


IN THE SUPREME COURT OF FLORIDA <sup>OCT 22 2021</sup>

FOR MAILING 

Case style: David C. Stinson, Sr. v. STATE OF FLORIDA

Case number: SC 21-1349

Originating court: (circle one) First/Second/Third Fourth Fifth District Court of Appeal

Received, Clerk, Supreme Court  
OCT 27 2021

**BRIEF OF PETITIONER ON JURISDICTION**

If not represented by counsel,

Petitioner's name, address, and phone number:  
*David C. Stinson, Sr.*  
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Petitioner's signature: *David C. Stinson, Sr.*

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Attorney's name, address, and phone number:  
*NONE*

Attorney's signature:

## TABLE OF CONTENTS

| <b>Section of Brief</b>         | <b>Page Number</b> |
|---------------------------------|--------------------|
| Table of Citations              | iii                |
| Statement of the Issues         | iv                 |
| Statement of the Case and Facts | 1                  |
| Argument for Jurisdiction       | 4                  |
| Conclusion                      | 10                 |
| Certificate of Service          | v                  |

## TABLE OF CITATIONS

### Citations in Brief

### Page Number

|  |    |
|--|----|
| 1. SEE APPENDIX DOCUMENTS Attachment-B . . . . .                                 | 16 |
| 2. Fisher v. United States, 328 U.S. 463, 66 S. Ct. 1318, 90 L. Ed. 1382 (1946). | 5  |
| 3. Taylor v. State, 662 So. 2d 1031 (Fla. 1st DCA 1995).                         | 5  |
| 4. Long v. State, 194 So. 3d 539 (Fla. 4th DCA 2016)                             | 5  |
| 5. STATE v. SPENCER, 751 So. 2d 47 (Fla. 1999).                                  | 14 |
| 6. Florida Rule of Appellate procedure 9.141.                                    | 14 |
| 7. Florida Statutes section 893.13(1)(c)   | 2  |
| 8. Article 1, section 16 (B)(10) B.  | 3  |
| 9. Rule 1.540 (B)  | 3  |
| 10. Article V, section 4 (B) OF THE FLORIDA CONSTITUTION                         | 3  |
| 11. Rule 9.030 (B)(2)(A) Fla. R. App. p.   | 3  |
| 12. WRIT OF ERROR CORAM NOBIS.   | 4  |
| 13. Fernandez, 730 So. 2d 277 (Fla. 1991)  | 6  |
| 14. Murray v. State, 884 So. 2d 1024 (Fla. 4th DCA 2004)                         | 6  |
| 15. Fajardo v. State, 193 So. 3d 1019 (Fla. 4th DCA 2016)                        | 6  |
| 16. Sanford v. Rubin, 237 So. 2d 134 (Fla. 1970)                                 | 6  |
| 17. Sorcher v. State, 619 So. 2d 285, 290 (Fla. 1993)                            | 6  |
| 18. Rodgers v. State, 841 So. 2d 431, 437-38 (Fla. 2003)                         | 6  |
| 19. Bailey v. State, 768 So. 2d 568 (Fla. 2nd DCA 2000)                          | 6  |
| 20. UNITED STATES v. Walker, 657 F. 3d 160 (3rd Cir. 2011)                       | 6  |
| 21. Gore v. State, 964 So. 2d 1257, 1265 (Fla. 2007)                             | 6  |
| 22. Hopkins v. State, 632 So. 2d 1372, 1374 (Fla. 1994)                          | 6  |
| 23. Maddox v. State, 760 So. 2d 89, 95, 99 (Fla. 2000)                           | 6  |
| 24. Howard v. State, 591 So. 2d 1067 (Fla. 4th DCA 1991)                         | 7  |
| 25. Bogan v. State, 211 So. 2d 74, 77 (Fla. 1968)                                | 7  |
| 26. Florida Statute; section 924.051. <del>Fla. Stat.</del>                      | 7  |
| 27. STATE v. BURTON, 314 So. 2d 136 (Fla. 1975)                                  | 8  |
| 28. Giglio v. United States  | 8  |
| 29. Art. 1, § 21, Fla. Const.  | 9  |

## STATEMENT OF THE ISSUES

As will present the following reason: From Case No. 4D20-1959 ordered that on June 3, 2021, this Court ordered Appellant to show cause why sanctions should not be imposed. Having considered Appellant's responses, we determine that sanctions are appropriate. The claim raised in this petition has been raised in past motions - <sup>"NEVER REFUSED"</sup> <sub>"ON RECORD"</sub> for the reasons set forth in the order to show cause. We now impose sanctions pursuant to *State v. Spencer*, 751 So.2d 47 (Fla. 1999). The Clerk of this Court is directed to no longer accept any paper filed by David C. Stinson, SR, unless the document has been reviewed and signed by a member in good standing of the Florida Bar who certifies that a good faith basis exist for each claim presented. "give the defendant one who is going to fight for my life under the Bidean Decision".

Discretionary Review, pursuant to the procedures outlined in Florida Rule of Appellate procedure 9.141.

"Could you please review Case no. 4D08-2708" of how the Court's mishandle my case-2003-163, of the grounds that my Appellant Counsel was arguing that was over looked facts by the Courts. The Florida Supreme Court has explained that: There are two sources of the right to access the Courts. Florida's Constitution specifically guarantees a citizen's access to Courts. See, Art. 1, section 21, Fla. Const. see page-9- of this petition in regard to Acknowledgment of New Case-SC21-1349, please. "Let's follow the Law's and the Constitution's". Also the Acknowledgment of New Case-SC21-1349, A copy is find in Appendix Documents Attachment-B-25.

## STATEMENT OF THE CASE AND FACTS

ON <sup>(1)</sup> February 6, 2003, Two Warrants were issued for MR. Stinson's Arrest: ONE for sale of a controlled substance in violation of Florida Statutes, section 893.13 (1)(A), AND ONE for possession of a controlled substance in violation of Florida Statutes, section 893.13 (6)(A). ON the same day, MR. Stinson was arrested and charged with said offenses. NO warrant had been issued for sale of a controlled substance within 1,000 feet of a school. According to the arrest affidavit, the offense occurred in the "6200 Block of 85th Street." ON <sup>(2)</sup> February 19, 2003, MR. Stinson was charged by information with possession and sale of a controlled substance. He was not charged with sale of a controlled substance within 1,000 feet of a school. <sup>(3)</sup> ON April 7, 2003, the information was amended but again MR. Stinson was not charged with sale of a <sup>(4)</sup> controlled substance within 1,000 feet of a school AND "ON April 13, 2004," the state prosecutor "nolle prosequi" the sale of cocaine AND did not change the charging information. At some point, Detective Rodriguez claim that he measured the distance from the crime to a Learning Center. "more than a year after the crime was committed," MR. Stinson was charged with sale of a controlled substance within 1,000 feet of a school in violation of Florida Statutes section 893.13 (1)(c) from the same information on February 6, 2003 warrants. At trial, Detective Rodriguez testified that the center was located at 8465 62nd Avenue and that it was 516 feet from the "OASIS BAR". Context A full review of the facts adduced at trial is essential, the relevant testimony of Detective Rodriguez. "Those maps presented with this petition is going to refuse the officer false testimony given as evidence." { Located in Attached in -B }

Challenging The Florida Statutes section 893.13 (1)(c), OF THE Amended information.

- 1.) The Florida statute. Ch. 87-243 [The Bill which enacted § 893.13(1)(c) Fla. Stat.] Contains more than one subject in violation of Article III section 6 of The Florida Constitution.
- 2.) Florida Statute. § 893.13(1)(c), violates the petitioner's rights guaranteed under the Equal protection Clause of The 14th Amendment to The United States Constitution Article 1, section 2, of The Florida Constitution.
- 3.) The penalties set forth in § 893.13(1)(c), Fla. Stat. constitute Cruel And Unusual punishment in violation of The Eighth Amendment to The United States Constitution And Article 1, section 17 of The Florida Constitution.
- 4.) I defendant, David C. Stinson, SR. Received A Life sentence in prison for A \$20.00 dollars Crack Cocaine Rock [1.10 of A Gram] more time than anyone selling "kilos or tons," As A Habitual Felony Offender. "Who Did I Kill?" A Nonviolent Felonies, which is "significantly disproportionate." The Judgment was entered in violation of The Constitution And The Laws of The United States of The state of Florida And the sentence exceeded the maximum authorized by law. Under The Florida Criminal punishment Code score-sheets in my case-2003-163, only shows The minimum under The sentencing guidelines of "67.95" months And the maximum authorized by law "35" years. § 1.102 "Vacatur of sentences obtained by fraud or misrepresentation," Because The state never had "subject matters jurisdiction" on my case from beginning according to "Due process of Law." Under Brady instructs that The prosecution has An Affirmative duty to disclose All information that is (1) in The government's possession, (2) material And (3) exculpatory. The District Courts have broad discretion in determining "Brady violations," And so An Appellate Court reviews The decisions below only for Abuse of discretion.

yes, This case Was not Completed Within the Time Frame Required By Article 1, section 16 (b)(10)B. By the defendant Being Sanctioned By the Lower Courts And the defendant Not Knowing the Law OR the Rules That Was Appropriate.

Which I Received Disciplinary Action upon November 21, 2012, And you Can't do Anything to Fight your Case Being Spended 60 days in Confinement. Now, Just Learning About Rules of the Court, the Florida Rules of Court. Volume - 1 Start - 2017 And A Little About Rule 1.540 (B) Although the Rule speaks of Abolishing Writs of Coram Nobis And Coram Vobis, such motions are still Available in Criminal procedure. And Rule 1.630. extraordinary Remedies. under A manifest injustice And under newly Discovery evidence Claim of "Racial profiling And Fraud on the Courts." Wanting A NEW Trial Based the grounds Four of the Defendant Challenging the Florida Statute § 893.13 (1)(c), Requirements of All the errors Detective Rodriguez Committed in my Case - 2003-163, Alone with the state prosecutor Help. Basis for Invoking Jurisdiction... Article 1, section 4(B) of the Florida Constitution provides that the Supreme Court of Appeal Have Jurisdiction to issue Discretionary Review see Also Rule 9.030 (B)(2)(A) Fla. R. App. p. The order to be Reviewed in the present Case Was Rendered the 25 Day of August, 2021. "Florida's Article 1, section 21 guarantees that "Justice shall be Administered Without sale, denial, OR Delay" is A Violated. First Amendment, the Due process Clause, And the Equal protection Clause."

## ARGUMENT FOR JURISDICTION

A Writ OF ERROR CORAM NOBIS: A Writ Calling The Attention OF The Trial Court To Facts Which do NOT Appear ON The Record despite The EXERCISE OF Reasonable diligence By The defendant And Which, if KNOWN AND established At The Time A Judgment Was Rendered Would Have Resulted IN A different Judgment, "yes." [petitioned For A Writ OF ERROR Coram Nobis ON The grounds that newly Discovered evidence EXONERATED Him].

- 1.) The Defendant submits that the newly discovered evidence presented in this petition are: (1) EXTENSIVE INTERNAL Affairs investigations of Christopher Rodriguez, A Narcotics Detective who was suspended for six weeks and transferred to the Court Services Division for disciplinary reasons stemming from a series of policy violations in 2003, 2013 and 2014. "The Sheriff Department would not send this information to me."
- 2.) The IAU's finding cited Rodriguez for violation of 2536.00 (F) (45) Association With Criminals and 2531.00 (60) Code of Ethics for public officers and employees, unbecoming conduct, misdirected action or interfering with official investigations, unbecoming conduct in processing property and evidence, neglect or duty, looting and inattention to procedures, willfully violation of official procedures [not endangering persons or property], violating the vehicle utilization program, and untruthfulness. Just fineing this information out on 12-30-2020 "on the racial discrimination" and the "racial profiling" is of great public importance. The Indian River County Sheriff Department would not send this information to me. As I requested them of, "Don't look the other way of my crime and case."



MR. Rodriguez voluntarily waived his rights to appeal the findings and the punishment. (3) during the investigation MR. Rodriguez upset the prosecutions in different cases that resulted to a "untruthfulness" charge. He also gave other conflicting statements during the IAU proceeding, see, Fisher v. United States, 328 U.S. 463, 66 S. Ct. 1318, 90 L. Ed. 1382 (1946). "When a person's life is at stake..."

(4.) These documented troubles with the truth would provide the defendant with a reasonable suspicion that MR. Rodriguez employed these same relevant credibility tactics in his case-2003-163. While testifying at the defendant's trial and the investigation against him, MR. Rodriguez was one of two primary witnesses and the new evidence would prove that he lied while giving testimony in this particular case-2003-163 and influenced the other witness MR. Kowalczyk, to follow suit as a team player that he would help him out with his sentence. The result of this evidence should be given a new trial. The newly discovered evidence also reveals that other tactics and methods was used by MR. Rodriguez in the interest of securing a arrest and conviction, "I am one of the victims" and this evidence will be sufficient to Detective Credibility. Taylor v. State, 662 So.2d 1031 (Fla. 1st DCA 1995). This evidence concerning this primary witness raises a substantial question as the defendant's guilt or innocence, see, Long v. State, 194 So. 3d 539 (Fla. 4th DCA 2016). Which goes to the witness reputation for truth and veracity. The same tactics Detective Rodriguez did in my case-2003-163, are the same arguments that was argued in my <sup>FILE</sup> 3.850 motion, that Detective Rodriguez is being investigated for extensive internal affairs investigation report."

FERNANDEZ, 730 So.2d 277 (Fla. 1991), MURRAY V. STATE, 884 So.2d 1024 (Fla. 4th DCA 2004), FAJARDO V. STATE, 193 So.3d 1019 (Fla. 4th DCA 2016)

5.) Detective Rodriguez did not place the name OR Address OF THE THREE school in ANY OF THE charging information, "Arrest-Affidavit OR Warrants." As The defendant demonstrates in His petition that The state's key witness Detective Rodriguez falsely implicated the Defendant in This Case-2003-163, Because The evidence corroborating That 63rd Court is exactly one Block [520 Feet] From The DasiE Hope Center, Located At 8445 64th AVE. This error goes To The Foundation OF The Case And goes To The merits OF The Cause OF ACTION. SEE, SANFORD V. RUBIN, 237 So. 2d 134 (Fla. 1970). This error, Which reaches down into The Validity OF The trial itself To The extent That A Verdict OF guilty Could NOT Have Been Obtained Without The Assistance OF The Alleged error, Where The interest OF Justice presents A Compelling Demand For its Application. SEE, SOCHOR V. STATE, 619 So. 2d 285, 290 (Fla. 1993). The Willful giving OF False Testimony, OR FALSE Testimony, giving under ANY Lawfully Administered Oath. SEE, RODGERS V. STATE, 841 So. 2d 431, 437-38 (Fla. 2003). What Was NOT placed Before The Jury Was The Additional [520 Feet], Which is The Radius OF 63rd Court. Rodriguez Knowingly Concealed Favorable Evidence ON The Defendant AND in Return Committed Fraud ON The Court By such omissions. The state should have KNOWN OF The geographical Region Considering its Resources. "The Indian River County property Appraiser's Office." so, The defendant Cannot Have Had Constructive Knowledge OF materials The state, As Well As His Trial Counsel Failed To Acquire. SEE, E.g., BAILEY V. STATE, 768 So. 2d 508 (Fla. 2nd DCA 2000), UNITED STATES V. WALKER, 657 F. 3d 160 (3rd Cir. 2011), GORE V. STATE, 964 So. 2d 1257, 1265 (Fla. 2007), HOPKIN V. STATE, 632 So. 2d 1372, 1374 (Fla. 1994), MADDIX V. STATE, 760 So. 2d 89, 95, 99 (Fla. 2000).

The only way the state prosecutor could have obtained a conviction of the defendant was based solely on Detective Rodriguez giving a false testimony. [see Attachment-B, 2-10] Because the state knew the jury would have believed the officer's testimony over the defendant's."

Statutes effecting more severe punishment of drug transactions which occur within 1,000 feet of certain schools, measure distance as the "crow flies," not as a car drives. Legislative intent is to measure within 1,000 foot radius, not to be local idiosyncrasies of pedestrian or automobile travel. See, Howard v. State, 591 So.2d 1067 (Fla. 4th DCA 1991).

The defendant has demonstrated the racial profiling of great public importance of the perjured testimony given during my trial and present these documents as evidence to refuse or rebutt the officer's false testimony received from the Indian River County, Florida property appraiser's office of the area of Wabasso, Fla. are dated 8-12-2011, 8-19-2011 and 10-25-2017. [see, Attachment-B-2-8]. The law is well established that the willful use of false testimony upon material matters from the prosecution witnesses by the prosecutor known by the latter to be perjured testimony is a recognized ground for relief from judgment. See, Bogan v. State, 211 So. 2d 74, 77 (Fla. 1968).

Florida statute, section 924.051. Terms and Conditions of Appeals and Collateral Review in Criminal Cases (1) As used in this section: (A) "prejudicial error" means an error in the trial court that harmfully affected the judgment or sentence." (B) "preserved" means that an issue, legal argument, or objection to evidence was timely raised before, and ruled on by the trial court,

And that the issue legal Argument OR Objection to evidence was sufficiently precise that it fairly apprised the trial court of the relief sought and the grounds thereof. The courts established that any order obtained by fraudulent representation maybe recalled or set aside whether entered in civil or criminal case and order, judgments or decess which are the product of fraud, collusion Decept, mistake etc, maybe vacated or otherwise Act upon At Anytime. *Id. State v. Burton*, 314 So.2d 136 (Fla. 1975).

The state prosecutor violated *Giglio v. United States*, when it knowingly utilized the perjured testimony of Detective Chris Rodriguez, resulting in fraud on the court. Deserving no protection and due process of law requires that every opportunity to expose fraud and obtain relief be given. A *Giglio* violation occurred by Detective Rodriguez's failure to disclose the facts that there exists a 63rd Court between 63rd Ave. where the sale took place and 64th Ave. of where the school is exactly located and such evidence could reasonably be taken to put the whole case in such a different light as to undermine the confidence in the verdict. The defendant will demonstrate more: in an interview with *Scrapp Treasure Coast Newspaper*, Detective Rodriguez is quoted as telling the newspaper interviewer Sarah Grile, on Friday, April 27, 2007, two years after the defendant was convicted of his crime: QUOTE; the following in pertinent part, "and it led to such people as --- who was arrested at his West Wabasso home in the "8300 block of 63rd Court, about a block from the Head Start school," I see Attachment-13-8J.

This is in regard to my acknowledgment of new case.,  
SL21-1349. Dated, September 24, 2021. That I received  
it on 10-12-2021, because it went to the last institution  
that I was at Okaloosa C.I. before coming here, "that's  
why that letter did not have the new case number on  
it." Which I just received your letter addressing the issue  
about my letter and the jurisdiction brief that was dated  
Oct 13, 2021 and I got ~~it~~ on Oct 18, 2021. Thank you  
so very much for your help and concern, it's greatly  
appreciated! [see a copy of the envelope in attachment-B-2]  
which I just received the order. In reviewing our records,  
we note that your case is subject to dismissal for  
failure to comply with this court's directions. see Fla. R.  
App. p. 9.410. Dated Oct 14, 2021 and I received on  
Oct 19, 2021. There would not be any delay if your order  
came directly to WAKULLA Correctional Institution-main-unit  
where I am housed. Thank you again, it's greatly appreciated!  
"Access To Courts"... Regarding the plaintiff's Access To Courts claim,  
The Florida Supreme Court has explained that: there are two sources  
of the right to access the courts. Florida's Constitution specifically  
guarantees a citizen's access to courts. see, Art. 1, § 21, Fla. Const.  
The Constitution of the United States does not, however, contain a  
specific clause providing for this right. The United States  
supreme court, nevertheless, has held that there is such a right arising  
from several constitutional provisions, including the first amendment,  
the due process clause, and the equal protection clause."  
Florida's Article 1, section 21 guarantee that "Justice shall be administered  
without sale, denial, or delay" is violated."

## CONCLUSION

I Defendant, David C. Stinson, SR. Received A Life Sentence In prison for A \$20.00 dollars Crack Cocaine Rock [1.10 OF A gram] Way more time than anyone selling "kilos or tons" of Cocaine As A Habitual Felony Offender. "Who did I kill?" A Nonviolent Felonies, which is "significantly disproportionate" ~~\_\_\_\_\_~~ <sup>ERROR</sup>

~~\_\_\_\_\_~~ <sup>ERROR</sup> The Judgment was entered in violation of The Constitution And The Laws of The United States of The State of Florida or Any other State. And the sentence exceeded the maximum authorized by law. <sup>Correction "ON THE</sup> ~~\_\_\_\_\_~~ <sup>ERROR</sup>

~~Florida Criminal punishment code scoresheets in my case - 2003-163, only show's the minimum under authorized by law~~ <sup>ERROR</sup> ~~35 years~~ <sup>MAXIMUM</sup>

The District Courts Have Broad discretion in Determining Brady Violations, And so An Appellate Court Reviews The decision Below only for Abuse of discretion. Under Brady instructs that Due process of Law, The prosecution Has An Affirmative duty To disclose All information That is (1) in The government's possession, (2) material And (3) exculpatory. "It show The Racism discrimination of Indian River County Florida. VERO Beach, Flor." And The Racial profiling And fraud on The Courts of great public importance". BECAUSE! The Florida statute, section 893.13(1)(c) Requires "IN, ON OR WITHIN 1,000 FEET" OF The Real property comprising A Child Care Facility OR Any school Between The Hours OF 6 A.M. AND 12 midnight, NOT "1,115.38" FEET AS THE "CROW FLIES". Asking For A NEW Trial please. [Correct] → According To Florida Criminal punishment code scoresheets in my case - 2003-163, only show's the minimum under the sentencing guidelines OF "67.95" MONTHS OR THE maximum authorized By law was "35 years". A NEW Trial please! let's follow The Law, How Detective Rodriguez, the state prosecutor And The Judge All Committed fraud ON The Courts.

## CERTIFICATE OF SERVICE

I HEREBY CERTIFY that a true and correct copy of the foregoing was furnished to The Attorney General Office (name of opposing person) by mail/fax/email/hand delivery at this address The Capitol, P1-01, Tallahassee, Fla. 32399-1050 on this date 10-22-2021.

Petitioner's or, if represented, attorney's signature:

Respectfully Submitted,  
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