

Supreme Court, U.S.
FILED
APR 23 2018
OFFICE OF THE CLERK

No: _____

IN THE
SUPREME COURT OF THE UNITED STATES

NEIL J. GILLESPIE, ETC, PETITIONER

vs.

REVERSE MORTGAGE SOLUTIONS, RESPONDENT

ON PETITION FOR A WRIT OF CERTIORARI TO
The Supreme Court of Florida, Case No.: SC18-116

PETITION FOR A WRIT OF CERTIORARI

April 23, 2018

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

Attached is a list of 8 parties appearing 1/15/2013 at 7:37 PM on the Marion County Clerk's public docket in 42-2013-CA-000115-AXXX-XX, wrongly filed as "Foreclosure Commercial"

NEIL J. GILLESPIE, ETC, 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, 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

Parties Not Sued

PENELOPE M. GILLESPIE, BORROWER, DIED SEPTEMBER 16, 2009
ESTATE OF PENELOPE M. GILLESPIE, CLOSED WITH NOTICE OF TRUST JUNE 24, 2014

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

- Unknown 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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<u>Appendix 3</u>	UPL Investigation of Stephen Michael Allgood File No. 20171 020(17C) Complaint against Mr. Allgood who is not a member of The Florida Bar, and not licensed to practice law in Florida, but is the Director of the Florida Foreclosure Group since 2013 for McCalla Raymer Pierce, LLC.
<u>Appendix 4</u>	Curtis Alan Wilson; The Florida Bar File No. 2017-30,550 (9D)

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 A to the petition and is unpublished

Appendix A Supreme Court of Florida
JANUARY 23, 2018
CASE NO.: SC18-116
Lower Tribunal No(s): 5DI7-2665; 422013CA000115CAAXXX

Appendix B Florida Fifth District Court of Appeal
December 29, 2017
CASE NO. 5D17-2665
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

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 April 23, 2018. The duration is over 5 years. This case has taken over 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

Note: I considered requesting an extension of time to file this petition, as I am exhausted from submitting a petition 10 days ago in FSC17-1361. It takes me a week or so just to recover from the mental and physical demands of filing with the Court, and submitting paper documents. I believe I could make a better petition given an extension of time. If the Court decides in the interest of justice to consider this as an Application under Rule 13.5, I believe an extension of 10 days time would be sufficient. Otherwise, this is my petition.

My name is Neil J. Gillespie, an indigent nonlawyer, 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, a vulnerable adult age 62 suffering the infirmities of aging, henceforth in the first person, reluctantly appears *pro se* to save my Florida residential homestead from wrongful foreclosure on a *Home Equity Conversion Mortgage*, or HECM, a Federal Housing Administration (FHA) “reverse” mortgage program administered by the Secretary, United States Department of Housing and Urban Development (Secretary or HUD) to enable home owners over 62 years old access the home's equity. 12 U.S.C. § 1715z20 et seq. and 24 C.F.R. Part 206.

The Order in SC18-116 appears at Appendix A, and states:

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 Constitution, Article V, Section 2 (a), has a requirement that no cause shall be dismissed because an improper remedy has been sought...

SECTION 2. Administration; practice and procedure.—

(a) The supreme court shall adopt rules for the practice and procedure in all courts including...a requirement that no cause shall be dismissed because an improper remedy has been sought...

APPELLANT'S NOTICE OF APPEAL, 64 pages, appears at Appendix 1 and argues The Record Is Not Complete (Rule 9.200, Fla. R. App. Pro.), and without a Record that complies with Rule 9.200, I cannot serve the Initial Brief within 20 days.

The Record is missing a number of Florida Bar cases that are vital to this case, including:

Complaint by Neil J. Gillespie against Danielle Nicole Parsons, composite at Appendix 2 The Florida Bar File No. 2014-30,525 (9A). I have the complete file, 100s of pages.

UPL Investigation of Stephen Michael Allgood File No. 20171 020(17C), composite at Appendix 3. Complaint against Mr. Allgood who is not a member of The Florida Bar, and not licensed to practice law in Florida, but is the Director of the Florida Foreclosure Group since 2013 for McCalla Raymer Pierce, LLC. I have the complete file, over 100p.

Curtis Alan Wilson; The Florida Bar File No. 2017-30,550 (9D), composite Appendix 4 I have the complete file, 100s 0of pages.

The Florida Supreme Court denied me Due Process under the Fourteenth Amendment of the U.S. Constitution when it dismissed the case in SC18-116:

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

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,

- 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:

- Florida Bar Rule 4-1.1 Competence.

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

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

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).

REASONS FOR GRANTING THE PETITION

For a man's house is his castle*

—Sir Edward Coke
Third Institute (1644)

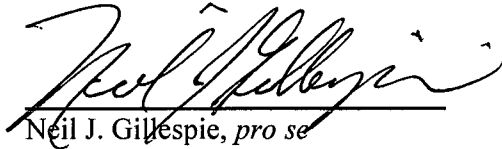
The maxim that a "man's house is his castle" is one of the oldest and most deeply rooted principles in Anglo-American jurisprudence. It reflects an egalitarian spirit that embraces all levels of society down to the "poorest man" living "in his cottage." The maxim also forms part of the fabric of the 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,

A handwritten signature in cursive script, appearing to read "Neil J. Gillespie". The signature is written in black ink and is positioned above a horizontal line.

Neil J. Gillespie, *pro se*

Date: April 23, 2018