

APR 13 2018

OFFICE OF THE CLERK

No: _____

IN THE
SUPREME COURT OF THE UNITED STATES

NEIL J. GILLESPIE, ETC, PETITIONER

vs.

REVERSE MORTGAGE SOLUTIONS, INC., ET AL, RESPONDENT

ON PETITION FOR A WRIT OF CERTIORARI TO

The Supreme Court of Florida, Case No.: SC17-1361

PETITION FOR A WRIT OF CERTIORARI

April 13, 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

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, INC., ET AL, 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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Filing # 59259445 E-Filed 07/19/2017 08:05:57 PM
Petition for Writ of Prohibition - A Case of Original Jurisdiction
To Remove Marion County Circuit Court Judge Ann Melinda Craggs

Appendix B Florida 5th District Court of Appeals Case No. 5D17-2317, RECEIVED,
7/21/2017, 11:50 AM, Joanne P. Simmons, Fifth District Court of Appeal
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Appendix F U.S. Eleventh Circuit Court of Appeals, No. 13-11595-B, Composite
District Court Docket No: 5:13-cv-00058-WTH-PRL

- Gillespie letter to Hon. Ed Carnes, Chief Judge 11th COA; Response
- ORDER July 25, 2013, in relevant part, “Should Gillespie wish to petition for mandamus relief, he may file a separate petition for writ of mandamus or prohibition with this Court. See 18 U.S.C. § 1651; Fed.R.App.P.21” Before: HULL, WILSON and JORDAN
- MOTION TO RECONSIDER, VACATE OR MODIFY ORDER

Appendix G NOTICE OF FILING FEDERAL CIVIL RIGHTS COMPLAINT
U.S. Department of Justice, Civil Rights Division, Voting Section

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 1 Supreme Court of Florida
NOVEMBER 14, 2017
CASE NO.: SC17-1361
Lower Tribunal No(s): NONE

Appendix 2 Application No. 17A878 for an extension of time within which to file a petition for a writ of certiorari in the above-entitled case has been presented to Justice Thomas, who on February 21, 2018, extended the time to and including April 13, 2018.

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 13, 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

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 SC17-1361 appears at Appendix 1, and states:

The petition for writ of prohibition is hereby denied as successive. See *Jenkins v. Wainwright*, 322 So. 2d 477, 478 (Fla. 1975) (declaring that once a petitioner seeks relief in a particular court by means of a petition for extraordinary writ, he has picked his forum and is not entitled to a second or third opportunity for the same relief by the same writ in a different court). Any motions or other requests for relief are also denied. No rehearing will be entertained by this Court.

PARIENTE, QUINCE, CANADY, POLSTON, and LAWSON, JJ., concur.

This is similar to the petition for writ of prohibition in Florida 5th District Court of Appeals Case No. 5D17-2317, [USSC No. 17-7054 petition for rehearing distributed for conference of April 13, 2018]. The question for the Court, which petition should be denied as “successive”. I believe 5D17-2317 is the successive petition, because my petition in FSC17-1361 was filed directly in the Supreme Court of Florida two days before my petition in was filed in Case No. 5D17-2317.

Both cases concern:

Petition for Writ of Prohibition - A Case of Original Jurisdiction
To Remove Marion County Circuit Court Judge Ann Melinda Craggs

My **SUPREME COURT OF FLORIDA** petition appears at Appendix A, as Filing # 59259445 E-Filed 07/19/2017 08:05:57 PM, and was filed with the cross-outs, just as shown.

The voluminous supporting documents are available upon request.

The Florida 5th District Court of Appeals Case No. 5D17-2317 appears as Appendix B, which shows on the side, RECEIVED, 7/21/2017, 11:50 AM, Joanne P. Simmons, Fifth District Court of Appeal. The numbers across the top, Filing # 54774550 E-Filed 04/07/2017 09:38:57 AM, refer to my wrong filing in the trial court, which failed to forward the misfiled petition as required by the Fla. Const, Art. V, Section 2 (a)

SECTION 2. Administration; practice and procedure.—

(a) The supreme court shall adopt rules for the practice and procedure in all courts including..., 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...

Clearly Filing # 59259445 E-Filed 07/19/2017 08:05:57 PM was in the Supreme Court of Florida before it was RECEIVED, 7/21/2017, 11:50 AM, Joanne P. Simmons, Fifth District Court of Appeal.

The Florida Supreme Court denied me Due Process under the Fourteenth Amendment of the U.S. Constitution when it designated my FSC Petition as successive, when in fact the 5thDCA petition was “successive”:

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

On February 12, 2018 I filed in the trial court NOTICE OF CRMINAL COMPLAINT
TO FBI SPECIAL AGENT IN CHARGE ERIC W. SPORRE, TAMPA DIVISION.

Eric W. Sporre
Special Agent in Charge
FBI Tampa Division
5525 West Gray Street
Tampa, FL 33609
Tel. (813) 253-1000

February 12, 2018

Dear Special Agent In Charge Sporre:

Enclosed a certified copy of FINAL JUDGMENT OF FORECLOSURE. Exhibit A. This instrument is entered in the official records of Marion County by David R. Ellspermann, Clerk & Comptroller, CFN# 2017065654 BK 6612Pgs 0679-0684 07/19/2017 05:43:26 PM, in the residential foreclosure of my Florida homestead on a federal reverse mortgage.

Pursuant to Title 18 of the United States Code (U.S.C.), including but not limited to 18 U.S.C. § 371, I request you investigate the fraud or impairment of a legitimate government activity, the FINAL JUDGMENT OF FORECLOSURE, in my residential federal Home Equity Conversion Mortgage. The case is captioned *Reverse Mortgage Solutions, Inc. v. Neil J. Gillespie, et al.*

Plaintiff: Reverse Mortgage Solutions, Inc. (RMS)

Defendants: Neil J. Gillespie, et al.

Court: Marion County Circuit Civil, Case No. 2013-CA-000115

Presiding Judge: Ann Melinda Craggs, Marion County Florida Circuit Court Judge

Plaintiff's Counsel: Curtis Alan Wilson, Esq., McCalla Raymer Leibert Pierce, LLC,
225 E. Robinson St. Suite 115, Orlando, FL 32801, Phone: 407-674-1850

A Home Equity Conversion Mortgage, or HECM, is 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 subject home's equity. 12 U.S.C. § 1715z20 et seq. and 24 C.F.R. Part 206.

FHA Case Number: 091-4405741
BofA/RMS acct/loan #68011002615899

My HECM is a federally insured loan backed by the full faith and credit of the United States Government. The FINAL JUDGMENT OF FORECLOSURE attempts to defraud the United States Government, and myself as homeowner, as follows:

1. Omits the fact that on July 18, 2017 I was taken by ambulance to the hospital after becoming sick during a non-jury trial on the foreclosure of my home. I was alone and without counsel to represent me. Judge Craggs continued the trial without me and ruled for the bank.

2. Court records in case no. 2013-CA-000115 show that Judge Craggs continued the nonjury foreclosure trial without me, and did not enter any of my documents into evidence.
3. Wrongly awarded the Plaintiff Filing Fees of \$4,549.60. The actual amount is \$1,065.50.
4. Wrongly awarded the Plaintiff's counsel attorney's fees of \$19,109, which exceeds the amount in the HUD Mortgagee Letter 2005-30; and exceeds the amount in the judiciary foreclosure standard of \$2,250 found in the HUD Mortgagee Letter 2013-38 by \$16,859.
5. Plaintiff's counsel wrongly filed this case as a commercial foreclosure for the purpose of judge shopping, to keep off the backlog foreclosure docket presided over by retired judges, and increase the time to litigate the case from 1 year to 5 years, to collect an additional \$16,859.
6. I have not been lawfully served in this lawsuit, as reflected in the record.
7. A Clerk's receipt dated Aug-28-2017 shows the foreclosure case parties:

DEVELOPMENT & CONSTRUCTION CORPORATION OF AMERICA
 ELIZABETH BAUERLE
 JOETTA GILLESPIE
 MARK GILLESPIE
 NEIL J GILLESPIE
 OAK RUN HOMEOWNERS ASSOCIATION INC
 REVERSE MORTGAGE SOLUTIONS INC
 UNITED STATES OF AMERICA

There are NO "TRUST" PARTIES, and NO "UNKNOWN" PARTIES on the receipt.

The *Final Judgment of Foreclosure*, (Exhibit A) appears on the Clerk's docket at DOC-477. Paragraph 3 states that the Plaintiff is due Filing Fees of \$4,549.60.

Principal	\$123,200.85
Interest to date of this judgment until 7/18/2017	\$184.20
Monthly Service Fee	\$30.00
Property Inspections	\$1,320.00
Filing Fees	\$4,549.60
<u>Attorney's fees</u>	
Finding as to reasonable hourly rate: \$175.00	

Attorney's Fees Total	\$19,109.00
TOTAL	\$148,363.32

- The Final Judgment of Foreclosure showing Filing Fees of \$4,549.60 is wrong.
- The actual Filing Fees in this Foreclosure case are \$1,065.50.
- The Final Judgment of Foreclosure overstates the Filing Fees by \$3,484.10.

Gregory C. Harrell is General Counsel to David R. Ellspermann, Marion County Clerk of Court & Comptroller. On 8/23/2017 @ 6.02 PM I emailed Mr. Harrell for records of the filing fees:

Regarding Filing Fees of \$4,549.60 shown at paragraph 3, FINAL JUDGMENT OF FORECLOSURE (attached), provide records for the Filing Fees of \$4,549.60 claimed. Was that money paid to the Clerk?

Mr. Harrell responded by email on 8/24/2017 @ 1:30 PM:

The Clerk's Office does not possess records supporting the plaintiff's having paid \$4,549.60 worth of filing fees, as referenced in the Final Judgment of Foreclosure in Case No. 2013.CA.115.

I responded to Mr. Harrell by email on 8/26/2017 @ 8.58 AM:

Thank you for your prompt reply. Kindly provide records showing what the plaintiff actually paid in filing fees in Case No. 2013.CA.115, and to whom the money was paid.

Mr. Harrell responded by email on 8/28/2017 @ 7:03 AM:

Docket #5 in Case No. 13.CA.115 is a 1-page Notice of Refund to McCalla Raymer, dated 1/9/13, which reflects that plaintiff's counsel paid the Clerk's Office a total of \$1,077.50 for filing fees, summons issuance fees, and recording/indexing costs. Because plaintiff's counsel paid \$1,077.50 but only actually owed \$1,065.50, our office sent them a refund of \$12.00. A certified copy of the aforementioned notice can be made available to you for \$3.00.

My email chain with Mr. Harrell, as forwarded to the FBI Tampa Division on December 21, 2017 to tampa.division@ic.fbi.gov, appears at Exhibit B.

A certified copy of the Notice of Refund to McCalla Raymer appears as Exhibit C and shows:

REVERSE MORTGAGE SOLUTIONS INC
vs.
NEIL J GILLESPIE

Case Number: 13-00115-CA

TO: MCCALLA RAYMER
225 EAST ROBINSON STREET STE 660

ORLANDO, FL 32801

Enclosed please find our check made payable to you in the amount of \$12.00. Our records reflect we received payment of \$1,077.50, of which \$1,065.50 was applied in the above-styled case. Therefore, the enclosed check is a refund of the balance.

If you should have any questions, please do not hesitate to contact our office.

Date: January 09, 2013

MAILING ADDRESS

Marion County Clerk's Office

Circuit Civil Division

P.O. Box 1030

Ocala, Florida 34478-1030

DAVID R. ELLSPERMANN

Clerk of Circuit Court,

Marion County, Florida

By: /s/

Deputy Clerk

A receipt August 28, 2017 for \$6.00 for certified public records appears at Exhibit D by the office of David R. Ellspermann Clerk of the Circuit and County Courts, Marion County Florida.

The Clerk's receipt appearing at Exhibit D shows the foreclosure case parties:

13CA000115AX DEVELOPMENT & CONSTRUCTION CORPORATION OF AMERICA

13CA000115AX ELIZABETH BAUERLE

13CA000115AX JOETTA GILLESPIE

13CA000115AX MARK GILLESPIE

13CA000115AX NEIL J GILLESPIE

13CA000115AX OAK RUN HOMEOWNERS ASSOCIATION INC

13CA000115AX REVERSE MORTGAGE SOLUTIONS INC

13CA000115AX UNITED STATES OF AMERICA

Tellingly there are NO "TRUST" PARTIES, and NO "UNKNOWN" PARTIES on the receipt. Actual trust parties, and actual unknown parties, would have required appointment of counsel which the Court refused to do, for the benefit of the Plaintiff and Plaintiff's counsel, with the assistance of Clerk David R. Ellspermann. Any "trust" or "unknown" parties alleged by the Court in this case amounts to Fraud Upon The Court.

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 integrity of the civil litigation process depends on truthful disclosure of facts. A system that depends on an adversary's ability to uncover falsehoods is doomed to failure, which is why this kind of conduct must be discouraged in the strongest possible way. . . . This is an area where the trial court is and should be vested with discretion to fashion the apt remedy." *Cox v. Burke*, 706 So. 2d 43, 47 (Fla. 5th DCA 1998).

The AFFIDAVIT OF NEIL J. GILLESPIE Re Non-Jury Home Foreclosure Trial July 18, 2017 appears at Exhibit E, and states at paragraph 2:

2. On July 18, 2017 I was taken by ambulance to the hospital after becoming sick during a non-jury trial on the foreclosure of my home. I was alone and without counsel to represent me. Presiding Judge Ann Melinda Craggs continued the trial without me and ruled for the bank.

The HUD MORTGAGEE LETTER 2013-38 appears at Exhibit F.

Attorney Justin R. Infurna, Esq., represents my brother Mark Gillespie in an appeal, see the pleading at Exhibit G, filed Aug-11-2017 in 13-CA-115, "Defendant Mark Gillespie's Verified Motion To Vacate Final Judgment of Foreclosure and Cancel Sep-19-2017 Foreclosure Sale".

A foreclosure sale on my home was canceled by court order September 18, 2017 the Plaintiff's motion to cancel for a FEMA Moratorium due to Hurricane Irma, a declared natural disaster.

Today I notice the case was re-closed, so I filed,

USSC PETITION NO. 17-7053 DISTRIBUTED FOR CONFERENCE OF FEB-16-2018
Filing # 67822570 E-Filed 02/12/2018 12:23:58 PM

USSC PETITION NO. 17-7054 DISTRIBUTED FOR CONFERENCE OF FEB-16-2018
Filing # 67823484 E-Filed 02/12/2018 12:34:01 PM

to inform the record that the case is open, at the highest level, the United States Supreme Court.

Signature block omitted.

The corresponding Florida Statutes violated by the facts shown above:

FLORIDA STATUTES, CHAPTER 837, PERJURY

837.06 False official statements.—Whoever knowingly makes a false statement in writing with the intent to mislead a public servant in the performance of his or her official duty shall be guilty of a misdemeanor of the second degree, punishable as provided in s. 775.082 or s. 775.083.

Judge Craggs knowingly made a false statement in writing, the *Final Judgment of Foreclosure*, with the intent to mislead the Clerk, a public servant, in the performance of his official duties.

FLORIDA STATUTES, CHAPTER 838, BRIBERY; MISUSE OF PUBLIC OFFICE

838.022 Official misconduct.—

(1) It is unlawful for a public servant or public contractor, to knowingly and intentionally obtain a benefit for any person or to cause unlawful harm to another, by:

(a) Falsifying, or causing another person to falsify, any official record or official document;

Judge Craggs is a public servant, who, by entering the *Final Judgment of Foreclosure*, knowingly and intentionally obtain a benefit for:

The Plaintiff, REVERSE MORTGAGE SOLUTIONS, INC., and its legal counsel, including Curtis Alan Wilson, Esq., and McCalla Raymer Leibert Pierce, LLC,

Judge Craggs is a public servant, who, by entering the *Final Judgment of Foreclosure*, knowingly and intentionally caused unlawful harm to:

Defendant NEIL J GILLESPIE
Defendant MARK GILLESPIE
Defendant JOETTA GILLESPIE
Defendant ELIZABETH BAUERLE

Judge Craggs falsified the *Final Judgment of Foreclosure*, an official document in the foreclosure case that was entered as an official record of Marion County, Florida.

The foregoing is also a violation of Chapter 825, Florida Statutes, ABUSE, NEGLECT, AND EXPLOITATION OF ELDERLY PERSONS AND DISABLED ADULTS. I am both a disabled adult and elderly person, age 62.

Appendix D, Third Verified Motion to Disqualify Circuit Judge Ann Melida Craggs, shows either fake orders, or authorship of order by the Plaintiff's lawyers McCalla Raymer

Appendix E, Denial of Adult Protective Services for Neil J. Gillespie, vulnerable adult, age 61, and a person with disabilities, by Robert Anderson, State Director, Adult Protective Services; 415.1034 Mandatory reporting death of Frank Collelo

Appendix G, NOTICE OF FILING FEDERAL CIVIL RIGHTS COMPLAINT
U.S. Department of Justice, Civil Rights Division, Voting Section

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

On January 25, 2018 I filed my Affidavit in the lower Court showing:

- I was excused from jury duty by the Hon. Anthony Tatti, Circuit Court Administrative Judge on October 3, 2017 due to disability.
- I provided my **Affidavit** to impeach the FINAL JUDGMENT OF FORECLOSURE entered July 18, 2017 by Judge Ann Melinda Craggs who refused to provide me disability accommodation, and refused me counsel under the Older Americans Act (42 U.S.C. ch. 35), even though *The Florida Bar Foundation* on April 26, 2016 received \$23,048,159 from the 2014 national settlement between *Bank of America* and the *U.S. Department of Justice* mandated to be used for **foreclosure prevention** and community redevelopment.
- Instead, Judge Craggs mandated my appearance in court on July 18, 2017, whereupon I was soon taken by ambulance to the hospital after becoming sick during a non-jury trial on the foreclosure of my home. I was alone and without counsel to represent me. Judge Craggs continued the trial without me and ruled for the bank.
- On January 8, 2018, Lou Ann Powell, Deputy Director/CFO/COO, The Florida Bar Foundation, informed me that the remaining Bank of America funds are **\$15,199,516**.
- On January 17, 2018, Ms. Powell provided me a Bank of America grant application, which I am in the process of studying and determining my options.

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).

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)

REASONS FOR GRANTING THE PETITION

For a man's house is his castle*

—Sir Edward Coke
Third Institute (1644)

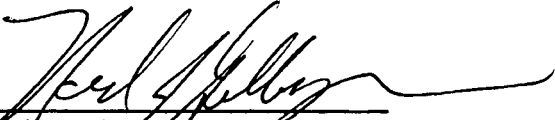
The maxim that a "man's house is his castle" is one of the oldest and most deeply rooted principles in Anglo-American jurisprudence. It reflects an egalitarian spirit that embraces all levels of society down to the "poorest man" living "in his cottage." The maxim also forms part of the fabric of the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

Neil J. Gillespie, *pro se*

Date: April 13, 2018