IN AND FOR THE FLORIDA SUPREME COURT

RONALD L. MEOLA
PETITIONER

V. CASE NO:89-982

DEPARTMENT OF CORRECTIONS,et al., RESPONDANT

FILED
SID J. WHITE
OCT 20 1997
CLERK, SUPREME COURT
By _____ Chief Deputy Clerk

TERRY L. JONES
PETITIONER

V. CASE NO:90-148

HARRY K. SINGLETARY
RESPONDANT

JAMES MEADOWS
PETITIONER

V. CASE NO:90-241

HARRY K. SINGLETARY etc, RESPONDANT

PETITIONERS RESPONSE TO
RESPONDANTS RESPONSE
OF 18-Sept.-1997

Petitioner Meola , in the above styled cause and action should be granted relief in full for his petition of Mandamus, as well as to his filing of Supplimental Statement in support, for all reasons below listed.

Note* Also Consolidated Sua Sponte, By this Court were Petitioners Meola , Jones and Meadows. While it is true petitioner Jones has at this time already expired his sentence without yet receiving relief

or final disposition of this action before the court, Law does not suggest, as does the Respondant; That Mr. Jones should not Enjoy fair Justice and correction of record in the event that petitioners would prevail in this action. Petitioner Meola would therefore now request that Mr. Jones continue to be a Part of this Action until such time as it may become final, as would Duely apply to Petitioner Meadows.

Counsel for the Respondants have again Skirted and refused to answer any of the pertinent issues or facts which Petitioner has brought to the attention of this Honorable Court in attempt to make a Hinderance of Justice against Petitioners herein. Yet Petitioner has proven and clearly shown in all of his Pleadings that Violations of the Ex Post Facto Clause, as well as the Due Process Clause do expressively exist in Petitioners Case, which are Arbitrary, and do disadvabtage Petitioner, as well as alter the amount of Credit he could have normally receive. Petitioner now responds to Respondants response .

Petitioner Meola filed a petition for Writ of Mandamus dated February-21-1997, and did seek restoration of both Administrative Credit, and Provissional Gaintime under Fs.S 944.276 and S 944.277 respectively, which canceled a total of over (1700) combined days of already earned gaintime credits that the petitioner already had received and were already applied to his sentence, as well as reducing his sentence . These Credits were Granted to the Petitioner by LAWFUL AND SOVERIGN GRACE of the Florida Legislature by and through the Florida Department of Corrections in Place of Credits Petitioner should have received under 944.598, Fs.

These credits were Unlawfully, and without authority Forfeit and canceled by the respondant. and duely restored under Lynch to all other Inmates who received Provisional And Administrative credit. (Lynce v. Mathis , U.S. 117 S.ct. 891, 137 L.Ed 2d 63(1997)

The Respondants continue to claim that Petitioner is Not entitled to Restoration Under Lynce because Petitioner offended in 1986, under the Emergency overcrowding gaintime statute 944.598, See: (RUSSELL CALAMIA V. HARRY K. SINGLETARY nad JEFFERY LYNN HOCK V. HARRKK. Singletary JR. Cases: 84-088 and 86-182 (may-22-1997)

Where both Calamia and Hock received restoration of Provisional and administrative Credits By The Florida Supreme Court Who granted relief of Habeus Corpus and Mandamus. At Least One of the Petitioners In CALAMIA and HOCK were Offenders in 1986,After petioner Meola offended.

The United States Supreme Court found in Lynce (10 Fla. Law weekly Fed.S 287) II, That Ex Post facto Violations did exist in the Lynce case. Yet Lynce only scratched the surface of the Truer and more deeply rooted Violations of The Ex post Facto Clause, as well as Due Process. and Equal Protection of Law, and Liberty Interest to Vested Rights. In Petitioners Case as well as Lynce There are such Constitutional Violations of Great Magnatude that expressively one violation merely stumbles upon the next violation in the Grand Scope of the events concerning overcrowding and the ways in Which the Florida Legislature by abd Through The Florida Department of Corrections Violated Constitutional Federal Protections and Guarentees.

Petitioner Meola To Date has Not received restoration of Credit under 944.276, or 944.277, which He was Availed eligible to By the Florida Legislature and The Florida Department of Corrections By Grace of the Legislature in place of Credit under 944.598, all of which Petitioner has a Liberty Interest and Vested right in.

In order to bring forth and to the Light the true expost facto violations and violations of Due Process and equal protection of the law it is First necessary yo look back to the Prison Reform act of 1983- Ch 83-131 Laws of Fla. as well as Costello v Wainright , (489 F. Supp 1100 (M.D. Fla. 1980). The 1983 Prison reform act and moreso The Overcrowding Credits outlined under 944.598 in Ch. 83-131 were created by an overcrowding task force, in a 1982 Legislative Special Session, Where the Legislature Entered into a Contractual Decree in order to be in compliance with the Federal Mandate and elected to Award Overcrowding Credit under 944.598 when the Prison Level reached 98% of its lawful Capacity, and would award upto 30 days gaintime every (5) days until the prison cap was

reduced to 97 % of its lawful capacity. Which Means an inmate who received credit under 944.598 could receive up to(120)or more days of credit if the prison caps exceeded their threshold for the period of one Month (30 days).

The first ex post facto violation occured to Petitioner when the Legislature Failed to give or attempt to give Fair public notice of the change in Prison Capacity thresholds in 1986 when the prison Cap under 944.598 was reised to 99 % from 98 % while a New form of Overcrowding Mechanism was being unlawfully activated at a Lower capacity threshold, which altered substantially the Amount of Credit Peririoner could earn, which created a sevear Ex post facto violation.

NOTE* By putting into effect a New gaintime Mechanism Under 944.276 the Florida Legislature and The State of Florida as wellas The Florida Department of Corrections Broke the Contractual Decree in Concerns to the Federal Mandate in The Costello Case, Where (Fs. 944.598 was designed Solely) to satisfy the Federal mandate by its expressive language and existance, yet The Legislature Opted to Break The Laws and violate The Federal Constitution and the Florida Constitution by operating a New release Mechanism(944.276) which was not part of the Contractual agreement when referenced to the federal Mandate and the Costello case.

The second Violation occured while at the same time the Florida Legislature and D.O.C. enacted 944.276 at a capacity threshold of 98% capacity, at the same time it raised the capita to 99% under 944.598, In doing so the Legislature and Doc Knowingky Altered the amount of gaintime any Prisioner could earn under 944.598, because while 944.276 gave awards out at 98% capacity no awards could be given under 944.598 at 99%. If the Florida Legislature would Have Kept the capacities equal for all forms of Overcrowding Credit they and The Fl. Doc would have not offended and violated the ex post facto clause , due process clause and equal protection clause or the

Liberty interest and vested rights of Petiotioner and all who are similarly situated.

> By the creation of 944.276 Petitioner was sevearly disadvantaged because petitioners oportunity to earn amounts of gain time awards was altered after the fact, which clearly did disadvantage the Petitioner and LENGTHEN his Prospective Sentence, by nullifying gaintime awards and amounts earnable at 99% under 944.598.

Because the Florida Department and The Florida Legislature Knew the Curtailing of the Amounts of Gaintime overcrowding credits under Fs. 944.598 was effectively nullified they Knew they were Passing Arbitrary and retrospective laws that would met out summary punishment after the Fact, In order to Hinder any Legal Recoarse The Florida Department of Corrections by and through the Grace of the Florida Legislature made Petitioner Meola and many other similarly situated inmated eligible to earn Administrative as well as Provissional Credite (" IN PLACE OF CREDITS UMDER 944.598") , To Satisfy those credit award obligations under 944.598 which The legislature knowingly Altered and Nullified by ex post facto and due process violations.

A pertinent fact in the Liberty Interest Issue and Vested Rights Concern is that Petitioner Meola DID NOT "AVAIL" himself of the reciept of Administrative or provisional Credit. He was Availed and made eligible By the grace of the Legislature by and through the Florida Department of corrections to satisfy the fact That Petitioner Meola was supposed to receive overcrowding credits. The Legislature and the Dept. Of Corrections choes and elected to grant Meola earnings under 944.276 and 944.277 instead of 944.598, and they have the lawful authority to do so. Yet do not retain the right to cancel any credit once earned without due process, Once Given by grace of the Legislature. Meola will State, That he has done nothing for the Florida D.O.C. or Legislature to Cancel his Already earned and applied credits, which are Functional Equivilents to days Spent in Prison.

Petitioner Meola , and hundreds of other similarly situated Prisoners who were supposed to receive Overcrowding credit under 944.598, were made eligible to Receive gaintime overcrowding credit awards under 944.276 and 944.277 in place of 944.598. This is proven because under normal circumstances an Inmate may receive one or the other, Yet The Department of Corrections By and Through the Florida Legislatures grace Awarded Inmates who were to receive credit under 944.598, credit under both 944.276 and 944.277 in hopes to avoid law suits and appeals that would force the Florida Legislature and Florida to Utilize the appropriate Overcrowding release mechanism in effect, being 944.598.

The third violation of ex post facto occured when the Florida Legislature created and put into effect provisional credits under 944.277 at 97.5% capacity. By doing such they knowing and effectively curtailed and nullified even further amounts of gaintime that could be earned under 944.598, because it gave awards at lower thresholds and elominated awards under 944.598 affectivly and further disadvantaged the petitioner by further lengthening the sentence and pro-spective sentence of the petitioner. NOTE* 944.276 also is in breach of the federal decree and Mandated order created under Costello and Ch 83-131 Laws of Florida, because it creates an ex post facto clause Violation as well as due process violation and equal protection and Liberty interest violation in concerns to VESTED Rights under both The Federal constitution and Florida Constitution. This was done to Met out a more sevear summary punishment after the fact to a large class of disfavored persons, as was as petitioner.

SIMPLY Petitioner states Because The Florida Legislature and The Florida Dept. Of Corrections ELECTED on their own to grant both Administrative and Provisional Credits to Petitioner in Place of awards under 944.598, That Petitioner has a Vested Right to retain those already earned amd once applied credits. The Legislature and Dept. of Corrections have restored Credits to all other Inmates who received them even those who were not released from Incarceration, or did not aquire enough credit to earn immediate release.

Petitioners restoration of credit would in fact access him to immediate release from incarceration, weather converted under 944.598, or granted under 944.276 and 944.277.

The Florida Legislature had an Obligation to meet the Criteria in the Federal Mandate, and Decree it entered into under 944.598 because it was the sole mechanism agreed and approved in the case of costello , and the issuance of the Mandate thereto. Because the Florida Legislature and Florida Department of Corrections Tried to Minipulate and construe the laws there were too Many Laws enacted to serve as a release valve for overcrowding, With Purposeful and sole intent to disadvantage Peititioner and all similarly situated and alter punishment summarily after the fact by decreasing the amount of earnable credits under 944.598. The Florida Legislature and The Florida Department each ahd a hand in drafting and passing these arbitrary ex post facto laws. Which also violate due process because no fair public notice of capacity changes ever existed, nor changes to create new laws to govern overcrowding. If the Legislature And or Florida Doc had in fact fairly notified the public by giving fair public notice than these events would have been properly and fairly resolved years ago, before they were unlawfully permitted to RUN A MUCK.

There was no basis or need for the Florida Legislature to enact or create much less put into effect any other form Of Overcrowding credits thant the origional, (944.598). As the needs of the public changed, as well as the needs of the STATE, and FL. D.O.C. the legislature could have very easily made LAWFUL AMENDMENTS to 944.598 which would only be prospective amendments effective for those who offend after the amendment enaction date, such as Supervisory periods upon release, Yet because the Legislature , and DOC basically decided to continue to Violate The Federal Conststuion, and its own florida Constitution in order to continue to lengthen a Disfavored class of inmates as well as the Petitioner , there was no reason to go back and correct their intentional misgivings, Concerning lengthening Punishment.

How could petitioner in 1986, 1987, or up to 1993 appeal or challenge overcrowding gaintime while he had received it up to the point when it was no longhr necessary to give out? He Could not, Petitioner herein did not have any reason to beleive all that he was told he lawfully earned could be taken away, thus there was no

reason for legal recoarse at that time. Yet there definately would have been Legal action had fair public notice been given in these issues.

Note also The recent decission in Harper V. Young et, al., 64 F. 3d 563 10th Circ. 1995 Cert. Granted 116 5 Ct. 1846 (1996) Decided 117 S.Ct. 1448 10 Fl. Law Weekly Fed.S.360 3/18/1997.

> Basically, the court; that pre parole was not unlike the kind of parole discribed in morrissey V. Brewer 408 U.S 471 (1972) The Court found in a very brief opinion, that basically the Okhaloma form of Pre-Parole created the essentially samre Liberty interest as found in Oklahoma parole system, and could not be terminated absent the Full Due Process protections afforded parole revocation act.

Hwrein petitioner cites Harper because Overcrowding Gaintime is the issue, In Concern to Liberty Interest and Vested Rights.

Petitioner is similar to Harper in the respect that a Liberty interest was created not only under 944.598 but also under 944.276 and 944.277, as well as bevoming A Vested Right to Retain that gain Time once one or more days was received, which cannot be taken away ABSENT due process, as was found in Lynce , waldrup,Harper,Calamia Hock, and other cases over the years in concerns to Prisioners gaintime earnings.

Petitioner shows that :

A. No fair public notice was given to the public when Prison Cap in 944.598 was raised to 99%. (Nor can Respondant make the unfounded claim Petitioner had not yet offended, and thus would not have taken action if Public notice was given).

B. Petitioner received no fair notice of and or to Due process before the Florida Legislature Made or created and put into affect 944.276 to nullify, curtail and void any earnings under 944.598.

C. Petitioner received no due process when he was made eligible for 944.276, in place of 944.598 by grace of tne Florida Legislature by abd through the Florida D.O.C.

D. Petitioner received no due process when he also was made eligible by grace of the Florida Legislature for 944.277, Which further Nullified and effectively curtailed the amount of gaintime credit Petitioner could have earned under 944.598, Nor was Fair public notice given allowing that this method under 944.277 would takt the place

3,000 and 5,000 Days of gaintime , instead of the 1920 he received under provisional and administrative credit. That showing in itself is enough to grant relief for the Petioner on the facial facts set on record within the language of Ch. 83-131 (944.598), and later statutes under 944.276 and 944.277. Yet arbitrary and retrospective laws affected the amount of credit petitioner could earn, so the Legislature in attempts to appease peritioner and all similarly situated Granted awards to Petitioner and all others eligible for credit under 944.598 credit under 944.276, and 944.277, which petitioner now has a vested right to be restored, as well as a double liberty interest in overcrowdimg credits.

The Ex Post Facto Clause expressively Prohibits the Legislature foom interfearing with the release of those whose offense dates seeure them to an entitlement to overcrowding credits. Yet at least on three seperate occassions Petitioners overcrowding credits were interfeared with, and void , nullidied and finally unlawfully cancled all together. This occured when the FL. Legislature nullified petitioners entitlement and liberty interest in 944.598 by effectively decreasing the amount of credit petitioner could receive. This happened for the Second time when petitioner earned (BY LEGISLATIVE GRACE) Administrative credit while th legislature enacted provisional credit at a lower capacity. The Third instance is when all credits the petitioner earned and had already been applied and reduced from his sentence were canceled unlawfully with retroactive intent to Alter the petitioners punishment for the THIRD time after the fact.

Any way in which this Honorable court calculates Credit for petitioner it will result ib immediate release. Petitioner does not request more credit than(1920)cwhich petitioner received. NOTE* The Doc Claims petitioner earned 1260 Provisional Credits , and 460 Administreatve credits for a total of 1,720 Days total combined, Yet the DOC is in error by 230 Days Credit which was twice taken, and never properly corrected on their database, The actual Number of days received is 1,260 Provisional Credits, and 690 administrative credit., For a total of (1920) days credit totally combined.

The determination will rest upon this court as to weather petitioner will actually receive already earned credits under 944.276 and 944.277 or if petitioner will receive gaintime under conversion of 944.598 as if no other form of overcrowding credit was ever given...Or if gaintime will simply be computed and ordered in the equivilent of 1,920 days restoration within the scope of credit due.

Accordingly for all of the afore and above reasons petitioners mandamus petition must be granted under Constitutional Guarentees and Protections Listed herein , But not limited to. and Petitioner be duely granted immediate release from incarceration.

Respectfully submitted Ronald L. Meola

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Certificate of Service

I, Ronald L. Meola , hereby certify a True copy of the forgoing is furnished to Counsel for the defendant, MS.SHERON WELLS- 2601- Blairstone road Talla, FL, and the Origional Copy To the Clerk of The Florida Supreme court of Florida by us Mail on this 14th day of October 1997.

Ronald L. Meola
RONALD L. MEOLA.

cc. RLM/jf