

20-7834
Case No. 1

In the Supreme Court of the United States

STEVEN COOPER

Petitioner,

v.

STATE OF FLORIDA

Respondents,

ORIGINAL

FILED
MAR 16 2021

OFFICE OF THE CLERK
SUPREME COURT, U.S.

PETITION FOR WRIT OF CERTIORARI TO THE FLORIDA
FIRST DISTRICT COURT OF APPEALS, RE: 1DCA NO.- 1D20-2552

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OFFICE OF THE CLERK
SUPREME COURT, U.S.

QUESTION PRESENTED

- Whether it is unconstitutional for a defendants' pro per Motion to Discharge Counsel and Waiver of Right to Counsel to be dismissed for the only reason being he is represented by counsel and his pleadings are thus a nullity.
- 1. Whether it is unconstitutional for an adverse possessor, after establishing possession and making the required return as allowed for by Florida Statute 95.18, to be arrested and tried for trespass, grand theft and criminal mischief simply for adversely possessing real property and despite Florida Statute 95.18 providing a crime is committed only if a return is not made.
- 2. Whether it is unconstitutional for a circuit court to dismiss pro per pleadings by a defendant seeking to discharge assigned counsel and self represent.
- 3. Whether a judgment denying certiorari relief without explanation by the Florida First District Court of Appeal is unconstitutional.
- 4. Whether it is unconstitutional for a citizen to be arrested for trespass, grand theft and criminal mischief simply for adversely possessing real property.

RELATED CASE

1. SCOTUS Case NO. 20-6207

Case No. _____

In the Supreme Court of the United States

STEVEN COOPER

Petitioner,

v.

STATE OF FLORIDA

Respondents,

PETITION FOR WRIT OF CERTIORARI TO THE FLORIDA FIRST DISTRICT COURT OF APPEALS, 1DCA NO.- 1D20-2552

Petitioner, Steven Cooper, humbly and respectfully asks that a writ of certiorari issue to review the judgment issued without opinion by the Florida First District Court of Appeal, 1DCA# 1D20-2552, filed on August 31, 2020.

OPINION BELOW

The judgment issued without opinion by the First District Court of Appeal was issued on December 16, 2020. An appeal to The Florida Supreme Court was not submitted given it does not have jurisdiction to review decisions issued by the

First District Court without a written explanation of its decision. This appeal serves as the only available review of the First District Courts opinion denying the certiorari petition.

JURISDICTION

The jurisdiction of this Court is invoked under 28 U.S.C. § 1257(a). The decision for which petitioner seeks review was issued on December 16, 2020, this petition filed within 90 days of that decision, is for discretionary review under Rules 13.1 and 29.2 of this Court.

CONSTITUTIONAL PROVISIONS AND STATUTES INVOLVED

- *United States Constitution, Amendment 5* provides, in pertinent part: No person shall... be deprived of life, liberty, or *property* without due process of law
- *United States Constitution, Amendment 7* provides, in pertinent part: Where the value in controversy shall exceed twenty dollars, the right of trial by jury shall be preserved... according to the rules of the common law.
- *United States Constitution, Amendment 14 Section 1* provides, in relevant part: No State shall make or enforce any law which shall abridge the privileges or immunities of citizens of the United States; nor shall any State deprive any person of life, liberty, or property, without due process of law; nor deny to any person within its jurisdiction the equal protection of the laws.

- *United States Code 28 USC1361: Action to compel an officer* provides, in relevant part: Courts shall have original jurisdiction of any action in the nature of mandamus to *compel an officer* or employee or any agency to perform a duty owed...
- *Florida Statute for Adverse Possession without Color of Title section 95.18* provides, in relevant part: (9) A person who occupies... solely by claim of adverse possession... prior to making a return as required under subsection (3), commits trespass.

STATEMENT OF CASE

This Petition follows willful manifest injustice attack upon a law-abiding adverse possessor ¹⁾ unlawfully trespassed ²⁾ falsely arrested ³⁾ maliciously prosecuted ⁴⁾ intentionally deprived of fundamental rights. Petitioner is a victim of an onslaught of grotesque negligence by State Constitutional Offices and its Officers in opposition of Florida Statutes as an attack upon his adverse possession and in retaliation to his complaints. An adverse possessor, after lawfully establishing adverse possession in compliance with Florida Statute 95.18, petitioner was trespassed then later arrested and charged with grand theft a year later only after making a formal complaint to the Sheriff's office and initiating civil action against the Sheriff's office in an attempt to have the property returned. Mandamus was sought to compel the Sheriff's Office to perform its duty to enforce

and comply with the laws of Florida of which provide the statutory right to adversely possess real property, additionally specifying trespass is only applicable when the required notice form is not submitted and theft is only applicable if the property is leased to another, again prior to submitting the required form.

Petitioner was first criminally trespassed from his adversely possessed property in April of 2018. Then, after thirteen months of civil litigation, retaliatory arrested for grand theft and criminal mischief by a warrant issued thirteen days after submission of a written complaint. Since the arrest he has received incompetent, intentionally-ineffective assistance of counsel and biased unfair prejudice from the court such as dismissing as nullities pro per pleadings seeking to discharge counsel and self represent.

Petitioner continues to be denied his constitutional right to self representation by a circuit court lacking subject matter jurisdiction. After filing a Waiver of Right to Counsel, Notice of Pro Per Appearance, Motion to Dismiss the Information, and Motion for Hearing on and Order on Pleadings on July 14, 2020, regarding previously filed Motions to Discharge Incompetent Ineffective Counsel and Motion for Statement of Particulars on June 1, 2020 of which all to this day continue to be intentionally ignored, the court responded on July 31, 2020, with an Order Dismissing Pro Se Motions stating “the Motions are due to be dismissed because the Court’s records reflect that the Defendant is currently represented by

counsel". Again, to reiterate, despite motioning to Discharge Incompetent Ineffective Counsel June 1, 2020, followed by filing a Waiver of Right to Counsel and Notice of Pro Per Appearance on July 14, 2020, the Court dismissed the motions to rid himself of intentionally ineffective counsel in order to self represent reasoning only that they must be dismissed because petitioner is "represented by counsel". The very counsel he seeks to discharge. Petitioner is being denied both his constitutional right to effective assistance of counsel, as well as his right to self representation. Petitioner seeks to have the Motion to Dismiss for lack of subject matter adjudicated based upon its merits as well as the motions to discharge counsel in order to self represent respected and processed appropriately with the necessary Nelson and Faretta hearings.

REASONS FOR GRANTING THE PETITION

The trial courts "blanket" denial, dismissal and disregard of petitioners pro se pleadings is an abuse of discretion; especially after being made aware of conflict amongst a defendant and his incompetent ineffective assigned counsel. The trial court is required to hold hearings to inquire about the alleged conflicts and incompetency and yet another hearing to determine the unequivocal request to self represent. Instead, the trial court is using the assignment of counsel and its quote "representation" as a rock to hold the defendant between it and the hard place of not being able to speak for himself and not having adequate assistance of counsel

to speak for him. In effect, the assignment of “representation” is being maliciously abused to silence and mute the defendant.

Additionally, the petitioner has an inferred immunity from the below charges because he has submitted the required return necessary to establish adverse possession in accordance with Florida Statute 95.18. The trial court was forced to confront the fact that it does not possess the requisite subject matter jurisdiction in the case below where an adverse possessor is being persecuted for theft despite making the required return and, not leasing the property to another FS 95.18(9)(10). This is why the trial court dismissed only the dismissal motion and request for hearings. In doing so, the judge has forgone his immunity by knowingly acting outside of his authority without subject matter jurisdiction. There exists no offense or crime committed and a truly innocent citizen is being intentionally deprived of his rights.

CONCLUSION

The Sixth Amendment grants to each criminal defendant the right of self-representation. Under this Court's ruling in *Faretta*, an accused has the right to self-representation at trial. A defendant's choice to invoke this right ‘must be honored out of that respect for the individual which is the lifeblood of the law.’ The Sixth and Fourteenth Amendments include a ‘constitutional right to proceed *without* counsel when’ a criminal defendant ‘voluntarily and intelligently

elects to do so. It is unconstitutional to deny petitioner his right to self represent while citing him being represented by counsel, after advising the court of an adversarial relationship and seeking to discharge said counsel.

Florida Statute 95.18(10) states “A person who occupies or attempts to occupy a residential structure solely by claim of adverse possession under this section [prior to making a return as required under subsection (3), (95.18(9))] and offers the property for lease to another commits theft under s. 812.014”. The petitioner submitted the return as required under subsection (3) of 95.18 to the Bay County Property Appraiser on December 29, 2017. The Defendant has not, nor does the information charge him with, offering “the property for lease to another”. Theft cannot be without offering for lease and making a return. Adverse possession is not a crime. Per Florida Law, an individual commits theft if he occupies “solely by claim”, without making the required return, and offers the property for lease. The return form DR-452 serves as notice to all who would challenge establishing the adverse possession as a cause of action to which legal action may be brought. The crime of theft, is specific to – the receipt of monies in connection with offering “the property for lease”. Establishing adverse possession is no crime, it is regulated and permitted by Florida State 95.18. The lower court lacks the requisite subject matter jurisdiction and the merits of petitioners Motion to Dismiss should be adjudicated appropriately.

For these simple reasons, the Motion to Dismiss was unconstitutionally dismissed by citing petitioner being represented by counsel after the court was both advised of an adversarial relationship and seeking to discharge the ineffective counsel in order to self represent. The First District Court of Appeal should have granted the Certiorari relief sought or at a very minimum provided at least one sentence to support their refusal to do so. As a result of these improprieties, petitioner respectfully asks this honorable Court to grant the certiorari relief sought in order for petitioner to be able to proceed with the desired self representation and have the Motion to Dismiss for lack of subject matter adjudicated upon its merits. Alternatively, petitioner respectfully asks this honorable court to order he be discharged from the sham proceedings given he is a civil adverse possessor and, after following the law and making both the required return and payment of taxes, there can be no crime committed as clearly stated in Florida Statute 95.18.

Respectfully submitted,
/s/Steven Cooper, Pro Se