserved for appeal during a criminal matter plea colloquy, rather than ruling on the issue that was reserved?
6. does a state appellate court violate the due process clause by not considering issues of an appeal from a plea in a criminal matter that could not have been known at the time of the plea?

LIST OF PARTIES

A list of all parties to the proceeding in the court whose judgment is the subject of this petition is provided below. If a party is a corporation with a stock ticker symbol, that symbol is also included.

1. levi jonathan, pro se petitioner in proper person
2. state of florida, respondent
to the sixth district court of appeal of the state of florida

RELATED CASES

table of contents	pages
-------------------	-------

questions	ii
-----------	----

list of proceedings	iii
---------------------	-----

table of cited authorities	i
----------------------------	---

citation of reports	2
---------------------	---

statement of the basis for jurisdiction	3
---	---

constitutional provisions	4
---------------------------	---

statement of the case	6
-----------------------	---

argument	10
----------	----

appendix	20
----------	----

appendix table of contents	21
----------------------------	----

proof of service	23
------------------	----

certificate of compliance	23
---------------------------	----

declaration of compliance	24	i
---------------------------	----	---

list of proceedings

1. 12/14/23 tenth judicial circuit court for polk county florida (10cc-fl) plea colloquy for cases 2020cf5124 and 2022cf3220, state of florida v. levi jonathan (fl v. lj)
2. 12/21/23 10cc-fl order of probation for cases 2020cf5124/2022cf3220, fl v. lj
3. 12/28/23 10cc-fl order of probation for cases 2020cf5124/2022cf3220, fl v. lj
4. 3/22/24 10cc-fl hearing for motion to withdraw plea for case 2020cf5124, fl v. lj
5. 3/28/24 10cc-fl order of probation for cases 2020cf5124/2022cf3220, fl v. lj
6. 8/23/24 10cc-fl hearing for motion to withdraw plea for cases 2020cf5124/2022cf3220, fl v. lj
7. 9/25/24 sixth district court of appeal for florida (6dca-fl) acknowledgment of new case 6d2024-2081, levi jonathan v. state of florida (lj v. fl)
8. 10/1/24 6dca-fl acknowledgment of new case 6d2024-2101, lj v. fl
9. 5/6/25 6dca-fl order pursuant to fl.r.app.p.9.020, lj v. fl
10. 5/7/25 10cc-fl order of denial of motion to withdraw plea, fl v. lj
11. 5/22/25 6dca-fl order of consolidation of 6d2024-2101/6d2024-2081, lj v. fl
12. 6/12/25 10cc-fl order of denial of 6/6/25 motion to correct sentence, fl v. lj
13. 6/13/25 6dca-fl acknowledgment of new case 6d2025-1352, lj v. fl
14. 6/13/25 6dca-fl acknowledgment of new case 6d2025-1353, lj v. fl
15. 7/7/25 10cc-fl order of dismissal of 7/1/25 motion to correct sentence, fl v. lj
16. 7/18/25 6dca-fl order of consolidation of 6d2025-1352/6d2024-2081, lj v. fl
17. 7/31/25 10cc-fl order of dismissal of 7/28/25 motion to correct sentence, fl v. lj
18. 8/21/25 6dca-fl order to vacate consolidation of 6d2025-1352/6d2024-2081, lj v. fl
19. 9/8/25 6dca-fl order of judgment for 6d2025-1352, lj v. fl
20. 9/8/25 6dca-fl order of judgment for 6d2025-1353, lj v. fl
21. 9/19/25 6dca-fl order of judgment for 6d2024-2081/6d2024-2101, lj v. fl
22. 4/10/26 florida supreme court order of discretionary review denial for 6d2024-2081

table of cited authorities

united states constitution

u.s. constitution amendment one

u.s. constitution amendment five

u.s. constitution amendment six

u.s. constitution amendment fourteen

united states supreme court cases

brady v. u.s., 397 u.s. 742 (1970)

farett v. california, 422 u.s. 806 (1975)

glover v. u.s., 531 u.s. 198 (2001)

kercheval v. u.s., 274 u.s. 220 (1927)

oregon v. smith, 494 u.s. 872 (1990)

puckett v. u.s., 556 u.s. 129 (2009)

santobella v. new york, 404 u.s. 257 (1971)

united states district court

u.s. v. mallard, 40 f. 151 (1889)

florida rules and statutes

florida rule of criminal procedure 3.170

florida rule of criminal procedure 3.172

florida rule of criminal procedure 3.800

florida rule of appellate procedure 9.020

florida rule of appellate procedure 9.140

florida district court of appeal cases

gillette v. state, 378 so. 3d 1274 (2dca 2024)

solomon v. state, 341 so. 2d 537 (2dca 1977)

citation of reports

december 21 2023 10cc-fl judgment and sentence for 2020-cf-5124

december 21 2023 10cc-fl order of probation for 2020-cf-5124

december 28 2023 10cc-fl order of probation for 2020-cf-5124

march 28 2024 10cc-fl order of probation for 2020-cf-5124

september 25 2024 6dca-fl acknowledgment of new case 6d2024-2081

october 1 2024 6dca-fl acknowledgment of new case 6d2024-2101

may 6 2025 6dca-fl order for written disposition of motion to withdraw plea
for 2020-cf-5124 and 2022-cf-3220

may 7 2025 10cc-fl order denying motion to withdraw plea

may 22 2025 6dca-fl order of consolidation for 6d2024-2101 to 6d2024-2081

september 19 2025 6dca-fl judgment for 6d2024-2081/2101

october 28 2025 6dca-fl order denying rehearing for 6d2024-2081/2101

april 10 2026 fl-sc order denying discretionary review for 6d2024-2081/2101

statement of the basis for jurisdiction

the petitioner seeks a review of the judgment by the sixth district court of appeal for the state of florida (6dca-fl) rendered on september 19, 2025 for case 6d2024-2081. the 6dca-fl denied the motion for rehearing for case 6d2024-2081 on october 28, 2025. the supreme court of florida declined discretionary review on april 10, 2026.

the basis for requesting review is that the 6dca-fl affirmed the judgment and sentence without ruling on issues that could not have been reserved at the time of the plea and dismissed the reservation by erroneously categorizing it. the 6dca-fl failed to provide due process and equal protection by enforcing laws. the 6dca-fl ignored claims of an increase in sentence in violation of the protection against double jeopardy and affirmed a sentence without jurisdiction. the 6dca-fl failed to rule on the trial court's preclusion of testimony of the petitioner who had an objection to swearing in and prevented the petitioner from presenting this claim completely. the petitioner cites violations to the first, fifth, sixth, and fourteenth amendments of the united states constitution.

constitutional provisions

united states constitution amendment one

"congress shall make no law respecting an establishment of religion, or prohibiting the free exercise thereof; or abridging the freedom of speech, or of the press; or the right of the people peaceably to assemble, and petition the government for a redress of grievances."

united states constitution amendment five

"no person shall be held to answer for a capital, or other infamous crime, unless on a presentment or indictment of a grand jury, except in cases arising in the land or naval forces, or in the militia, when in actual service in time of war or public danger; nor shall any person be subject for the same offense to be twice put in jeopardy of life or limb; nor shall be compelled in any criminal case to be a witness against himself, nor be deprived of life, liberty, or property, without due process of law; nor shall private property be taken for public use, without just compensation"

united states constitution amendment six

"in all criminal prosecutions the accused shall enjoy the right to a speedy and public trial, by an impartial jury of the state and district wherein the crime shall have been committed, which district shall have been previously ascertained by law, and to be informed of the nature and cause of the accusation; to be confronted with the witnesses against him; to have compulsory process for obtaining witnesses in his favor, and to have the assistance of counsel for his defence."

united states constitution amendment fourteen

"section 1 - all persons born or naturalized in the united states, and subject to

the jurisdiction thereof, are citizens of the united states and of the state wherein they reside. no state shall make or enforce any law which shall abridge the priviledges 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."

statement of the case

the petitioner accepted a nolo contendere plea on december 14, 2023, in a florida county circuit court for two cases, 2020cf5124 and 2022cf3220. the plea called for 1 year 1 day state prison and 5 years sex offender probation. (pa121423-1-2) during the colloquy the court stated, "this plea form tells me that you're going to enter a plea as charged and that you're expecting 1 year, 1 day florida state prison followed by 5 years of sex offender probation. (ts121423-4) at the time of the plea the petitioner had been incarcerated for 20 months on the charges for the plea. the petitioner was not required to swear the oath for the plea colloquy.

one week later, while the petitioner was still in jail, the court entered a sentence of two 1 year, 1 day prison terms and two 5 year probation terms. the sentence stated that the petitioner plead guilty. (op122123) on that day the petitioner moved to withdraw the plea by writing and mailing a letter to the trial judge. (1t122123)

one week after that the sentence was changed again to add 4 years of prison. the sentence continued to state that the petitioner plead guilty. (op122823) on that day the petitioner was released from jail. upon release, the petitioner discovered that he would be required to abide by conditions of probation that he was specifically told by the court appointed lawyer, both off and on the record, would not apply to him. the lawyer claimed that the prosecutor assured her of this and the prosecutor made no effort to correct her during the colloquy. the petitioner had reason to believe the lawyer because the charges he was pleading to were not listed under the florida statute (948.30) governing the conditions.

on march 22, 2024, a hearing was held on the motion to withdraw plea where the petitioner personally informed the court of the change of sentence and the mis-

information given by the lawyer. (ts32224-12-17) the court set another hearing so that the lawyer could be present to answer to the allegations. (ts32224-22-23) the lawyer was not called to testify at any of the subsequent hearings.

one week after that, the sentence was changed again to the two prison terms and two probation terms that were reflected in the first sentence change. the plea was properly recorded as "nolo contendere". (op32824)

the petitioner was then taken into custody on may 30, 2024 to polk county jail where he remains today on the allegation of a technical probation violation. (po52124)

on august 23, 2024, a second hearing on the motion to withdraw plea took place. at the hearing, the court would not allow the petitioner to testify because he would not swear 'the oath', citing religious objection. the court stated that the motion was being denied because the plea colloquy was conducted in a thorough manner. (ts82324-12)

the petitioner filed notices of appeal within thirty days from the denial of the motion to withdraw plea. the sixth district court of appeal in florida assigned case 6d2024-2081 for the lower court case 2020cf5124 and assigned case 6d2024-2101 for lower court case 2022cf3220. the petitioner filed a timely initial brief for 6d2024-2081 on march 27, 2025 and a reply brief on may 24, 2025. the petitioner was not able to file a brief for 6d2024-2101 because the appellate court consolidated 6d2024-2101 to 6d2024-2081 on may 22, 2025. (6d52225) this was done after the state requested for the court to do so and without consideration of the petitioner's motion in opposition to consolidation.

before the consolidation of the two appeals, the appellate court had issued an order stating that 6d2024-2101 would be held in abeyance until a written order was issued by the trial court disposing of the motion to withdraw plea. (6d5625) in the order that the trial court filed on may 7, 2025, the reason for denying the motion alternated from the reason that was given at the second hearing on august 23, 2024;

"it is ordered and adjudged that the defendant's motion to withdraw plea and defendant's motion to withdraw plea of guilty after sentence has been imposed of probation is hereby denied with prejudice, as no evidence was presented due to refusal of defendant to be sworn in or affirmed to testify," (10c5725)

because 6d2024-2101 had been consolidated to 6d2024-2081 after the brief had been filed for 6d2024-2081, the petitioner was unable to present a new argument to contest the alternate reason why the motion to withdraw plea was denied, therefore, the petitioner appealed the may 7 order for both cases and the appellate court assigned case 6d2025-1352 to 2020cf5124 and case 6d2025-1353 to 2022cf3220.

on july 18, 2025, the appellate court consolidated 6d2025-1352 with 6d2024-2081 (6d71825) and then vacated the consolidation on august 21, 2025. (6d82125) on august 24, 2025, the petitioner mailed a "motion for leave to file amended brief" for 6d2024-2081 to the appellate court for the purpose of adding an argument contesting the may 7 order, but the motion either did not arrive or was not filed. a subsequent motion to file an amended brief was denied by the appellate court. on august 26, 2025, the petitioner filed an initial brief for 6d2025-1352 to specifically contest the may 7 order. after the petitioner successfully moved the appellate court to supplement the record on appeal with the may 7 order that he was appealing, the court dismissed the appeal as "duplicative" on september 8th (6d9825-1352). 6d2025-1353 was also dismissed as "duplicative" on september 8th (6d9825-1353), even though the petitioner had not filed a brief for that case, and the time had not expired to do so.

on june 6, 2025, the petitioner filed a "motion to correct sentencing error" in the trial court in an effort to have the erroneous sentence corrected and to preserve the issue for appeal. agreeing with the state, on june 12, 2025, the trial court concluded "the sentence, itself, was not incorrect" and struck the erroneous sentence from december 28th to reinstate the december 21st sentence. although the petitioner's motion contested

the march 28th sentence as being incorrect and without jurisdiction to impose, the court made no comment on that (most recent) sentence. (10c61225-1-2)

on july 7, 2025, the trial court ruled on an amended motion to correct sentencing error filed on july 1, 2025, by deciding that the motion to correct sentencing error is not the "proper vehicle" for relief "regarding a sentence that exceeds the terms of the plea agreement" and references a motion to withdraw plea as being the proper motion. again, the court avoids the march 28 sentence. (10c7725)

on july 28, 2025, the petitioner filed a "motion to correct sentencing error and request for reconsideration" to the trial court to raise new issues and to specifically request that the court address the jurisdictional claim to the march 28 sentence. in the order entered on july 31, 2025, the court fails to address the march sentence. (10c73125)

on september 19, 2025, the appellate court ruled on 6d2024-2081 by dismissing the "challenge to the trial court's denial of jonathan's motion to dismiss counsel because it is not dispositive", reversing "the provisions of the trial court's order rendered on june 12, 2025, that reinstated the original first page of the order of probation rendered on december 21, 2023, because that original first page erroneously stated that jonathan entered a plea of guilty", and affirming "the corrected order of probation rendered on march 28, 2024." (6d91925-1-2)

on april 10, 2026, the florida supreme court declined discretionary review for 6d2024-2081. (flsc41026)

argument

the petitioner argues that the florida sixth district court of appeal committed due process and equal protection violations by neglecting to apply certain rules to his case on appeal. the petitioner argues that due process was disregarded when he was not given the sentence on the plea contract. the petitioner argues that the appellate court did not afford due process by neglecting to consider issues that were unknown to the petitioner at the time of the plea and by misstating the issue that was reserved for appeal. the petitioner cites due process, equal protection, free speech, free exercise, and establishment clause violations for the failure of the appellate court to rule on the merits of the claim of error to the trial court's preclusion of testimony by petitioner.

florida rule of criminal procedure 3.170 (1) states;

"a defendant who pleads guilty or nolo contendere without expressly reserving the right to appeal a legally dispositive issue may file a motion to withdraw the plea within thirty days after rendition of the sentence, but only upon the grounds specified in florida rule of appellate procedure 9.140 (b)(2)(A)(ii)(a)-(e)."

florida rule of appellate procedure 9.140 (b)(2)(A)(ii)(a)-(e) states;

"a defendant who pleads guilty or nolo contendere may directly appeal only:

- a. the lower tribunal's subject matter jurisdiction
- b. a violation of the plea agreement, if preserved by motion to withdraw plea
- c. an involuntary plea, if preserved by motion to withdraw plea
- d. a sentencing error, if preserved; or
- e. as otherwise provided by law."

the petitioner argues in the 6d2024-2081 appeal that the plea agreement was violated because he did not get the sentence on the plea agreement as he was told he would receive by the lawyer, the court, and the state. the plea contract called for 1 year, 1 day prison and 5 years probation. the court told the petitioner that is what

the contract called for. the lawyer acted as a liason between the petitioner and the prosecutor by receiving the plea contract from the prosecutor and handing it to the petitioner while vouching for the prosecutor as to the promised sentence. as mentioned in the statement of the case, the petitioner was ultimately given varying sentences, all of which departed substantially from the plea agreement. the petitioner argued in his appeal to the florida sixth district court that he should have been granted the opportunity to withdraw the plea because he was given a sentence other than what was agreed to.

"when government fails to satisfy the obligations that it took when entering the plea agreement, then defendant will be entitled to seek a remedy, which may in some cases be rescission of plea agreement." *puckett v. u.s.*, 556 u.s. 129 (2009)

the petitioner asserts that a violation to the due process clause of the fourteenth amendment has occured where the plea that was promised by the prosecution was not fulfilled and the appellate court ignored this claim.

"a constant factor is that when a plea rests in any significant degree on a promise or agreement of the prosecutor, so that it can be said to be part of the inducement or consideration, such promise must be fulfilled." *santabella v. new york*, 404 u.s. 257 (1971)

moreover, the petitioner argued in his appeal that the plea was not voluntary because it was a product of coercion and utter lack of investigation on counsel's behalf and misrepresentation as to the consequences.

two days prior to the plea colloquy, the petitioner was told by the court appointed lawyer that there was no plea offer. the day that the petitioner took the plea was the first time the petitioner saw a deal and the lawyer told him it would not be available in the future if he did not sign it that day, and if he did not sign it, trial would be the following month.

at that point, the case was 3½ years old and not one of the lawyers (two private, three court appointed) had went over any discovery with the petitioner. the court had barred the petitioner from representing him self and, although he did not know it at that time,

the lawyer assigned to the case had never talked to the petitioner, as the woman who was presenting the plea contract was a substitute. furthermore, stand by counsel that was appointed over the petitioner's objection (ts102023-20-21) urged the petitioner to resolve the case that month because the judge (barber) would be replaced by another judge (denmark) on the following month who "likes to put kids in prison". this came on the back of judge barber's assertion, "do you understand that on those second degree felonies that it's 15 years each, which means if you're found guilty, they could be imposed consecutively for a total of 30 years florida state prison" and "you have two second degree felonies, and each carries 15 years for a total of potentially 30 years florida state prison". (ts102023-14), without ever mentioning guidelines or asking the petitioner if any lawyer had went over the scoresheet (and indeed none had). together with the court's continuous repetition that the petitioner was "limited" in his defense because of his incarceration, these remarks served to deter the petitioner from going to trial and as a coercion to plea out. more compelling was the knowledge that judge barber had not tried to force 'the oath' on the petitioner in prior proceedings and most likely would not (and did not) require the petitioner to swear in for a plea colloquy, whereas the petitioner could not be sure about her successor - more on that later. during the colloquy, the court neglected to ask the petitioner if he had been coerced, or if anyone had gone over the discovery with him. the substitute lawyer signed the plea stating that she had went over the discovery with the petitioner, but that statement is not true. the court did not address the petitioner directly during much of the colloquy. had the court asked the petitioner if the lawyer had went over the discovery, the answer would have been "no". the lawyer's claim "we will stipulate to a factual basis in both cases" (ts121423-9) was refuted by the petitioner's comment "i did not commit these crimes" (ts121423-22), to which the lawyer gave no rebuttal. the court does not allow the petitioner to respond to standard inquiries. much of the discussion between the court, prosecutor, and attorney is done in complex terms so as to not be understood. when the petitioner objected to a particular condition, the court and lawyer coaxed him with information that was found to be false.

in response to specific questions regarding the consequences of the plea, the lawyer told the petitioner that the prosecutor said that conditions of a certain statute (948.30) did not apply to the petitioner. this promise was reassured by the lawyer during the plea colloquy, "his crime does not fall under the statute" and "it doesn't apply to you"; while the court told the petitioner "its not being ordered by me" (ts121423-21-22), but when the petitioner was released from jail he was told by the probation officer that he was required to abide by nearly all of the conditions of 948.30. this became a point of contention between the petitioner and the probation officer after he refused to sign the 948.30 form and a factor as to why he is in jail today. the court told the petitioner he had 56 months to pay the costs, but the probation officer filed an affidavit for violation of probation on the allegation that the petitioner did not pay the monthly fee. the lawyer promised that she would file a motion to return property as part of the deal (ts121423-6) and the petitioner was told that the prosecutor promised to have the property returned. the motion did not get filed by the lawyer and the petitioner has not had his nor his wife's property returned. most importantly, the lawyer told the petitioner that he could withdraw the plea at a later date if he decided.

the petitioner has been trying to do that since december of 2023.

a plea shall not be accepted unless made voluntarily after proper advice and with full understanding of the consequences. on timely application, the court will vacate a plea shown to have been unfairly obtained through ignorance, fear, or inadvertence.

(see *Kercheval v. U.S.*, 274 U.S. 220 (1927))

the petitioner asserts that a violation of the due process clause of the fourteenth U.S. amendment has occurred where the plea was involuntarily made and the appellate court ignored this claim. the petitioner urges this court to consider the totality of the circumstances.

"waivers of constitutional rights not only must be voluntary but must be knowing, intelligent acts done with sufficient awareness of the relevant circumstances and likely consequences."

Brady v. U.S., 397 U.S. 742 (1970)

in addition, the petitioner asserted fundamental error, violative of the due process clause and the sixth amendment extended to the states by the fourteenth, because he was not given credit for time served as he was promised, and he was forced to do more prison time than the sentence called for by not being immediately released as he was told he would. altogether, the petitioner spent $8\frac{1}{2}$ months longer in jail than the sentence called for.

"any amount of jail time has sixth amendment significance... there is no obvious dividing line by which to measure how much longer a sentence must be for the increase to constitute substantial prejudice." *Glaver v. U.S.*, 531 U.S. 198 (2001)

the appellate court violated the due process and equal protection clauses of the fourteenth u.s. amendment by not addressing this claim that could not have been known at the time of the plea.

the petitioner also argued in his appeal a lack of subject matter jurisdiction because florida statute 26.31 assigns polk county florida of the tenth judicial circuit to the spring term on the "first tuesday after second monday in march". because the march 28 sentence, specifically mentioned in the affirmance of the appellate court's judgment, was entered during a new term, the sentence was void for lack of jurisdiction. the petitioner cited case law from the same court of appeal (6dca used to be 2dca) to justify this claim; "order that placed defendant on probation and was imposed during term subsequent to one in which original sentence was entered was void for lack of jurisdiction and constituted fundamental error"; *Solomon v. State*, 341 So. 2d 537 (Fla. 2dca 1977) in addition to referencing this point on appeal, the petitioner filed a "motion to correct sentence" pursuant to florida rule of criminal procedure 3.800(b)(2) in the trial court to address this issue, but the trial court ignored the claim regarding the march 28 sentence altogether and reinstated the december 21 sentence upon striking the december 28 sentence. (10c61225) however, the appellate court reversed this order and affirmed the march 28 sentence. (6d91925-1-2)

by affirming the march 28 sentence, the appellate court has ignored the violation of florida rule of appellate procedure 9.140(b)(2)(A)(ii)(a)-(e) and has approved a substantial increase from the promised sentence of the plea agreement in violation of florida rule of appellate procedure 9.140(b)(2)(A)(ii)(a)-(e).

florida rule of criminal procedure 3.172(h) states;

"if the trial judge does not concur in a tendered plea of guilty or nolo contendere arising from negotiations, the plea may be withdrawn."

florida rule of criminal procedure 3.172(g) states;

"no plea offer or negotiation is binding until it is accepted by the trial judge formally, until that time, it may be withdrawn by either party without any necessary justification."

because the trial court did not impose the sentence that the petitioner was promised, nor the sentence on the contract, the judge did not concur in the plea. the trial court erred in classifying the petitioner's motion to withdraw plea as having been filed "after" the sentencing because the sentence was not complete until the probation order was filed.

in the appeal, the petitioner cites case law to justify this claim; "the 30 day period in which the defendant could move to withdraw his plea began to run when the probation order was filed with clerk of court, not when trial court accepted the plea and orally pronounced sentence", gillette v. state, 378 so.3d 1274 (fla. 2dca 2024)

the petitioner asserts that a violation to the due process clause of the fourteenth u.s. amendment has occurred where the appellate court chose to overlook these claims, even though they could not have been known at the time of the plea hearing.

the petitioner asserts that a violation to the equal protection clause of the fourteenth u.s. amendment has occurred where the appellate court has chosen to disregard the trial court's failure to enforce the laws of the state equitably and the appellate court's failure to enforce the laws equitably by affirming a jurisdictionally void sentence.

the petitioner asserts that a violation to the double jeopardy clause applicable by the fourteenth amendment has occurred where the appellate court affirmed the increase of sentence.

the petitioner asserts violations to the first, fifth, and fourteenth amendments of the u.s. constitution have occurred where the appellate court neglected to find error in the preclusion of testimony from the petitioner at the august 23, 2024 hearing on the motion to withdraw plea and the failure of the appellate court to hold the appeal in abeyance until a written order disposing of the motion to withdraw plea was filed and supplemented to the record.

as the may 7 trial court order denying the motion to withdraw plea stated, the motion was denied because "no evidence was presented due to refusal of defendant to be sworn in or affirmed to testify." (10c5725) besides discounting the attorney's role, this reasoning reproaches the petitioner for the denial because of an act of conscience by not raising his hand. prior to the august hearing, the court was aware of the petitioner's position regarding this matter. (ts22024-3-4, ts32224-6, ts8224-4, ts82324-3) ... the court had allowed the petitioner to forego swearing in during faretti hearings (ts102023-7) and had allowed the petitioner to 'take the plea' without raising his hand. (ts121423-10) the court had also allowed the petitioner's wife to testify at a hearing without swearing in. by precluding testimony of the petitioner at the august hearing, the trial court is in violation of the fifth u.s. amendment in conjunction with the first amendment's free exercise and free speech clauses made obligatory to the state by the fourteenth.

because the petitioner chose to exercise the right to worship freely, the trial court withheld the right of the petitioner to testify, and denied the motion on the basis that the petitioner elected to remain silent instead of defying his conscience. to condition the availability of his right to testify upon his willingness to violate a cardinal principle of his Faith, penalizes free exercise and speech.

the petitioner also asserts a violation of the establishment clause in this matter as the petitioner views the raising of the hand as a form of worship.

"the oath may be administered on the Book, or with an uplifted hand... or in any mode binding on his conscience." u.s. v. mollard, 40 f. 151 (1889), see moore v. u.s., 348 u.s. 966 (1955)

the appellate court should of recognized this and ruled that error existed, or at minimal, permitted the petitioner to file an amended brief to include the argument in support of this claim that could not have been made at the time the brief for 6d2024-2081 was submitted because the may 7 order denying the motion to withdraw plea had not been entered.

to reiterate, on may 6, 2025, the appellant court entered a notice that the 2022 case (6d2024-2101) would be held in abeyance until a signed order was entered by the trial court disposing of the motion to withdraw plea "pursuant to florida rule of appellant procedure 9.020 (h)(2)(C)." (6d5625) then the appellate court consolidated 6d2024-2101 with 6d2024-2081 after the may 7 order (10c5725), slighting the process to prevent a challenge to the order to be presented on a separate brief. this consolidation was done by granting the state's motion to consolidate and denying the petitioner's motion in opposition to consolidation. (6d52225) the appellate court neglected to apply rule 9.020 to 6d2024-2081, as it was applied to 6d2024-2101, even though both cases were appeals from the denial of the motion to withdraw the plea. as mentioned in the "statement of the case", the petitioner mailed a motion for leave to file an amended brief for 6d2024-2081 within the allowance of time, yet the motion was not entered.¹ this foreclosed the opportunity for the petitioner to develop the argument for either direct appeal on the grounds that the reasoning behind the denial of the motion was unconstitutional in violation of the first, fifth, and fourteenth u.s. amendments.

the appellate court also dismissed appeals of the denial of the motion to withdraw plea (6d2025-1352/6d2025-1353) as "duplicative", thereby eliminating those appeals of that specific order. the 6d2025-1353 appeal was dismissed without the petitioner having been given the opportunity due to file a timely initial brief. (6d9825-1353)

this teeter-tottering of the standards manifests a violation of the equal protection clause inherent in the fourteenth amendment because the appellate court disregarded the rules as they were in favor of the oppositional party.

¹ the petitioner has had issues with mail not being delivered from the jail and has filed a civil rights complaint.

a violation of due process occurs where the appellate court failed to enforce court rule to hold 6d2024-2081 in abeyance until a disposition of the motion to withdraw plea had been entered, and would not grant a subsequent motion for leave to file an amended brief for 6d2024-2081 under the circumstances, neither would the appellate court permit the record for 6d2024-2081/6d2024-2101 to be supplemented with the may 7 order.

"the government may not compel affirmation of religious belief, punish the expression of religious doctrines it believes to be false, impose special disabilities on the basis of religious views or religious status, or lend its power to one or the other side in controversies over religious authority or dogma." *Oregon v. Smith*, 494 U.S. 872 (1990)

the petitioner was punished for exercising his Faith. the lawyer charged \$5300 for the hearing and presented no evidence. instead he pressured the petitioner to 'take the oath' and falsely told the court the petitioner would swear. when the petitioner refused to swear in, citing biblical passages and stating "my conscience forbids me to do this" and "i will tell the truth." (ts82324-8+10) the court abruptly denied the motion and the bailiff ordered the petitioner out. on the way out the petitioner protested by saying, "the history of this country is that people left from england to escape from religious persecution and they also were forbidden to take that vow." (ts82324-15) the transcript that the petitioner paid for omitted that statement and the court denied the petitioner's motion to correct the transcript, but an amended transcript surfaced for the record on appeal with the statement, as well as other portions.

if the trial court had allowed the petitioner to testify, there is a reasonable possibility that the evidence presented would be sufficient to have the plea withdrawn and the petitioner would not be in jail two years later waiting on the outcome of this appeal.

if anything, the testimony of the petitioner would have assisted in his appeal.

the petitioner questions the true purpose of this oath when those that are intent on lying will use it as a means to make them appear honest.

in the judgment by the appellate court rendered on september 19, 2025, the court dismissed "the challenge to the trial court's denial of jonathan's motion to dismiss counsel because it is not dispositive," (6d91925-1) this is a misstatement of the reservation made for appeal at the plea colloquy. the petitioner, through counsel, requested that the trial court's denial of self representation be reserved, not the court's denial of motion to dismiss counsel. (ts121423-12-14)

in the appeal, the petitioner addressed the issue of denial of self representation as a violation of the sixth u.s. amendment, applicable by the fourteenth, citing *fareta v. california*, 422 u.s. 806 (1975)

the petitioner took the plea in part because he could not trust the appointed attorney to represent him at trial. if the trial court had allowed the petitioner to represent himself he would not have taken the plea.

the appellate court's mischaracterization of the petitioner's reservation violates the due process clause of the fourteenth u.s. amendment and is not a harmless error because of its constitutional significance.