IN AND FOR THE

FLORIDA SUPREME COURT

RONALD L. MEOLA

PETITIONER,

v. CASE NO.: 89.982

STATE OF FLORIDA,

FLORIDA DEPARTMENT OF

CORRECTIONS/HARRY K. SINGLETATARY,

et, al NN ALL.

RESPONDENTS.

TERRY L. JONES,

PETITIONER,

V. CASE NO.: 90.148

HARRY K. SINGETARY,

RESPONDENT.

JAMES MEADOWS

PETITIONER,

V. CASE NO.: 90.241

HARRY K. SINGLETARY, J.R., etc.,

RESPONDENTS.

PETITIONERS BRIEF

IN AID TO THE COURT

OF

AUG. 29, 1998

TABLE OF CITATIONS:

* Harris v. Lewis, 482 So.2d. 1378, 1381 (Fla. 1st DCA 1986).

* S.H. Kress & Co. v. Powell, 180 So. 757 (Fl. 1938).

* Weatherbee v. United Ins., Co. of America, 18, CA 3d. 266, 95 Cal. Rep. 678, 680.

* Harper v. Young, 64 F. 3d 563 (10th Cir, 1995) Cert. Granted 1165.07, 1846 (1996) decided 117 S.Ct. 1148, 10 FLW Fed.S. 360 (3/18/1997).

COMES NOW Petitioner Ronald L. Meola, pro se, and submits lawfully this supplement in AID to the Court on the issues before this Court in Cases 89.982, 90.148 and 90.241.

Within the context of this brief "IN AID" to the Court, Petitioner will show six (6) points factually which are supported by Federal Law which support all of Petitioners claims. These points are now being submitted because they were not previously available to Petitioner.

#1. The elevated 130% maximum prison cap temporarily set by the Costello Court was not a lawful equivalent to the "100% Lawful Capacity"by law as the Respondents have suggested.

#2. Petitioner also will submit further proof which refutes all of Respondants claims that state The Florida Dept. of Corrections never reached 99% of its "lawful capacity".

#3. Petitioner will show where the Respondant, The Florida Legislature and other Governmental actor's created and caused undue double jeopardy violations within the due process violations and equal protection violations concerning Petitioners overcrowding credits. (where Petitioner was Punished on at least (3) three Seperate occasions After The fact, by Changing Statutes, Capacities and unlawful Arbitrary legislation due to His offense Nature.)

#4. Petitioner Meola will show that under Federal Constitution Law, it would violate the ex-post facto laws to activate seperate intervening Statute capacities for Statutes that were and are to serve the same subjective purpose where the following Statute nullified its predecessor; or the Statute before. WOLFF v. McDonald 418 U.S. 593, 517, 94 S.Ct. 2963, 2975, 41 L.Ed. 2d. 935 (1974)

#5. Petioner will show where under the Federal Constitution he is

lawfully permitted to collect monitary damages and compensitory, punitive and special for violations of his Constitutional Rights; pain, suffering, mental anquish, unlawful imprisonment, loss of liberty, quality of life and happiness.

#6. Petioner had and does have a "Liberty" interest in no less than (1,700) days overcrowding credit and that it was taken absent due process; procedural due process of law as quaranteed under the 14th Amendment.

ARGUMENT

1. Respondent claims petitioner is not entitiled to restoration of provisional or administrative credit which Petitioner received by sole Grace of the Florida Legislature "in place of credit under Statute 944.598". The Florida legislature, Ex-Governor Bob Grahm, Ex-Governor Martinez, refused to allow awards under 944.598 because the particulars for release weren't stringent enough and also because it didn't discriminate amongst certain classes of inmates; and because under 944.598 a prisoner could earn credit of (30 days) every (5days) or (180 days) per month, where under Statutes 944.276 and 944.277, prisoners could only earn (60) days per month.

NOTE: The restriction of 944.598 Violated EX Post Facto And Double JEOPARDY which were Caused by FL. Legislatures Gov. Grahm and Gov. Martinez and Respondants.

2. Petitioner shows also that Respondants have claimed that the 130% maximum capacity allowance during this period is equivalent to the 100% lawful capacity, as outlined under FS 944.598 (1983) (1986) See Ex. (AA). On Exhibit page AA3, attached, you will see that the 130% maximum capacity was a temporary device; because as of May 31, 1991 it still had not been made into law by Statute. But was temporarily utilized in the overcrowding era to house the overflow of new inmates into the system while overcrowding credits weened other prisoners out. But at no time was the 130% max. cap. lawfully equivalent to the lawful (100%) cap as outlined under 944.598. SEE Exhibit AA①, AA②, and AA③, Attached.

This point is greatly emphasized by this below question.

Why would the legislatures set an activation capacity of 98% or 99% of the (100)% lawful capacity if the lawful capacity was equivalent to the 130% maximum capacity as the respondents have incorrectly suggested?

Simply, (they would not.) If the increased maximum capacity of 130% was equivalent to the 100% lawful capacity there would have been no need for overcrowding credits at all; because the (Brap, Scrap) programs would have kept the Florida prison population below 93%, of lawful capacity. See Brap and Scrap, Petitioners June 4, 1998 Brief to the Court reference, Exhibit 3, Pg. 2, RC and RD, which read:

RC: "Also in March, 1,841 prisoners left by Brap or Scrap, their 30-day or 90 day freedom bonuses enriched in most cases by another (75 days administrative gaintime".) "But those departures were never mentioned in the news release." (Emphasis Added:)

RD: Assistant Corrections Secretary Vernon Bradford who was in charge of puplic information for the Department when the releases first began to come out, said: "The Brap and Scrap are too hard to collect and should not be counted as early releases anyway."

If the legislature had intended for the elevated maximum emergency cap of 130% of lawful capacity at 100% to take place of the lawful 100% capacity as the respondants have wrongly claimed or suggested, than there would never have been overcrowding credits awarded.

Example: March, 1987-33,092 inmates represent the 130% emergency maximum capacity, which is the total number of inmates FDOC can temporarily house under the Costello Court Reign.

NOTE: FDOC - APPEARS AS Abbreviation of Florida Department of Corrections.

98% of the 33,092 max. cap = 32,430 inmates. Brad Vernon, Asst. Secretary, FDOC, reported that on 4-19-1987, (1,841) prisoners left prison by Brap and Scrap. (Brap and Srap prisoners were not reported as early releases.) (See Petitioners 4-June-98 Brief, Ex 1,2,3,4 for verification.)

33,092 = Total max. inmates (3, 1987)

x 98% = of 130% max.

= 32.430 = Inmates at 98%

32,430 Inmates

-1,841 Brad & Scrap releases

= 30,589 prisoners in DOC 3/87

32,430 = 98% Inmates of 130% MAX Cap.

+1,841 Inmates on Brap/Scrap that were enriched by 944.276

(34,433) Total Inmates in FDOC March/1987

According to Respondants — 34,433 I/M represent (1,341) more I/M than the 130% max. Cap. Respondants Suggest was Equivelent to the lawful Capacity discribed in 944.598.(1983) Rev (1986).

30,589 is less than 93% of the 130% maximum capacity, and far below the 98% or 99% of the maximum capacity Respondants suggest that is alleged to be equivalent to lawful (100%) capacity. Further, Brad Vernon reports Ex. 3, Pg.2, in Petitioners June 4, 1998 Brief, that an average of (600) inmates leave monthly on Brap and an average of (400) monthly on Scrap, a combined total of (1000) inmates monthly.

* Note: In April 1987 Brap & Scrap Averages rose as in March-1987, (March '87 Brap releases were (1,073), inmate Scrap releases were (768) inmates. (Either equation above Shows Clearly That Petitioner Is Entitled to Full relief, and that Respondants Fail.)

It is clear to see Brap and Scrap would have completely handled all overcrowding if the 130% maximum capacity were used in place of the 100% lawful capacity under FS 944.598, 944.276 and 944.277. But it was not, proof lies clearly that the Florida DOC rose well above 98%, 99%, 100% of its (100% lawful capacity) up to 28% above the 99% to lawful 100% capacity. If it had not, than no credits could have ever been given at 98% under Statute 944.276 or at 97.5% under Statute 944.277.

The key herein is lawful capacity of 100%, which is equivalent to 25,455

inmates. When the prison system reached 99% of (lawful capacity), "lawful capacity" of 25,455 inmates, credits were supposed to be issued under Statute 944.598, but they weren't because the Florida legislature made those people eligible under Statute 944.598 lawfully and legally eligible to receive credit under the more stringent guidelines of Statute 944.276 and 944.277. In place of Statute 944.598 (See Petitioners Brief June 4, 1998). Exhibit (3) P5 (2) Reference (RB), Exhibit (1) P3(2) Reference (RB) And Exhibit 2 P9(2) reference (RB).

As shown in Petitioners Brief of June 4, 1998, there were 32,592 prisoners in Florida prisons which is equal to 28% above the 99% of lawful capacity of 25,455 inmates at 100% occupancy. See (June 4, 1998) Petitioners Brief, Exhibit (1) page 2, reference (RC) for verification; and graph on page (7).

Also see Exhibit (4) reference (RA) where 32,685 prisoners were in Florida's prisons on May 15, 1987-32,685 prisoners is equivalent to 29% above the lawful capacity of 100% or 25,455 inmates.

What Petitioner clearly points out is if Statute's 944.276, 944.598 and Statute 944.277 did not intend for credit to be given at 98%, 99% or 97.5% of lawful capacity there would be no need for any credit, no need for the expressive language of these statutes, which described clearly when and how credit was to be given.

Instead, the Statute would have said, as an example; "When the capacity of the FDOC reaches or goes beyond 99% of the 130% maximum capacity of the system; overcrowding credit awards will be given; etc., etc". But the Florida Statutes did not lead to that language, and the Respondants fail on the merits, and the written language of the Law under 944.598 (1983) Rev.(1986.).

Petitioner has clearly refuted all contentions and claims of the Respondant, and shows again where the Florida DOC did rise above 98% and 99% of the "lawful capacity" described in Statute 944.598 (1983) and (1986) and does have a liberty interest and vested right to these credits under law. Petitioner also was denied due process of law in these cancellations as was found in Wolff v. Mcdonald, 418 US,593, 577, 94 S.Ct., 2963, 2975, 41, L.Ed. 2d. 935, 1974. (Wolff also refutes Respondants claim, that when a liberty interest only arises from State law, "The Statute will not violate the Due Process Clause if it is rationally related to a legimate governmental interest." Wolff, a controlling authority along with Dent v West Virginia, are not only controlling authority, but landmark cases which totally refute Respondants claims, and fully support Petitioners case as to the Due Process violations inflicted).

See Wolff: "We think a persons liberty is equally protected, even when the liberty itself is a statuatory creation of the State. The touchstone of Due Process is protection of the individual against arbitrary action of Government." See also:

* Dent v. West Virginia, 129 US, 114, 123, 9 S.Ct., 231, 233, 32, L.Ed. 623 (1889)
* Harper v. Young, Pg.3, this Brief, and;
* Shapiro v. Thomas, Pg.2, this Brief, and;
* Morrissey v. Brewer, Pg.2, this Brief, and;
* Grannis v. Ordean, Pg.2, this Brief, and;
* Indre Ruffallo, Pg.2, this Brief, and;
* Joint Antifascist Refuge Committee, Pg.2, this Brief.

Note: the above cited cases are cited only for reference in support. Each case basically stipulates that the procedural due process under the 14th

Amendment must be present prior to loss of liberty. Interest or property as liberty interest parallels under law. (Expressively where the liberty itself is a creation of the State.) Herein Petitioner Shows that all Creations under 944.598, 944.276, 944.277 were CREATIONS of "The STATE" as well as their Bennifits, And unlawful Changes of Capacity And Cancelations.

#3. Petitioner shows that Respondant along with the Florida legislatures, Attorney General of the Florida and Governors have created also Double Jeopardy violations for Petitioner Meola.

Double Jeopardy

Petitioner Meola was first punished when he was not permitted to annex Statute 944.598 by both Governor Grahm and Governor Martinez. See Exhibits; (3) Pg.2, (RB), and Exhibit 1, Pg.2. Reference * RB and Exhibit 2 Pg.2, RB and RC of Petitioners June 4, 1998-Brief for verification. (NOTE: MEOLA Annexed 944.598, which did NOT Prejduice or discriminate according to offense, YET was Purposefully Witheld Unlawfully During A Crisis because it did NOT.)

Basically these Exhibits prove that Governor Grahm didn't use 944.598 because it didn't (discriminate), and Governor Martinez didn't use it solely to discriminate against a certain class of prisoners. Yet this decission was NOT The Sole decission of Either Governor. The Florida Legislature AIDED In these decisions, And made offenders Eligible under other Statutes.

Because of these unlawful acts, omissions or inactions, Petitioner suffered a grevious loss of great severity and was punished after the fact for a past offense of 2nd degree murder. (Herein Petitioner has been punished (2) times).

Yet Petitioner was made eligible to receive gaintime pursuant to Statutes 944.276 and 944.277, which were later unlawfully cancelled by the Attorney General of Florida, Bob Butterworth; who duly descriminated against a class of prisoners, and again summary punishment was meted out after the fact, wherefore no less than twice was Double Jeopardy violations inflicted upon Petitioner Meola, yet too, all Respondants who have full, clear and

concise understanding of these actions unlawfully uphold them to deny Petitioner the long overdue restoration of no less than (1,700) overcrowding credits; and do so with wanton abondon of Petitioners Constitutional Rights, and protections so guaranteed under the Federal Constitution: First by failing to allow Petitioner to annex 944.598, second by taking 944.276 awards once given by Grace of legislature, 3rd, by taking 944.277 once given by legislature.

#4. Petitioner lastly shows where under Federal law he is entitled to damages both compensatory and punitive, consequential and special for the known infringement by Respondants of these COnstitutional violations and rights, quarantees and or protections, [14th Amendment, due process] Ex Post Facto, Double Jeopardy and Equal Protection, but NOT limited too.

Petitioner has suffered grievious loss, unlawful incarceration, pain, mental anguish, cruel and unusual punishment, loss of quality of life, liberty and the pursuit of happiness and has suffered harassment, all inflicted by the totally negligent actions, omissions or inactions of the Respondant, which are known and intentional, which have been perpitrated and inflicted BY The STATES Legislatures, Governors and Attorney General unlawfully and upheld by The Respondants unlawfully.

All Respondants here have an obligation to Petitioner to uphold the laws, Statutes and Constitutional protections under law to the Petitioner. Each is a trained official whom are made known within the context of their responsibilities to uphold the law; yet whom on their own, seperately have not upheld the law and have grossly violated the rights of the Petitioner seperately from their title of office; absently with total disregard to Petioner and all similarly situated rights, and without due process of law; on each count, each arbitrary law change and each seperate violation.

#5. Under Constitutional Law any Respondant who has caused loss,

suffering, detainment, or injury, whether to his his person, property or rights through an unlawful act, omission, or negligence of another is lawfully entitled to percuniary , compensatory or indemnity damages which may be recovered in court, and can be compensatory or punitive, or both, depending on the actual loss and measurement suffered; or as for punishment for outrageous conduct and to deter future transgressions.

Respondants, as well as all other Governmental actors herein mentioned had a legal duty and obligation to petitioners to lawfully, fairly and equally protect Petitioners Constitutional rights in concerns to overcrowding credits as herein pled, and previously pled; in accordance with the laws and Statutes which were lawfully in effect at that time. Each however singularly and solely on their own merit infringed upon those rights and created violations against Petitioner, but not upholding the very laws they were sworn to uphold. Petitioner has included damages as part of relief requested within his June 4, 1998 Brief and would continue to hold firm on all relief requested, not only due to substantial loss, damage, pain suffering and anguish, but also as a future deterent. In closing, Petitioner would briefly cite; Harris v. Lewis, 482 So.2d. 1378, 1381 (Fla.1st DCA 1986) and Coker v. Georgia, 433, US, 584, 97 S.Ct., 2861, 53 L.Ed. 2d. 982. Also see: Weather v. United Insurance Co. of America, 18 CA, 3d. 266, 95 Cal. Rep. 678, 680. All of the above citings support Petitioners claims and demand for Judgement of damages as part of requested relief, yet are to lengthy to discuss.

To date nearly (17) months have elapsed since Petitioners initial filing of February 21, 1997, and within this time frame Respondants have only brief unsupported claims opposed toward Petitioners claims, but not supporting their opposition with law. Petitioner has received no Briefs or documentation of consolidated Petitioners Jones or Meadows, nor have they received Petitioner Meolas because prisoners cannot correspond.

The Respondants in this action have not submitted any Brief since prior to October 14, 1997, and Petitioner has received no conveyance or order from this Court since September of 1997, Not Including A Conveyance from The Clerks office for a ($13.00) docket Sheet entry charge, stating The case is still Pending of 8/25/1998.

Petitioner has now been incarcerated approximately (35) months past the lawful date of his release approximately August 15, 1995, and has had to bear the burden of unlawful acts, omissions, inactions and wrongs of the Respondants and all Governmental actors herein, which are malicious and negligently wanton and done knowing by Respondants. Because no evidentiary hearing was deemed necessary for these issues, and because these issues are fundamentally simple, and well supported by law, Petitioner would request humbly that these issues be expedited in a manner that would serve the purpose of justice as well as place no futher hardships upon the Petitioner herein.

WHEREFORE Petitioner Meola does request full Relief as descibed in his June 4, 1998 Supplemental Brief In aid to this Court as outlined, and further requests a decision in favour of Petitioner Meola as outlined under Federal Constitutional law.

Respectfully Submitted,

Ronald L. Meola # 180830

Ronald L. Meola, Pro Se

Aug-29-98

CERTIFICATE OF SERVICE

I, Ronald L. Meola, hereby certify that a true copy of the enclosed Brief is sent to Mr. Sheron Well, Counsel for the Respondant at 2601 - Blair Stone Road, Tallahassee FL. 32399-2900 and the original to the Clerk of the Supreme Court, Supreme Court Bldg., 500 - South Duval Street, Tallahassee Florida 32399 - 1927, by U.S. Postal Services on this 29th day of August - 1998.

Ronald L. Meola

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