

CASE NO. 20-766

Supreme Court, U.S.

FILED

SEP 21 2020

OFFICE OF THE CLERK

November, 19TH .2020

SUPREME COURT OF THE UNITED STATES

David D Archer

Petitioner,

vs.

Winn Dixie Stores. et , al.

Respondent.

On Petition for Discretionary review to the United States Supreme Court of America , From The Florida Supreme Court appealed from the Fourth District Court of Appeals , deriving from Seventeenth (17) Judicial Circuit Court In and For Broward County, Florida . (SC20-464) (4D18-2305, 4D18-0080,4D18-3539, 4D19-0335,4D20-0490,4D20-0500. (LT No ;17000822 (13)

PETITION FOR WRIT OF CERTIORARI

28 U.S. C , section 2101 (c) / 28 U.S.C. 1651 (a) 28 U.S.C, 1254 (1)

Notice for Discretionary review on constitutional issues .

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Petitioner / “ In Propria Persona Sui Juris”

Questions Presented

Can States Statues Judges or Attorneys violate that State's Constitution , the Federal Constitution and Federal laws, pertaining to conflict of interest.

Where the duo, [t] he now Presiding Judge and Counsel his longtime Friendship violates the rules of oath of office 28 U.S.C. 453 (a) 28 U.S.C. 455 as Sworn to uphold the constitution and laws of the United States of America .

Where recusal for disqualification on fraud and irreparable Harm existed .

Where Petitioner requested the Judge to recuse himself for lack of impartiality from the case for not following the consistency for wrong doing, based on fundamental constitutional rights to due process of law. Where the Judge ruled out of Jurisdiction on consolidated appealed issues, by not Following the Fourth District Court of Appeals order dated the 5th of November 2018 , was it unconstitutional, miscarriage of justice , bias and Judicial misconduct. Should the judge refuse to stay or give hearing dates to Petitioner's Motions, additionally instructing his judicial assistant not to give hearing dates to Petitioner's motions.

Where Counsel was required by rules and instructed by the previous judge to respond to the Amended Complaint and did not, neither seek an enlargement of time , prior to Petitioner's application for default was filed.

Jurisdiction

This Court has jurisdiction to review cases on constitutional matters as pursuant to 28 U.S. Code section 1254 (1) Acknowledged by the “Not Authorized” orders of Both Courts when appealed to The Fourth District Court of Appeals and the Florida Supreme Court of Appeals

Constitutional provisions involved

Petitioner movant in the above captioned cause and with having Honorable respect therefore acceding to this Court Jurisdiction 28 U.S.C, 1254 section (1) Provides that “[c]ases in the courts of appeals maybe reviewed by the supreme Court... [b]y writ of certiorari granted upon the petition of any party to any civil or Criminal case”... in part. Drastic and extraordinary remedies Pursuant to Rule 20 . hereby gives notice pursuant to , Rule 20.1, 28 U.S C. Section 2101 (c) 28 U.S.C. 1651 (a) for discretionary review as outlined under the surrounding Exceptional Warranted circumstances.

Statement of Case

The Florida Supreme Court order dated June 23 rd 2020 , was unauthorized as claimed , “Not Authorized” notwithstanding the lack of jurisdiction, in the appellate Courts.

Inasmuch verified, evidently justifying constitutional matters as contained and acknowledged by the Courts not having the judicial authorized powers consistently expressed throughout decisional orders outlined in the Appeals Courts. The 4DCA order dated 10/31/19 “Not Authorized”.

The Florida Supreme Court order Dated 06/16/20 “Not Authorized”. Only this Court has the Judicial powers on constitutional Authority review matters.

Factual History findings

The Oath of Judges became Villainous and subvert by Counsel’s friendship “Judicial Misconduct” knowingly, the Oath of duty to uphold their oath of duties were unconstitutional switched , which violated Petitioner’s rights.

Counsel’s friendship with the judge submitted for review before the court by Petitioner on irregularities, fraudulent illegalities ,developed into fear as guided by the actions of “bias and prejudice” conducted by the duo after, in removing the first Judge did caused irreparable harm . Petitioner filed a motion to disqualify the judge for errors and lack of due process. Petitioner appealed the case to the Fourth District Court of Appeals, which the Court was not authorized to conclude constitutional matters, said was not entertained; subsequently, by a not authorized order, taking several months was followed by a P.C.A decision in light of all the years under appealed in the appellate Court .

Which said court fundamentally failed to enforce its own orders on irreparable harm directed to respondent Counsel.

The Fourth District Court was unauthorized as claimed “Not Authorized” to

remand to the tribunal to correct errors on irreparable harm , biased and prejudiced conducted behavior by the duo, counsel and judge for unconstitutional oath of office or duties, as established by Judge and Counsel actions of the Court's Miscarriage of Justice.

Respondent knew or should have known that counsel's first duty to the court and oath of the Florida's Bar, the Public, and not clients be established not to "win at any Cost", to prevent violating the Attorney's Oath of Office and to prevent the Judge biased orders in exceeding judicial truth, fairness, honesty, integrity authority; when the duo , violated the sua sponte rules by together having a out of chambers agreement without notifying Petitioner in its sua sponte order dated Sunday , 01/28/18.

The Appellate Court erred or was not authorized by not vacating and remanding this case for default according to law ,for abused of discretion, irreparable harm bias and prejudice conflict of interest of officers of the Courts.

The Fourth District Court error of law, when in Applying it's P. C. A decision Knowingly knew, that Respondent failed to respond to irreparable harm as directed by the order of the Fourth District Court of Appeals as ordered to do so. This was an abused of discretion of powers to accept Respondent's motion filed "out of Order" which the Court failed to enforced the issues raised by Petitioner in its 4DCA Court order on irreparable harm, instead Respondent, filed to consolidate appeals.

Petitioner appealed to the Florida Supreme Court and was denied as "Not

Authorize" unconstitutionally not granting petitioner in the instant case, but in different cases, the same cited cases for other's cases were granted. The Court did denied Petitioner's Motion despite the facts and grounds under the surrounding circumstances of cases granted in retrospect with cited authorities in the Florida's Supreme Court of law . Petitioner, even with factual showing of Evidence and Empirical truth of great generality conceived within the Courts as Knowingly knew or should have known of the biased and prejudiced out of Jurisdiction rulings by the Judge, claimed Petitioner failed to state that the "**Judge ruled out of jurisdiction**" and the judge failed under the consequences of factual conditions of the rules of law in failing to follow the Standards of (Fla. R. Civ. (P) Procedural laws, by non Compliance with local States and constitution laws, subsequently are Acts of Violations of Fla statutes , Constitution and the United States Constitution. Thus, causing irreparable harm is, unconstitutional, even to replaced , Judge A. Haury Jr, the original judge, with respondent friend Judge , Michael A Robinson, Counsel's choice in this Instant case, with all due respect to the Courts, subsequently, substantially and significantly did interfered with the outcome of the case , as raised in the appealed motions as miscarriage of justice and the Judge who without jurisdiction authority , violated the oath of office section 876 fla stat, constitutional requisites office of duties expected. Should reversible errors be allowed for conflict of oath and unconstitutional Acts , as the present judge who's bias and prejudice actions called for his Disqualification from Hearing the Case due to the duo , Counsel and Judge Longtime Relationship, which

affected the outcome and substantial rights of petitioner's case. Which behavior Directly Created Manifest Injustice. Should the Judge exceed judicial authority and instruct his Judicial Assistant not to give hearing dates to Petitioner' motions as announced, which gave rise, for prohibition based on Florida's Rules of Appellate Procedures R. P. 9100 (e) and (h) Cited cases.. Bundy v. Rudd,366 So 2d 440 (Fla 1978) Oliveira v. State , 765 So 2d 90 (Fla 4th D C A 2020) for Judge's failure to comply. It is Unconstitutional for the Courts to agree with a bias and prejudice judge, who were asked to be disqualify and did failed to follow the Fourth District Court orders as prescribed remedies outlined, which the Judges knowingly, knew or should have known that if any Court violates its powers, just to bring an end to any case, violated its powers by abused of discretion, miscarriage of justice and errors of law . Paraphrased “NOT Authorized, Moot, Dismissed, Lack of Jurisdiction,Miscellaneous,Other Substantive”Stricken as Unauthorized, Sua Sponte, Denied , P. C. A. “Per Curiam Affirmed”,To the extent, Under the circumstances , failing the Standards of review to administer justice , and matters of “great public Importance” in light of administration rules and laws prohibiting , unlawful abused of discretion . Canakoris v. Canakaris, 382 So. 2d 1197 (Fla.1980)” .

failed to prevent harm by applying precedential effects over lower courts. Should the Judge have had adhere with the order of the fourth District court of appeals dated 11/05/18 and Petitioner requested filed motion, to stay any and all proceedings ,pending the appellate process. In light of motions filed and the 4 DCA order as instructed to the Judge, yet on his own accord because of the

duo friendship dismissed the case and deliberately, ruled out of Jurisdiction. Should the judge on his own dismissed Petitioner's case under appealed, because of the duo, counsel and judge longtime relationship. Should Counsel for Respondent not address the issues on irreparable harm directly Requested by the Order of the 4DCA ,dated 01/10/19 ,as directed to respond , and Counsel failed by ignoring the orders of the court. **“ ORDERED THAT APPELLEE IS DIRECTED TO RESPOND, WITHIN (5) DAYS FROM THE DATE OF THIS ORDER, TO THE DECEMBER 21, 2018 “APPELLANT’S APPLICATION FOR WRIT OF CERTIORARI REVIEW AND EXTENTION OF 30 DAYS TO FILE BRIEF ON THE MERITS ON IRREPARABLE HARM”**

INTRODUCTION CONSTITUTIONAL LENS

Subsequently, the Court ruled out of Jurisdiction. The Judge violated the Amendments of Florida's Constitution Article 1 section (2) Article v. section (5) b Article v. Section (12) Article v. section (15) In the alternative , this United States Supreme Court of America , has Jurisdiction Pursuant , U.S C. 28 section 1651 (a) Abused of discretion cause for Discretionary review ; Joiner 522 U.S.C 136 .(1997) .., U.S.C . 28 section 144 . U.S. CONSTITUTION. FIFTH AMENDMENT.., DUE PROCESS. THE SEVENTH AMENDMENT , THE TENTH AMENDMENT AND THE FOURTEENTH AMENDMENT, EQUAL PROTECTION. The Lower courts Failed to correct errors of law. Should the Florida's Courts Comply with Florida's Rule of civil Procedures and Florida's Rules Of Appellate Procedures. This United States Supreme should use the prescribed remedies and the “ad hoc” test to correct

improvident exercise discretion of irreparable harm and abused of discretion clearly unreasonable erroneous ,or arbitrary and not justifiable to the facts of rules of statues and laws. Whether , strict scrutiny, intermediate scrutiny , or rational basis scrutiny. Pursuant to Federal Rules of Civ. P (60) b and Fed. R. Civ. Rule 59 (e) 28 U S C section 453

Reasons for granting Writ

On 01/08/18 Petitioner appealed the Lower Court denial for wages claimed # 4D18-0080. Dismissed by the court for lack of jurisdiction.

On 07/24/18 Petitioner appealed multiple orders including default motion that were not comprehensively argue neither , entertain by the court . Appendix (A) (B) (C) (D) #4D18-2305

On 11/29/18 Petitioner appealed the Lower Court order , the Fourth District Court of appeals was “Not Authorized” as claimed and denied Petitioner’s MotionsAppealed to the Courts to remand to the tribunal for corrections of Errors of the court and the Court’s ruling out of jurisdiction based on bias and Prejudice conduct by the duo ,counsel and the Judge out of oath unconstitutional conduct. In light thereof , the Florida Supreme Court recognized that decisions were constitutional matter and ruled “Not Authorized” due in fact that rulings were made out of Jurisdiction by the Tribunal judge Michael A Robinson.

Relevant Facts and Nature of Case

This case presents the questions of whether the judge should have remove himself

from this case due the duo relationship and the judge requesting from his assistant not to give Petitioner hearing dates on motions ,in which the court refused to maintain the standards and rules of the court .In light of the facts that the judge ruled out of jurisdiction and further, the duo, counsel and the judge did not fully comply with the orders of the Fourth District Court of Appeals. Appendix (I)

On 01/11/17 Petitioner Case was filed for damages against the Respondent in a Slipped and fall case, as resulted Petitioner sustained permanent injuries after Having two (2) surgeries caused by the incident on 01/17/13 as filed in the

Complaint in the 17th Judicial Circuit Court in and for Broward County

Florida. This case was assigned to the original Judge , The Honorable William A Haury Jr. Respondent was Properly served and in fact moved to dismiss the case for Petitioner's failure to state a cause of action..

On 03/27/17 Petitioner's motion to the amended the complaint was filed .

On 04/17/17 during hearing on issues ,the Honorable Judge William A Haury reminded Respondent, that no reply was received by the court, pursuant to applicable laws and that his, Respondent's "**ten (10) days will expired soon or that he can seek an extension of time**". Protocol was abandoned and not followed by Respondent.On 05/04/17 Respondent failed to file the timely answers to Petitioner's Amended Complaint and accordingly by law has defaulted pursuant to Fla, R. Civ. P 1.190. and Fla R. Civ P.1500.(b)

DEFAULT ENTRY AGAINST RESPONDENT

"[a] party shall plead in a response to a pleading within 10 days after service of the amended complaint, unless the court otherwise orders". Respondent when reminded contemporaneously was informed simultaneously by the judge during

hearing but failed to seek an enlargement of time on fundamental imperative issue that would of course prevent default entry and Judgment..See Meadows Cmty. Assn v. Russell- Tutty, 928 So 2d 1276, 1280 (Fla 2d DCA 2006) (quoting Consuegra v. Lloyd's Underwriters at London, 801 So 2d 111,112(Fla 2d DCA 2001. Wilson v. News- Press Publ'g Co., 738 So 2d 1000, 1001 (Fla 2d DCA 1999) APPENDIX (F)

REASON FOR GRANTING THE WRIT OF CERTIORARI REVIEW

On 05/17/17 Petitioner filed for entry of default and subsequently ,Respondent was able to have the case switched out of “ pro.to.col” to his friend judge.

On 01/28/18 a clandestine meeting between counsel and the new judge were held on the eve Sunday , knowingly that the issue on default was before the court, that following Monday , which default motion was never heard that Monday , but the court delayed the default demanded motion for several months. The duo met out of jurisdiction of the Court’s Chambers and set a new “Sua Sponte” trial out of order from the Honorable WILLIAM A HAURY Jr, who was replaced by the Present Judge , who’s rulings is in violation of 28, U.S.C section 144. “bias or prejudice” actions. **Appendix (D)**

On 01/30/18 Petitioner requested that the judge disqualify himself from the case in Fear of the judge making bias decisions of personal interest and not objective criteria based on the duo unethical conduct and errors of laws, abused of discretion . See . 28 U.S , Code Section 144 Bias or Prejudice of Judge. See, Maddrie v. Mc Donough, 945, So 2d 573, 574.(Fla 1st DCA2006) See .Gibson Trust ,Inc , v. Office of Atty Gen, 883, So 2d, 379, 382. (Fla 4th DCA 2004)

On 02/5/18 Petitioner's motion for disqualification was denied by the judge.

On 07/24/18 the Judge denied Petitioner's motion filed for default on 05/17/17 see Brown v. Rowe 96 Fla ,289 118 So 2d (1928) based on the abuse of discretion.

On 01/10/19 the order of the 4DCA ordered "that appellee is directed to respond, Within five days (5) days from the date of this order, to the December 21, 2018" appellant's application for writ of certiorari review and extension of 30 days to file brief on the merits on irreparable harm" instead of facing the issues on irreparable harm, counsel avoided the real issue and filed to consolidate appeals. Further, failed to address the issues on fraud upon the court and misleading motion pursuant to 57.105 motion for cost and fees, once again the judge ruled out of jurisdiction , knowing the case was not relinquish to the tribunal. **APPENDIX (F)**

On 08/30/19 Petitioner filed Appellant's reply brief with Appendix

On 09/20/19 Petitioner requested Oral arguments and was denied on 09/24/19

On 10/15/19 Petitioner filed a memorandum on merits with Appendix

On 10/25/19 Petitioner made a request for Oral arguments.

On 10/31/19 Petitioner's request for oral arguments was "Stricken as unauthorized" " ORDERED sua sponte that the appellant's October request for oral arguments is stricken as unauthorized"

On 01/09/20 the Fourth district Court made a PCA ruling against all odds to bring the case to an end, knowingly having facts and knowledge of the duo injustice, no one is above the law, when it comes to abuse of miscarriage of justice.

On 03/26/20 Notice of Discretionary jurisdiction was filed in the Florida Supreme Court.

On 06/24/20 “Petitioner’s motion for reconsideration and clarification of orders dated 06/08/20 and 06/16/20 and reinstatement on Petitioner’s Writ of Prohibition and the inadvertently denied motion ,”Writ of Mandamus” Which Denial at issue was not filed at no time by Petitioner but erred “to the extent” Evidently denied by this Supreme Court of Florida.

On 06/08/20 It Should be noted that the Florida Supreme Court dismissed “ Writ of mandamus” mandamus motion was not filed prior to the denial.

On 06/25/20 The Florida Supreme Court claimed that Petitioner filed on 06/23/20 a request for Mandamus . In light of the error of the Court’s Order dated on 06/08/20 , which denied Prohibition and Mandamus knowingly that only Petitioner’s motion for prohibition was before the court.

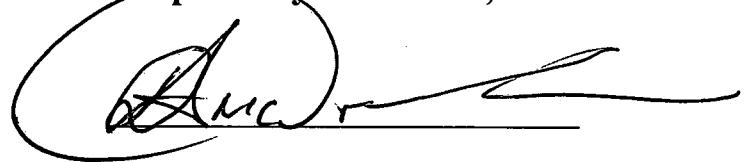
Conclusion

For the foregoing reasons, Mr. David D Archer respectfully requests that this Court issue a Writ of certiorari to review the judgments of the Tribunals Fourth District Court of appeals and the Florida Supreme Court decisions based on Miscarriage of Justice, biased and prejudiced conduct by the duo counsel and the Judge and in the alternative , vacating all orders of the Tribunal Judge, starting

from 01/28/18 to present date last order , remanding this case to the original Judge, accordingly for Default hearing on Damage, together with any and all reprimands to the duo unethical conduct that this court deems just under the laws of the constitution of the united states of America. Appendix (G).....

Dated this 19th day November , 2020

Respectfully Submitted,



David D Archer

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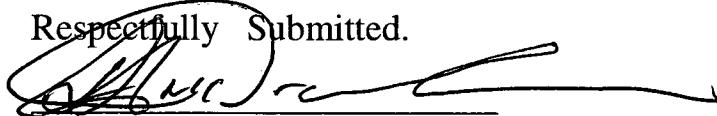
CERTIFICATE OF SERVICE

I HEREBY CERTIFY that a true and correct copy of motion with appendixes for Certiorari Review to the UNITED STATES SUPREME COURT WAS MAILED ON NOVEMBER 19TH 2020 , TO WESLEY CTRI ATTORNEY FOR WINNDIXIE STORE AT THE KNOWN ADDRESS. 633 SOUTH ANDREWS AVENUE , THIRD FLOOR, FORT LAUDERDALE , FLORIDA. 33301.

**Judge Michael A Robinson at Room #201 SE 6th Street Fort Lauderdale
Florida , US 33301 and Clerk of Court.**

Dated this 19th day of November,2020

Respectfully Submitted.



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Cc; Clerk of Courts, President George W Bush, President Donald Trump and Axioms files. 15 of 15 pages

And the Attached Pages of Petitioner's Appendixes