

App. No. _____

In the
Supreme Court of the United States

Miles Christian-Hart,

Petitioner,

v.

Wells Fargo Bank, N.A.,

Respondent.

PETITIONER'S UNOPPOSED APPLICATION TO EXTEND
THE TIME TO FILE A PETITION FOR WRIT OF CERTIORARI

TO: Supreme Court of the United States
1 First Street, NE
Washington, DC 20543

Petitioner, Miles Christian-Hart, by and through the undersigned counsel, requests that the time to file a Petition for a Writ of Certiorari in this matter be extended for sixty days to and including June 7, 2019. The Florida Second District Court of

Appeal issued its amended decision denying the Petitioner's timely filed Motion for Rehearing and Rehearing en Banc on January 8, 2019. Thus, absent an extension of time, this Petition would be due on April 8, 2019. Petitioner is filing this application at least ten days before that date. This Court would have jurisdiction over the judgment under 28 U.S.C. Section 1257. If the extension is granted, the Petition for a Writ of Certiorari would be due sixty days after April 7, 2019, or by June 7, 2019. Petitioner's counsel seeks this extension based on medical treatment during this period. Respondent does not oppose this application to extend time.

BACKGROUND

This case relates to a foreclosure action in which numerous due process violations occurred throughout the lower court and appellate process. As noted in *Fuentes v. Shevin*, 407 U.S. 67 (1972), procedural due process guarantees the right to be heard in a meaningful manner. As Florida's Fourth DCA put it in *Hinton v. Gold*, 813 So.2d 1057 (Fla. 4th

DCA 2002), “due process demands that the defendant be given fair notice and a reasonable opportunity to be heard before judgment is rendered” and “fundamental to the concept of due process is the right to be heard which assures a full hearing, the right to introduce evidence at a meaningful time and in a meaningful manner, and judicial findings based upon that evidence.” Although the Uniform Final Judgment of Mortgage Foreclosure herein stated that, “THIS action was tried before the Court. On the evidence presented...” the trial court actually entered judgment without *any* competent, substantial evidence in the trial record of the *correct* note and mortgage to support the judgment. As the stipulation filed by Respondent Wells Fargo Bank with the Second DCA on 9/5/18 states, “neither the correct original note and mortgage nor a copy thereof were attached to or appear in the trial court’s evidence record in this matter.” This was but one of numerous due process violations committed herein. On appeal, however, a three-judge panel of the

Second DCA issued a per curiam affirmance on September 12, 2018, (Attachment 1), and, on January 8, 2019, the Second DCA issued an amended order denying Petitioner's motion for rehearing and for rehearing en banc (Attachment 2). As to appealing the same, the Florida Constitution sets forth narrow circumstances under which the Florida Supreme Court may and must take jurisdiction. Fla. Const. Art. V, section 3(b)(3) states that the Florida Supreme Court "may review any decision of a district court of appeal that...expressly and directly conflicts with a decision of another district court of appeal or of the supreme court on the same question of law." The Florida Supreme Court has held that the term "expressly requires that there be a written opinion by the district court of appeal demonstrating the required conflict in law." *Jenkins v. State*, 385 So.2d 1356 (Fla. 1980). Where, as here, the Second District Court of Appeal did not issue a written opinion as to the underlying appeal, the Petitioner's remedy is to appeal directly to the United States Supreme Court. See, *Hobbie v. Unemployment Appeals Commission of Florida*, 480 U.S. 136 (1987); *Palmore*

v. Sidoti, 466 U.S. 429 (1984). As to the present Petition, Petitioner's counsel is a sole practitioner and is being treated for cardiovascular disease having previously suffered a silent heart attack. The undersigned has endeavored to work on this case as much as possible during this 90-day period, but needs the extension of 60 days to June 7, 2019, in which to file the Petition for Writ of Certiorari. No meaningful prejudice will arise from granting this extension and the Respondent does not oppose this request for extension of time.

CONCLUSION

For the foregoing reason, the Petitioner requests that the time to file a Petition for Writ of Certiorari be extended sixty days pursuant to Supreme Court Rule 13.5 from April 8, 2019, to and including June 7, 2019, or to such other date as this Court deems just and proper.

Respectfully submitted,

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NOT FINAL UNTIL TIME EXPIRES TO FILE REHEARING
MOTION AND, IF FILED, DETERMINED

IN THE DISTRICT COURT OF APPEAL
OF FLORIDA
SECOND DISTRICT

MILES CHRISTIAN-HART,

Appellant,

v.

WELLS FARGO BANK, N.A.,

Appellee.

Case No. 2D16-2875
2D17-1110

CONSOLIDATED

Opinion filed September 12, 2018.

Appeal from the Circuit Court for Sarasota
County; Nancy K. Donnellan, Senior Judge
and Brian A. Iten, Judge.

Steven Fox, Sarasota, for Appellant.

Sara F. Holladay-Tobias and Emily
Rottmann of McGuireWoods LLP,
Jacksonville, for Appellee.

PER CURIAM.

Affirmed.

KHOUZAM, SLEET, and BADALAMENTI, JJ., Concur.

Attachment 1

IN THE DISTRICT COURT OF APPEAL OF THE STATE OF FLORIDA
SECOND DISTRICT, POST OFFICE BOX 327, LAKELAND, FL 33802-0327

January 08, 2019

AMENDED ORDER

CASE NO.: 2D16-2875

2D17-1110

**L.T. No.: 2010-CA-012116 NC,
2010-CA-012116-NC**

MILES CHRISTIAN - HART

v. WELLS FARGO BANK, N. A.

Appellant / Petitioner(s),

Appellee / Respondent(s).

BY ORDER OF THE COURT:

Appellant's motion for rehearing and rehearing en banc is denied.

I HEREBY CERTIFY that the foregoing is a true copy of the original court order.


Served:

Milan Brkich, Esq.
Emily Y. Rottmann, Esq.
Barbara Hart

Albertelli Law
C. H. Houston, III, Esq.

Sara F. Holladay - Tobias, Esq.
Steven Fox, Esq.
Karen E. Rushing, Clerk

mep



Mary Elizabeth Kuenzel
Clerk



Attachment 2

CERTIFICATE OF SERVICE

I HEREBY CERTIFY, that I, Steven Fox, a member of the Bar of this Court, on March 19, 2019, served a copy of this Application for Extension of Time to File A Petition for Writ of Certiorari, via First Class U.S. Mail, postage prepaid, and, also, as indicated below, sent via electronic mail, copies of the same, and further that, pursuant to Rule 29.5, all parties required to be served have been served:

VIA U.S. MAIL AND ELECTRONIC MAIL

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3/19/19

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