

Supreme Court, U.S.  
FILED

NOV 24 2017

OFFICE OF THE CLERK

No: \_\_\_\_\_  
\_\_\_\_\_

IN THE  
SUPREME COURT OF THE UNITED STATES  
\_\_\_\_\_

NEIL J. GILLESPIE, PETITIONER

vs.

REVERSE MORTGAGE SOLUTIONS, INC., RESPONDENT  
\_\_\_\_\_

ON PETITION FOR A WRIT OF CERTIORARI TO

The Supreme Court of Florida, Case No.: SC17-1570  
\_\_\_\_\_

PETITION FOR A WRIT OF CERTIORARI

November 24, 2017

by

Neil J. Gillespie, *pro se*  
8092 SW 115th Loop  
Ocala, Florida 34481  
Tel: 352-854-7807  
Email: neilgillespie@mfi.net

## QUESTIONS PRESENTED

1. Does the Seventh Amendment to the United States Constitution guarantee the right to a trial by jury in a state court residential home foreclosure of a federal Home Equity Conversion Mortgage [12 USC § 1715z-20; 24 CFR Part 206] also called a HECM reverse mortgage?
2. Does a disabled homeowner age 61 have a right to assistance of counsel under the federal Older Americans Act, 42 U.S. Code Chapter 35 - PROGRAMS FOR OLDER AMERICANS, for old age, and disability including Post Traumatic Stress Disorder (PTSD), and Traumatic Brain Injury (TBI)?
3. Can the Civil Rights Division, Voting Section, U.S. Department of Justice ignore the enclosed Voting Section complaint against Florida's rigged judicial elections?
4. Can the U.S. Department of Justice deny on May 18, 2017 my FOIA into the mental health screening imposed by the Florida Supreme Court on bar applicants, because the records you have requested pertain to an ongoing law enforcement proceeding?
5. Can the U.S. Supreme Court ignore wrongdoing in Petition 12-7747 for a writ of certiorari as stated in the enclosed letter of Mr. Clayton Higgins on October 19, 2016?
6. Do time limits on civil litigation have any meaning? Pursuant to Fla. R. Jud. Admin. 2.250(a)(1)(B), the time standard for a civil trial case is 18 months from filing to final disposition. Non-jury cases — 12 months (filing to final disposition)

## LIST OF PARTIES

NOTE: All Parties Will Be Served On The Florida Portal By Email

NEIL J. GILLESPIE, PETITIONER  
A disabled non-lawyer appearing *pro se*  
8092 SW 115th Loop  
Ocala, Florida 34481  
Tel: 352-854-7807  
Email: neilgillespie@mfi.net

vs.

REVERSE MORTGAGE SOLUTIONS, INC., RESPONDENT  
Represented by:  
Curtis Alan Wilson, Esq.  
Florida Bar No. 77669  
McCalla Raymer Leibert Pierce, LLC  
225 E. Robinson St. Suite 115  
Orlando, FL 32801  
Phone: 407-674-1850  
Fax: 321-248-0420  
Email: MRService@mrpllc.com  
Email: MRService@mccalla.com

### Other Parties

13CA000115AX	DEVELOPMENT & CONSTRUCTION CORPORATION OF AMERICA
13CA000115AX	ELIZABETH BAUERLE*
13CA000115AX	JOETTA GILLESPIE*
13CA000115AX	MARK GILLESPIE*
13CA000115AX	OAK RUN HOMEOWNERS ASSOCIATION INC
13CA000115AX	UNITED STATES OF AMERICA

\*Justin R. Infurna, Esq., LL.M, The Infurna Law Firm, P.A.  
Attorney for Defendants Mark Gillespie, Joetta Gillespie, Elizabeth Bauerle, Scott Bidgood.  
121 South Orange Ave., Ste. 1500, Orlando, Florida 32801  
Telephone: (800)-774-1560; Fax: (407)386-3419  
Primary Email: justin@infurnalaw.com; Secondary Email: justininfurna@gmail.com

### Fake Parties

- All unknown spouse parties
- Neil J. Gillespie and Mark Gillespie as Co-Trustees of the Gillespie Family Living Trust Agreement dated February 10, 1997 (the Trust terminated on February 2, 2015)
- Unknown Settlers/Beneficiaries of The Gillespie Family Living Trust Agreement dated February 10, 1997 (NONE)

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Fraud upon the court is an egregious offense against the integrity of the judicial system and is more than a simple assertion of facts in a pleading which might later fail for lack of proof. *Wells Fargo Bank, N.A. v. Reeves*, 92 So. 3d 249, 252 (Fla. 1st DCA 2012).

The Supreme Court has the authority and the duty to prevent the misuse and abuse of the judicial system. *Day v. State*, 903 So. 2d 886 (Fla. 2005).

COURTS AND JUDGES, 12A FlaJur2d  
§144 Duty to determine and decide issues<sup>1</sup>

The power of the judiciary is not merely to rule on cases but also to decide them, subject to review only by superior courts.[fn1] Thus, when a court properly acquires jurisdiction, it must fully perform and exhaust its jurisdiction,[fn2] determine the controversy, and decide every issue or question properly arising in the case [fn3] and render a decision.[fn4]

#### DUE PROCESS

Only a Florida licensed attorney in good standing is **competent** (Rule 4-1.1) or **diligent** (Rule 4-1.3) to provide me legal advice and/or legal representation.

The 5thDCA Court found me indigent/insolvent. I am a non-lawyer, unable to obtain adequate counsel, a consumer of legal and court services affecting interstate commerce.

Legal protections found under the Constitution and laws of the U.S. and Florida include,

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<sup>1</sup> [fn1] *Bush v. Schiavo*, 885 So. 2d 321 (Fla. 2004), cert. denied, 125 S Ct. 1086 (U.S. 2005).  
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[fn4] *King v. State*, 143 So. 2d 458 (Fla. 1962).

- Due Process Clause; Equal Protection Clause, Fourteenth Amendment, U.S. Constitution.
- Powell v. Alabama, 287 U.S. 45, for “due process in the constitutional sense”
- Due Process, Article I, Section 9, Florida Constitution
- Access to Courts, Article I, Section 21, Florida Constitution
- Basic Rights, Article I, Section 2, Florida Constitution
- Fla. Stat. § 29.007 Court-appointed counsel “This section applies in any situation in which the court appoints counsel to protect a litigant’s due process rights.”
- Chapter 27 Florida Statutes, Part III, Other Court-Appointed Counsel. Civil Regional Counsel where mandated constitutionally or by general law in civil cases.
- The Americans With Disabilities Act (ADA) and the ADA Amendments Act (ADA 2008)
- The Rehabilitation Act of 1973, as amended.

I am over age 60. The Older Americans Act (OAA) 42 U.S.C. 3001 et seq., as amended, provides for legal services under **Title III B Services** or Activities for persons age 60 and over.

In Florida, the OAA is administered under Chapter 430, Florida Statutes, by the Department of Elder Affairs, section 430.101, Administration of federal aging programs.

The Department of Elder Affairs was established by Section 20.41, Florida Statutes.

I am not competent, and not diligent, as defined by the Rules Regulating The Florida Bar:

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A lawyer shall provide competent representation to a client. Competent representation requires the legal knowledge, skill, thoroughness, and preparation reasonably necessary for the representation.

- Florida Bar Rule 4-1.3 Diligence.

A lawyer shall act with reasonable diligence and promptness in representing a client.

Powell vs. Alabama, civil counsel required for “due process in the constitutional sense”.

MR. JUSTICE SUTHERLAND delivered the opinion of the Court...."If in any case, civil or criminal, a state or federal court were arbitrarily to refuse to hear a party by counsel, employed by and appearing for him, it reasonably may not be doubted that such a refusal would be a denial of a hearing, and, therefore, of due process in the constitutional sense..."

"...The right [p69] to be heard would be, in many cases, of little avail if it did not comprehend the right to be heard by counsel. Even the intelligent and educated layman has small and sometimes no skill in the science of law. If charged with crime, he is incapable, generally, of determining for himself whether the indictment is good or bad. He is unfamiliar with the rules of evidence. Left without the aid of counsel, he may be put on trial without a proper charge, and convicted upon incompetent evidence, or evidence irrelevant to the issue or otherwise inadmissible. He lacks both the skill and knowledge adequately to prepare his defense, even though he have a perfect one. He requires the guiding hand of counsel at every step in the proceedings against him. Without it, though he be not guilty, he faces the danger of conviction because he does not know how to establish his innocence. If that be true of men of intelligence, how much more true is it of the ignorant and illiterate, or those of feeble intellect. If in any case, civil or criminal, a state or federal court were arbitrarily to refuse to hear a party by counsel, employed by and appearing for him, it reasonably may not be doubted that such a refusal would be a denial of a hearing, and, therefore, of due process in the constitutional sense..."

Powell v. Alabama, 287 U.S. 45      Argued: October 10, 1932  
Decided: November 7, 1932      224 Ala. 524, 531, 540, reversed.

The Supreme Court of Florida has a duty and the authority to administratively provide  
civil legal counsel under the Fourteenth Amendment of the U.S. Constitution for Due Process:

The Constitution states only one command twice. The Fifth Amendment says to the federal government that no one shall be "deprived of life, liberty or property without due process of law." The Fourteenth Amendment, ratified in 1868, uses the same eleven words, called the Due Process Clause, to describe a legal obligation of all states. These words have as their central promise an assurance that all levels of American government must operate within the law ("legality") and provide fair procedures....

Wex Due Process Article by Richard Strauss, Legal Information Institute Cornell Law  
[https://www.law.cornell.edu/wex/due\\_process](https://www.law.cornell.edu/wex/due_process)

Constitutional requirement for due process under Florida law:

Article 1, section 9, Florida Constitution.

SECTION 9. Due process.—No person shall be deprived of life, liberty or property without due process of law, or be twice put in jeopardy for the same offense, or be compelled in any criminal matter to be a witness against oneself.

Case law for due process under Florida Law:

10A Fla. Jur 2d Constitutional Law § 480 (2007)

The guaranty of due process of law extends to every type of legal proceeding. Pelle v. Diners Club, 287 So. 2d 737 (Fla. Dist. Ct. App. 3d Dist. 1974); Tomayko v. Thomas, 143 So. 2d 227 (Fla. Dist. Ct. App. 3d Dist. 1962). Whenever life, liberty, or property rights are involved in any official action, the organic requirements of due process of law must be afforded, whether such action is the exercise of the powers of government by governmental departments, State ex rel. Barancik v. Gates, 134 So. 2d 497 (Fla. 1961); Williams v. Kelly, 133 Fla. 244, 182 So. 881 (1938) or a duly authorized administrative or ministerial function or duty. State ex rel. Barancik v. Gates. The constitutional guaranty of due process of law applies not only to court and administrative procedures, but also to legislative acts. Williams v. U.S., 179 F.2d 644 (5th Cir. 1950), cert. granted, 340 U.S. 849, 71 S. Ct. 77, 95 L. Ed. 622 (1950) and judgment aff'd, 341 U.S. 70, 71 S. Ct. 581, 95 L. Ed. 758 (1951) (implied overruling on other grounds recognized by, U.S. v. McDermott, 918 F.2d 319 (2d Cir. 1990)) and (overruling on other grounds recognized by, Brzonkala v. Virginia Polytechnic Institute and State University, 169 F.3d 820, 136 Ed. Law Rep. 15 (4th Cir. 1999)).

10A Fla. Jur 2d Constitutional Law § 483 (2007)

Due process encompasses both substantive and procedural due process. McKinney v. Pate, 20 F.3d 1550 (11th Cir. 1994); M.W. v. Davis, 756 So. 2d 90, 25 Fla. L. Weekly S334 (Fla. 2000); State v. O.C., 748 So. 2d 945, 24 Fla. L. Weekly S425 (Fla. 1999).

Constitutional due process is required for Access to Courts, Article I, Section 21, Florida Constitution, and Basic Rights, Article I, Section 2, Florida Constitution.

SECTION 21. Access to courts.—The courts shall be open to every person for redress of any injury, and justice shall be administered without sale, denial or delay.

SECTION 2. Basic rights.—All natural persons, female and male alike, are equal before the law and have inalienable rights, among which are the right to enjoy and defend life and liberty, to pursue happiness, to be rewarded for industry, and to acquire, possess and protect property; except that the ownership, inheritance, disposition and possession of real property by aliens ineligible for citizenship may be regulated or prohibited by law. No person shall be deprived of any right because of race, religion, national origin, or physical disability.

A litigant has a right to conflict-free counsel, [http://en.wikipedia.org/wiki/Right\\_to\\_counsel](http://en.wikipedia.org/wiki/Right_to_counsel)



Whether counsel is retained or appointed, the defendant has a right to counsel without a conflict of interest \*. If an actual conflict of interest is present, and that conflict results in any adverse effect on the representation, the result is automatic reversal.[17] The general rule is that conflicts can be knowingly and intelligently waived,[18] but some conflicts are unwaivable. [19] \*Wheat v. United States, 486 U.S. 153 (1988), conflicts of interest

[17] Burger v. Kemp, 483 U.S. 776 (1987); Cuyler v. Sullivan, 446 U.S. 335 (1980); Holloway v. Arkansas, 435 U.S. 475 (1978).

[18] See United States v. Curcio, 680 F.2d 881 (2d Cir. 1982).

[19] See, e.g., United States v. Schwarz, 283 F.3d 76 (2d Cir. 2002); United States v. Fulton, 5 F.3d 605 (2d Cir. 1993).

The state and federal judiciary denied me due process on a residential home foreclosure of a federal Home Equity Conversion Mortgage [12 USC § 1715z-20; 24 CFR Part 206] also called a HECM reverse mortgage.

IN THE  
SUPREME COURT OF THE UNITED STATES  
PETITION FOR WRIT OF CERTIORARI

Petitioner respectfully prays that a writ of certiorari issue to review the judgment below.

**OPINIONS BELOW**

The opinion of the highest state court to review the merits appears at Appendix 1 to the petition and is unpublished. I included the dockets for each order for clarification.

- Appendix 1. Supreme Court of Florida  
August 25, 2017  
CASE NO.: SC17-1570  
Lower Tribunal No(s):  
5D17-2273; 422013CA000115CAAXXX
- Appendix 2. Florida Fifth District Court of Appeal  
August 02, 2017  
CASE NO. 5D17-2273
- Appendix 3. Supreme Court of Florida  
Acting as a court of first view, not a court of review  
July 18, 2017  
CASE NO.: SC17-1321  
Lower Tribunal No(s):  
422013CA000115CAAXXX

## CONSTITUTIONAL AND STATUTORY PROVISIONS INVOLVED

### DUE PROCESS

WEX article Author: Peter Strauss  
Legal Information Institute

“The Constitution states only one command twice. The Fifth Amendment says to the federal government that no one shall be "deprived of life, liberty or property without due process of law." The Fourteenth Amendment, ratified in 1868, uses the same eleven words, called the Due Process Clause, to describe a legal obligation of all states. These words have as their central promise an assurance that all levels of American government must operate within the law ("legality") and provide fair procedures.” [https://www.law.cornell.edu/wex/due\\_process](https://www.law.cornell.edu/wex/due_process)

Seventh Amendment to the United States Constitution, trial by jury

Home Equity Conversion Mortgage [12 USC § 1715z–20; 24 CFR Part 206] also called a HECM reverse mortgage

Older Americans Act, 42 U.S. Code Chapter 35 - PROGRAMS FOR OLDER AMERICANS

Florida Constitution, Article V, Section 10(b)(1) The election of circuit judges shall be preserved; Article VI, Section 1. Regulation of elections. All elections by the people shall be by direct and secret vote

Florida Constitution, Article I, SECTION 9. Due process.—No person shall be deprived of life, liberty or property without due process of law, or be twice put in jeopardy for the same offense, or be compelled in any criminal matter to be a witness against oneself.

Florida Constitution, Article I, SECTION 21. Access to courts.—The courts shall be open to every person for redress of any injury, and justice shall be administered without sale, denial or delay.

Florida Constitution, Article I, SECTION 22. Trial by jury.—The right of trial by jury shall be secure to all and remain inviolate. The qualifications and the number of jurors, not fewer than six, shall be fixed by law.

Pursuant to Fla. R. Jud. Admin. 2.250(a)(1)(B), the time standard for a civil trial case is 18 months from filing to final disposition. Non-jury cases — 12 months (filing to final disposition)

My foreclosure case commenced January 9, 2013. Today is November 24, 2017. The duration is almost 5 years. This case has taken 5 times as long as provided by the rules for a non-jury trial;

Exceeding time limits by many years has major negative health consequences. The same tactic was used by the court in the Hillsborough case, which began in 2005. That’s 12 years total.

## STATEMENT OF THE CASE

My name is Neil J. Gillespie, an indigent non-lawyer, unable to obtain adequate counsel, a consumer of legal and court services affecting interstate commerce, a consumer of personal, family and household goods and services, consumer transactions in interstate commerce, a person with disabilities, and a vulnerable adult, henceforth in the first person, where I reluctantly appear *pro se* to save my home from wrongful foreclosure.

On July 18, 2017 at 7:24 AM in The Florida Supreme Court, I filed what amounts to an Emergency Petition for Temporary Injunction under Rule 1.610(a), Fla R Civ Pro.

EMERGENCY PETITION TO CANCEL NON-JURY TRIAL 10.00 AM TODAY  
Filing # 59132663 E-Filed 07/18/2017 07:24:12 AM

My Emergency Petition was supported by 9 Appendices, including 4 Affidavits, including,

Appendix A - Defendants' Emergency Motion to Cancel Hearing July 18, 2017  
Appendix B - Defendants' Notice of Filing U.S. Supreme Court Petition and Response.  
Appendix 1 Order Dismissal Mar-31-2017, Notice Appeal Mar-27-2017  
Appendix 2 Notice of Filing Federal Civil Rights Complaint  
Appendix 3 US Supreme Court Clerk's reply letter Mr Higgins Oct-19-2016  
Appendix 4 Affidavit of Neil Gillespie re Dr. Kassels Jun-12-2017  
Appendix 5, Affidavit of Neil J Gillespie of Traumatic Brain Injury (TBI)  
Appendix 6 Affidavit of Neil J Gillespie HECM Age Limits  
Appendix 7 Affidavit of Neil J Gillespie - Defenses and Claims In Recoupment

The Florida Supreme Court acted On July 18, 2017 as a court of first view, and not a court of review, when it entered an Order in SC17-1321 wrongly sending the case to the 5thDCA as a petition for writ of prohibition:

Petitioner has submitted an "Emergency Petition to Cancel Non-Jury Trial 10:00 AM Today," which this Court has treated as a petition for writ of prohibition. The petition for writ of prohibition is hereby transferred, pursuant to Harvard v. Singletary, 733 So. 2d 1020 (Fla. 1999), to the Fifth District Court of Appeal. The transfer of this case should not be construed as an adjudication or comment on the merits of the petition, nor as a determination that the transferee court has jurisdiction or that the petition has been properly denominated as a petition for writ of prohibition. The transferee court should not interpret the

transfer of this case as an indication that it must or should reach the merits of the petition. The transferee court shall treat the petition as if it had been originally filed there on the date it was filed in this Court and is instructed to consider expediting the petition as it appears to be **time sensitive** based upon the allegations; however, a determination to expedite consideration is at the discretion of the transferee court. Any determination concerning whether a filing fee shall be applicable to this case shall be made by the transferee court. Any and all pending motions in this case are hereby deferred to the transferee court.

Any future pleadings filed regarding this case should be filed in the above mentioned district court at 300 South Beach Street, Daytona Beach, Florida 32114.

Clearly my EMERGENCY PETITION TO CANCEL NON-JURY TRIAL 10.00 AM TODAY did not seek to remove person from office suggested by a petition for writ of prohibition. My petition sought injunctive relief, to cancel the non-jury trial for 10:00 AM July 18, 2017.

On August 02, 2017 the 5thDCA entered a one-sentence Order in Case No. 5D17-2273:

ORDERED that the Petition for Writ of Prohibition, filed July 18, 2017, is denied on the merits.

My pleading was not a petition for writ of prohibition. The ruling by the Panel of Judges Orfinger, Torpy, and Eisnaugle, did not meet the requirements of Florida law, or Constitutional Due Process. Under Florida law, a judge has a duty to determine and decide issues.

COURTS AND JUDGES, 12A FlaJur2d  
§144 Duty to determine and decide issues<sup>1</sup>

The power of the judiciary is not merely to rule on cases but also to decide them, subject to review only by superior courts.[fn1] Thus, when a court properly acquires jurisdiction, it must

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[fn2] King v. State, 143 So. 2d 458 (Fla. 1962); Malone v. Meres, 91 Fla. 709, 109 So. 677 (1926); Schoenrock v. Ballard, 185 So. 2d 760 (Fla. Dist. Ct. App. 1st Dist. 1966).  
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fully perform and exhaust its jurisdiction,[fn2] determine the controversy, and decide every issue or question properly arising in the case [fn3] and render a decision.[fn4]

I appealed the decision in Case No. 5D17-2273 back to the Florida Supreme Court in SC17-1750, which dismissed the case as follows:

This case is hereby dismissed. This Court lacks jurisdiction to review an unelaborated decision from a district court of appeal that is issued without opinion or explanation or that merely cites to an authority that is not a case pending review in, or reversed or quashed by, this Court. See Wells v. State, 132 So. 3d 1110 (Fla. 2014); Jackson v. State, 926 So. 2d 1262 (Fla. 2006); Gandy v. State, 846 So. 2d 1141 (Fla. 2003); Stallworth v. Moore, 827 So. 2d 974 (Fla. 2002); Harrison v. Hyster Co., 515 So. 2d 1279 (Fla. 1987); Dodi Publ'g Co. v. Editorial Am. S.A., 385 So. 2d 1369 (Fla. 1980); Jenkins v. State, 385 So. 2d 1356 (Fla. 1980).

No motion for rehearing or reinstatement will be entertained by the Court.

The Florida Supreme Court knows, or should know, that my pleading in essence sought injunctive relief, not a writ of prohibition.

The Florida Supreme Court knows, or should know, The Florida Constitution, Article V, Section 2(a) has a requirement that no cause shall be dismissed because an improper remedy has been sought, and transfer to the proper court:

SECTION 2. Administration; practice and procedure.—

(a) The supreme court shall adopt rules for the practice and procedure in all courts including the time for seeking appellate review, the administrative supervision of all courts, the transfer to the court having jurisdiction of any proceeding when the jurisdiction of another court has been improvidently invoked, and a requirement that no cause shall be dismissed because an improper remedy has been sought.

The Florida Supreme Court knows, or should know that under Florida law, a judge has a duty to determine and decide issues.

COURTS AND JUDGES, 12A FlaJur2d  
§144 Duty to determine and decide issues<sup>2</sup>

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<sup>2</sup> [fn1] Bush v. Schiavo, 885 So. 2d 321 (Fla. 2004), cert. denied, 125 S Ct. 1086 (U.S. 2005).  
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The power of the judiciary is not merely to rule on cases but also to decide them, subject to review only by superior courts.[fn1] Thus, when a court properly acquires jurisdiction, it must fully perform and exhaust its jurisdiction,[fn2] determine the controversy, and decide every issue or question properly arising in the case [fn3] and render a decision.[fn4].

The Florida Supreme Court engaged in fraud upon the court On August 25, 2017, when the Court entered two different Orders that dismissed this appeal, Case No. SC17-1570; each Order shows a different petitioner, and each Order each shows the wrong trial judge. See

PETITIONERS' MOTION TO CORRECT FRAUD UPON THE COURT  
Filing # 61193760 E-Filed 08/31/2017 12:45:30 PM

that accompanies this petition for writ of certiorari. In my view the Florida Supreme Court's Fraud Upon the Court is evidence of wrongdoing if not criminality.

I was denied due process during a non-jury trial the Florida Appellate and Supreme Courts failed to stop on July 18, 2017, whereupon I suffered injury and loss of rights, see the Affidavit of Neil J. Gillespie Non-Jury Trial July 18, 2017.

## **DUE PROCESS**

Only a Florida licensed attorney in good standing is **competent** (Rule 4-1.1) or **diligent** (Rule 4-1.3) to provide me legal advice and/or legal representation.

The 5thDCA Court found me indigent/insolvent. I am a non-lawyer, unable to obtain adequate counsel, a consumer of legal and court services affecting interstate commerce.

Legal protections found under the Constitution and laws of the U.S. and Florida include,

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- Due Process Clause; Equal Protection Clause, Fourteenth Amendment, U.S. Constitution.
- Powell v. Alabama, 287 U.S. 45, for “due process in the constitutional sense”
- Due Process, Article I, Section 9, Florida Constitution
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Powell vs. Alabama, civil counsel required for “due process in the constitutional sense”.



MR. JUSTICE SUTHERLAND delivered the opinion of the Court...."If in any case, civil or criminal, a state or federal court were arbitrarily to refuse to hear a party by counsel, employed by and appearing for him, it reasonably may not be doubted that such a refusal would be a denial of a hearing, and, therefore, of due process in the constitutional sense..."

"...The right [p69] to be heard would be, in many cases, of little avail if it did not comprehend the right to be heard by counsel. Even the intelligent and educated layman has small and sometimes no skill in the science of law. If charged with crime, he is incapable, generally, of determining for himself whether the indictment is good or bad. He is unfamiliar with the rules of evidence. Left without the aid of counsel, he may be put on trial without a proper charge, and convicted upon incompetent evidence, or evidence irrelevant to the issue or otherwise inadmissible. He lacks both the skill and knowledge adequately to prepare his defense, even though he have a perfect one. He requires the guiding hand of counsel at every step in the proceedings against him. Without it, though he be not guilty, he faces the danger of conviction because he does not know how to establish his innocence. If that be true of men of intelligence, how much more true is it of the ignorant and illiterate, or those of feeble intellect. If in any case, civil or criminal, a state or federal court were arbitrarily to refuse to hear a party by counsel, employed by and appearing for him, it reasonably may not be doubted that such a refusal would be a denial of a hearing, and, therefore, of due process in the constitutional sense..."

Powell v. Alabama, 287 U.S. 45      Argued: October 10, 1932  
Decided: November 7, 1932      224 Ala. 524, 531, 540, reversed.

The Supreme Court of Florida has a duty and the authority to administratively provide civil legal counsel under the Fourteenth Amendment of the U.S. Constitution for Due Process:

The Constitution states only one command twice. The Fifth Amendment says to the federal government that no one shall be "deprived of life, liberty or property without due process of law." The Fourteenth Amendment, ratified in 1868, uses the same eleven words, called the Due Process Clause, to describe a legal obligation of all states. These words have as their central promise an assurance that all levels of American government must operate within the law ("legality") and provide fair procedures....

Wex Due Process Article by Richard Strauss, Legal Information Institute Cornell Law  
[https://www.law.cornell.edu/wex/due\\_process](https://www.law.cornell.edu/wex/due_process)

Constitutional requirement for due process under Florida law:

Article 1, section 9, Florida Constitution.

SECTION 9. Due process.—No person shall be deprived of life, liberty or property without due process of law, or be twice put in jeopardy for the same offense, or be compelled in any criminal matter to be a witness against oneself.

Case law for due process under Florida Law:

10A Fla. Jur 2d Constitutional Law § 480 (2007)

The guaranty of due process of law extends to every type of legal proceeding. Pelle v. Diners Club, 287 So. 2d 737 (Fla. Dist. Ct. App. 3d Dist. 1974); Tomayko v. Thomas, 143 So. 2d 227 (Fla. Dist. Ct. App. 3d Dist. 1962). Whenever life, liberty, or property rights are involved in any official action, the organic requirements of due process of law must be afforded, whether such action is the exercise of the powers of government by governmental departments, State ex rel. Barancik v. Gates, 134 So. 2d 497 (Fla. 1961); Williams v. Kelly, 133 Fla. 244, 182 So. 881 (1938) or a duly authorized administrative or ministerial function or duty. State ex rel. Barancik v. Gates. The constitutional guaranty of due process of law applies not only to court and administrative procedures, but also to legislative acts. Williams v. U.S., 179 F.2d 644 (5th Cir. 1950), cert. granted, 340 U.S. 849, 71 S. Ct. 77, 95 L. Ed. 622 (1950) and judgment aff'd, 341 U.S. 70, 71 S. Ct. 581, 95 L. Ed. 758 (1951) (implied overruling on other grounds recognized by, U.S. v. McDermott, 918 F.2d 319 (2d Cir. 1990)) and (overruling on other grounds recognized by, Brzonkala v. Virginia Polytechnic Institute and State University, 169 F.3d 820, 136 Ed. Law Rep. 15 (4th Cir. 1999)).

10A Fla. Jur 2d Constitutional Law § 483 (2007)

Due process encompasses both substantive and procedural due process. McKinney v. Pate, 20 F.3d 1550 (11th Cir. 1994); M.W. v. Davis, 756 So. 2d 90, 25 Fla. L. Weekly S334 (Fla. 2000); State v. O.C., 748 So. 2d 945, 24 Fla. L. Weekly S425 (Fla. 1999).

Constitutional due process is required for Access to Courts, Article I, Section 21, Florida Constitution, and Basic Rights, Article I, Section 2, Florida Constitution.

SECTION 21. Access to courts.—The courts shall be open to every person for redress of any injury, and justice shall be administered without sale, denial or delay.

SECTION 2. Basic rights.—All natural persons, female and male alike, are equal before the law and have inalienable rights, among which are the right to enjoy and defend life and liberty, to pursue happiness, to be rewarded for industry, and to acquire, possess and protect property; except that the ownership, inheritance, disposition and possession of real property by aliens ineligible for citizenship may be regulated or prohibited by law. No person shall be deprived of any right because of race, religion, national origin, or physical disability.

A litigant has a right to conflict-free counsel, [http://en.wikipedia.org/wiki/Right\\_to\\_counsel](http://en.wikipedia.org/wiki/Right_to_counsel)

Whether counsel is retained or appointed, the defendant has a right to counsel without a conflict of interest \*. If an actual conflict of interest is present, and that conflict results in any adverse effect on the representation, the result is automatic reversal.[17] The general rule is that conflicts can be knowingly and intelligently waived,[18] but some conflicts are unwaivable. [19] \*Wheat v. United States, 486 U.S. 153 (1988), conflicts of interest

[17] Burger v. Kemp, 483 U.S. 776 (1987); Cuyler v. Sullivan, 446 U.S. 335 (1980); Holloway v. Arkansas, 435 U.S. 475 (1978).

[18] See United States v. Curcio, 680 F.2d 881 (2d Cir. 1982).

[19] See, e.g., United States v. Schwarz, 283 F.3d 76 (2d Cir. 2002); United States v. Fulton, 5 F.3d 605 (2d Cir. 1993).

The state and federal judiciary denied me due process on a residential home foreclosure of a federal Home Equity Conversion Mortgage [12 USC § 1715z-20; 24 CFR Part 206] also called a HECM reverse mortgage.

I was denied due process during a non-jury trial held July 18, 2017, see the Affidavit of Neil J. Gillespie Non-Jury Trial July 18, 2017.

I am a disabled homeowner age 61 denied assistance of counsel under the Older Americans Act, 42 U.S. Code Chapter 35 - PROGRAMS FOR OLDER AMERICANS, for old age, and disability including Post Traumatic Stress Disorder (PTSD), and Traumatic Brain Injury (TBI)

The Civil Rights Division, Voting Section, U.S. Department of Justice ignored my Voting Section complaint against Florida's rigged judicial elections

The U.S. Supreme Court has ignore wrongdoing in Petition 12-7747 for a writ of certiorari as stated in the enclosed letter of Mr. Clayton Higgins on October 19, 2016.

The Florida Supreme Court failed to properly screen the mental health of bar applicants.

## REASONS FOR GRANTING THE PETITION

For a man's house is his castle . . . .

—Sir Edward Coke  
Third Institute (1644)

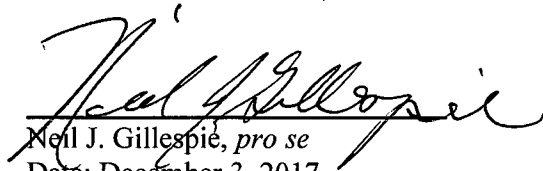
The maxim that a "man's house is his castle" is one of the oldest and most deeply rooted principles in Anglo-American jurisprudence. It reflects an egalitarian spirit that embraces all levels of society down to the "poorest man" living "in his cottage." The maxim also forms part of the fabric of the Fourth Amendment to the Constitution, which protects people, their homes, and their property against unreasonable searches and seizures by the government.

Citation: Sir Edward Coke, Third Institute of the Laws of England 162 (1644). The complete quotation is: "For a man's house is his castle, *et domus sua cuique tutissimum refugium.*" The Latin means: "and his home his safest refuge." See *Semayne's Case* (1603) 77 Eng. Rep. 194 (K.B.) ("[T]he house of every one is to him as his castle and fortress, as well for his defence against injury and violence, as for his repose."), *quoted in* *Wilson v. Layne*, 526 U.S. 603, 609–10 (1999); *Weeks v. United States*, 232 U.S. 383, 390 (1914) ("[E]very man's house is his castle." (quoting Judge Thomas McIntyre Cooley, *A Treatise on the Constitutional Limitations Which Rest upon the Legislative Power of the States of the American Union* 299 (1868))); William Blackstone, 3 *Commentaries* 288 (1768) ("[E]very man's house is looked upon by the law to be his castle..."); William Blackstone, 4 *Commentaries* 223 (1765–1769) ("[T]he law of England has so particular and tender a regard to the immunity of a man's house, that it stiles it his castle, and will never suffer it to be violated with impunity..."); *Miller v. United States*, 357 U.S. 301, 307 (1958) (quoting William Pitt's 1763 speech in Parliament: "The poorest man may in his cottage bid defiance to all the forces of the crown. It may be frail; its roof may shake; the wind may blow through it; the storm may enter; the rain may enter; but the king of England may not enter—all his force dares not cross the threshold of the ruined tenement!").

CONCLUSION

The petition for a writ of certiorari should be granted.

Respectfully submitted,



Neil J. Gillespie, *pro se*  
Date: December 3, 2017