

**FIRST DISTRICT COURT OF APPEAL
STATE OF FLORIDA**

No. 1D19-165

STEVEN COOPER,

Appellant,

v.

**BAY COUNTY, FLORIDA, BAY
COUNTY SHERIFF'S OFFICE,
DEPUTY NICHOLAS MACIAS,
CODE ENFORCEMENT OFFICER
KATHI ASHMAN, SHARON M.
WOOSLEY,**

Appellees.

**On appeal from the Circuit Court for Bay County.
James B. Fensom, Judge.**

March 27, 2020

PER CURIAM.

AFFIRMED.

ROBERTS, BILBREY, and WINOKUR, JJ., concur.

***Not final until disposition of any timely and
authorized motion under Fla. R. App. P. 9.330 or
9.331.***

Steven Cooper, pro se, Appellant.

Robert Waylon Thompson, General Counsel, Bay County Sheriff's
Office, Panama City, for Appellees Bay County Sheriff's Office and
Deputy Nicholas Macias.

Jennifer W. Shuler, Deputy Assistant County Attorney, Bay
County, Panama City, for Appellees Bay County and Katherine
Ashman.

DISTRICT COURT OF APPEAL, FIRST DISTRICT
2000 Drayton Drive
Tallahassee, Florida 32399-0950
Telephone No. (850)488-6151

May 12, 2020

CASE NO.: 1D19-0165

L.T. No.: 18000518CA

Steven Cooper

v.

Bay County, Florida, Bay County
Sheriff's Office, Deputy Nicholas
Macias, Code Enforcement Officer
Kathi Ashman, Sharon M. Woosley

Appellant / Petitioner(s),

Appellee / Respondent(s)

BY ORDER OF THE COURT:

Appellant's motion docketed April 13, 2020, for rehearing/rehearing en banc, written opinion, clarification, and alternative for certification is denied.

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

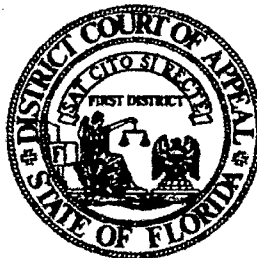
Served:

Jennifer W. Shuler
William A. Lewis

Robert Waylon Thompson, GC
Steven Cooper

th


KRISTINA SAMUELS, CLERK



**IN THE CIRCUIT COURT
FOURTEENTH JUDICIAL CIRCUIT
OF THE STATE OF FLORIDA
IN AND FOR BAY COUNTY**

CASE NO.: 18-518-CA

STEVEN COOPER,

Petitioner,

v.

**BAY COUNTY, FLORIDA,
BAY COUNTY SHERIFF'S OFFICE,
DEPUTY NICHOLAS MACIAS,
CODE ENFORCEMENT OFFICER KATHI ASHMAN,
and SHARON M. WOOSLEY,**

Respondents.

**ORDER DENYING PETITION FOR WRIT OF MANDAMUS,
INJUNCTIVE AND DECLARATORY RELIEF**

THIS MATTER is before the Court on the "Petition for Writ of Mandamus, Injunctive and Declaratory Relief," filed by the Petitioner, pro se, on May 30, 2018. This Court ordered the Respondents to show cause in an Order dated June 6, 2018. Having considered said Petition, then argument of the parties, court file and records, and being otherwise fully advised, this Court finds that the Petition is due to be denied.

A mandamus is an "original proceeding to enforce a clear legal right to the performance of a clear legal duty, and will not ordinarily issue when other legal remedies are available." Heath v. Beckett, 327 So. 2d 3, 4 (Fla. 1976). In simple terms, a petition for writ of mandamus seeks to remedy a governmental entity's failure to perform a function it is legally required to perform. In this action, Petitioner appears to seek the following: (1) expungement of a notice of trespass; (2) an injunction preventing Code Enforcement from demolishing a structure; and (3) a declaration by this Court that Petitioner has a lawful adverse possession claim and view Petitioner similar to and equal to the owner of record.

The Court finds that the requested relief is improper on a petition for mandamus. Petitioner fails to make a prima facie case that he has a clear legal right to the relief sought. Additionally, although Petitioner argues that he "fulfilled all requirements to legally and lawfully adversely possess the property in question," it

is clear that he has not. Petitioner's own recitation of facts reveals that he first inspected the property on December 27, 2017. In Florida, adverse possession without color of title requires "seven years of open, continuous, actual possession, hostile to all who would challenge such possession, must both pay all taxes for the seven year period, returning said land for taxes during the first year of occupation, and enclose or cultivate said lands for the seven year period." Candler Holdings Ltd. I v. Watch Omega Holdings, L.P., 947 So. 2d 1231, 1234 (Fla. 1st DCA 2007) (emphasis added). As the Respondents correctly argue, Petitioner's own statements of fact reveal he has not adversely possessed the subject property for the seven-year period. Accordingly, even if Petitioner made a prima facie showing that he was clearly entitled to relief, the adverse possession claim upon which Petitioner's arguments are predicated are without merit.

Therefore, it is

ORDERED AND ADJUDGED that the Petition for Writ of Mandamus is hereby **DENIED**.

DONE AND ORDERED in chambers, Bay County, Florida, this 13 day of August, 2018.


JAMES B. FENSOM
CIRCUIT JUDGE

I HEREBY CERTIFY that a true and exact copy of the foregoing has been provided to the Petitioner, Steven Cooper, at 189 S. State Street, Clearfield, UT 84015 and pleasantoakct@gmail.com; to William A. Lewis, Esq., at P.O. Box 1699, Panama City, FL 32402; to Jennifer W. Shuler, Esq., at jshuler@baycountyfl.gov, bleebbrick@baycountyfl.gov, and awilliamsen@baycountyfl.gov; and Sharon M. Woosley, at 1222 Lilian Ave., Louisville, KY 40208, this 13th day of August, 2018.


Ann Nelson
Judicial Assistant