

20-7835 Case No. \_\_\_\_\_

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**In the Supreme Court of the United States**

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STEVEN COOPER

Petitioner,

v.

STATE OF FLORIDA

Respondents,

**ORIGINAL**

FILED

MAR 08 2021

OFFICE OF THE CLERK  
SUPREME COURT, U.S.

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PETITION FOR WRIT OF CERTIORARI TO THE FLORIDA  
FIRST DISTRICT COURT OF APPEALS, RE: 1DCA NO.- 1D20-2553

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## **QUESTION PRESENTED**

1. Whether it is appropriate for a capias to be issued after a defendant makes the required written waiver of presence as allowed for by the Florida Rules of Criminal Procedure of which affords a defendant the right to waive its presence at pretrial conferences upon filing a written waiver.
2. Whether a public defender has the right to deny a defendant the right to waive their presence as afforded by the Florida Rules of Criminal Procedure.
3. Whether a circuit court has the right to refuse to accept a written waiver of presence filed pro per, after receiving a motion to discharge incompetent ineffective counsel and notice of adversarial relationship.
4. Whether a judgment denying mandamus relief without explanation by the Florida First District Court of Appeal is unconstitutional.
5. 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. \_\_\_\_\_

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**In the Supreme Court of the United States**

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STEVEN COOPER

Petitioner,

v.

STATE OF FLORIDA

Respondents,

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PETITION FOR WRIT OF CERTIORARI TO THE FLORIDA  
FIRST DISTRICT COURT OF APPEALS, 1DCA NO.- 1D20-2553

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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# 1D20-2553, filed on August 31, 2020..

**OPINION BELOW**

The judgment issued without opinion by the First District Court of Appeal was issued on December 7, 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 mandamus 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 7, 2020, this petition filed within 90 days of that decision as the the ninetieth day was a Sunday, 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 <sup>1)</sup> unlawfully trespassed <sup>2)</sup> falsely arrested <sup>3)</sup> maliciously prosecuted <sup>4)</sup> 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 ignoring a written waiver of appearance followed by issuance of a failure to appear capias.

Petitioner elected to waive his constitutional right to be present at a December 17<sup>th</sup> pretrial conference and directed the assigned public defender to file a written waiver in accordance with Florid Rules of Criminal Procedure 3.180(a)(3) and 3.220(o)(1). Evidence of an adversarial relationship, the incompetent public defender prejudicially refused, thus requiring the written waiver be made pro per. At the States' request, with no objection or representation provided by the assigned public defender whom was present, the trial court issued a capias with a \$7,500 bond. Petitioner seeks to have the Written Waiver of Appearance recognized and the capias thereby quashed.

## **REASONS FOR GRANTING THE PETITION**

Fla. R. Crim. P. 3.180(a)(3) states the presence of a defendant in all prosecutions for crime shall be present... at any pretrial conference unless waived by the defendant in writing. Additionally, Fla. R. Crim. P. 3.220(o)(1) states the trial court may hold pretrial conferences to consider matters as will promote a fair and expeditious trial to which the defendant shall be present unless the defendant waives this in writing.

On December 1, 2019, petitioner filed a Motion to Discharge Incompetent Ineffective Counsel, therein alerting the court on an adversarial relationship with counsel. Having received no response, on December 13, 2019, petitioner directed the public defender to file a written waiver of appearance on behalf of the defendant. After the public defender refused, clearly stating, "you are represented by counsel and I am not filing a waiver of your presence", petitioner filed the Written Waiver of Appearance on December 16, 2019. Despite filing the waiver, and the public defender present in representation of the petitioner, the court issued a capias upon request of the state and no objection made by the public defender despite the written waiver.

## **CONCLUSION**

Florida Rules of Criminal Procedure allows for a defendant to waive presence at pretrial conferences upon written waiver. Petitioner directed counsel to

file a written waiver as per the rules. Counsel refused without authority to do so, directly prejudicing the petitioner. Petitioner was forced to file the required written waiver pro per and did so more than two weeks after notifying the court of an adversarial relationship and seeking to discharge the public attorney. For these simple reasons the capias should never have been issued, the First District Court of Appeal should have granted the Mandamus 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 mandamus relief sought and squash the capias.

Respectfully submitted,  
/s/Steven Cooper, Pro Se