

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

December 07, 2020

CASE NO.: 1D20-2553
L.T. No.: 2019-CFMA-0866

Steven Cooper

v.

State of Florida

Appellant / Petitioner(s),

Appellee / Respondent(s)

BY ORDER OF THE COURT:

The Court having determined that *Logan v. State*, 846 So. 2d 472 (Fla. 2004), does not require dismissal of the petition, the show cause order of October 6, 2020, is discharged.

The petition for writ of mandamus is denied on the merits.

B.L. THOMAS, MAKAR, and TANENBAUM, JJ., concur.

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

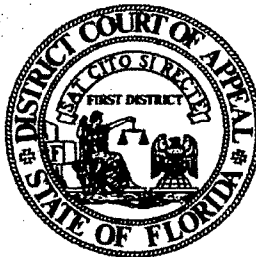
Served:

Hon. Ashley Moody, AG
Hon. Brantley S. Clark Jr.,
Judge

Hon. Bill Kinsaul, Clerk
Steven Cooper

CO


KRISTINA SAMUELS, CLERK



**In the District Court of Appeal
First District of Florida**

CASE NO. SC20-_____

Lower Court Case No.: 2019-CFMA-0866

STEVEN COOPER

Petitioner,

v.

STATE OF FLORIDA;

Respondents,

**PETITION
FOR
MANDAMUS**

/s/ STEVEN COOPER

850-312-5243

P.O. BOX 18617

PANAMA CITY, FL 32417

AdversePossessionIsNotaCrime@gmail.com

Petitioner affirmatively seeks to discharge court-appointed counsel in response to the incompetent ineffective assistance currently being provided.

RECEIVED, 09/01/2020 12:00:35 AM, Clerk, First District Court of Appeal

MANDAMUS PETITION TO WITHDRAW CAPIAS

Petitioner Steven Cooper respectfully moves this Honorable Court for mandamus and all writs necessary, completely exercising its jurisdiction, in an original action under Rule 9.100(a) of the Florida Rules of Appellate Procedure. This Court has original jurisdiction over this petition under Fla. R. App. Pro. 9.030(a)(3) and art. V, sec. 3(b)(7)(8), Fla. Const.

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.

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 17th pretrial conference and directed the assigned public defender to file a written waiver. 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, 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.

Petitioner makes the following statements in support of the relief sought:

1. On December 29, 2017, petitioner satisfied the requirements of Fla.Stat. 95.18 Real property actions; adverse possession without color of title, thereby establishing possession of an abandoned parcel in unincorporated section of Bay County, FL.¹

2. On April 20, 2018, the Bay County Sheriff's Office² approached Petitioner while improving the adversely possessed property and issued a Trespass Notice against him for "not being owner of record" despite making the required return and having established possession.³

3. On May 30, 2018, Petitioner petitioned the circuit court for Mandamus, Injunctive, and Declaratory relief.⁴ On February 5, 2019, Petitioner filed a written complaint with the Bay County Sheriff's Office.⁵

4. Thirteen days later on February 18th, the Sheriff's Office reopened the previously closed Case # 2018-031772⁶, assigned investigator Aubrey Chance in lieu of the original deputy (Macias) whom two days later on February 20th, investigator submitted a Complaint-Affidavit Warrant Application as the complainant.⁷

¹ (1)Paid all delinquent taxes and outstanding fees in the amount of \$2,248.68 (2)Immediately thereafter made a Return of Real Property in Attempt to Establish Adverse Possession Without Color of Title (form DR-452) personally to the Bay County Property Appraiser (3)Upon satisfying these prerequisites, commenced maintenance and improvements to the property.

² Initiated and requested by Bay County Code Enforcement manager Kathy Ashman.

³ Inconsiderate of his open, continuous, exclusive, actual, notorious possession and the "owner of record" not being present living in Kentucky, nor requesting assistance from the Sheriff's Office or Code Enforcement regarding the civil issue.

⁴ To correct the unlawful issuance of the trespass notice, prevent the County from demolishing structures on the property after having him unlawfully trespassed, and explain the Doctrine of Adverse Possession as mandated by Fla.Stat. 95.18 thereby declaring his rights and allow for his continued lawful adverse possession without threat, intimidation, and harassment from these agencies.

⁵ Stating the Trespass Notice issuance was improper because the Sheriff's Office "lacked authorization to act as an "authorized person" to order an alleged trespasser to leave private property when the agency had not received written authorization from the owner" in direct conflict with Fla.Stat 810.08(3) citing Florida Attorney General Advisory Legal Opinion-AGO 90-08.

⁶ Previously "CLOSED" on 4/20/18 with the Trespass Notice issuance.

⁷ Stating "the defendant claimed "Adverse Possession"...without having any legal right to do so... did not even have the minimum requirement of seven years worth of Tax Certificates to begin the process of adversely possessing the property" as probable cause narrative. The State Attorneys' Office is not consulted to administer the oath as mandated by law. Instead, having no

defendant shall be present unless the defendant waives this in writing." The court held three arraignments twice without information and the third time Assigned public defender plead despite Petitioner's objection for doing so less than 24 hours after the information was not provided for review and advice; held a calendar call again without notice or waiver; deliberately after his non-demand speedy notice of expiration, allowed jury trial to commence without assigned State attorney present only to get on record; Petitioner's refusal to accept a bench trial then delayed trial in bad faith without reason; notice or order to a date past 50 day speedy demand expiration; then reserved ruling a judicial notice request and disposed of the already expired trial date because Petitioner waived his right to be present. The intent behind these actions raises concern, certainly do not promote a fair and expeditious trial, rather, appear an organized scheme to harm. Counsel does not intend to be inconsequential and Counsel is not a Regional Civil Rights Conflict. The trial court has an indisputable legal duty to comply with the rules of criminal procedure. See Lynch, 736 So.2d at 1222. There being no good cause to override Petitioner's waiver, there exists no legal basis for issuing the capias. Counsel does not have the authority or discretion to deny Petitioner's waiver rights. Refusal contravenes his ability to waive appearance in its entirety and is one of many examples of the assigned public defender's incompetent, intentionally ineffective assistance. Mandamus must be granted to instruct the trial court to accept Petitioner's written waiver of appearance and quash the invalid capias.

18. The assigned public defender suffocated petitioner's right to a written plea to waive arraignment, then, when convenient to meet her antipathy, she unethically waived his presence at the speedy demand calendar call maliciously, reticent, without notification in spite of him invoking speedy expiration notice; then again she deprived him of his right to waive presence to a futile pretrial hearing. (19.1) It is quite elementary courts may judicially notice documents from cases, related or not, only to the extent of recognizing the filing of the documents or the judicial acts and the subject matter of the litigation, not to notice the alleged facts contained in those documents in an attempt to establish the truth of such facts. It is counsel's purpose and obligation to clarify this appropriateness, not the defendants, thus there is absolutely no reason why Petitioner would need to be present to hear judicial notice arguments should he choose not.

Without subject matter jurisdiction given return filed and properly not less to another.

20. The court improperly delayed the December 2nd trial to a January 6th date past the expiration of the November 7th 50-day speedy demand, after attempting to pressure Petitioner to forgo his right to a jury trial. Then, despite written waiver, the court disposed the January 6th trial date and issued a capias because Petitioner waived his right to be present. A desire to see Petitioner harmed by arrest and indefinite incarceration explains these questionable actions. Not one attempt has been made to inform Petitioner a capias was issued or that trial was disposed of. Assigned public defender has not contacted him and it's safe to assume she made no argument on his behalf against issuing the capias given his waiver. The court or pretrial release program hasn't even attempted to contact Petitioner to inform or inquire about his location. It seems reasonable at the very least that Assigned public defender is ethically responsible for informing those she represents of a terminated court date and an existent capias, not to mention pleading for it to be set aside given the waiver and, that the Court would mail written notice or at least have the pretrial release department attempt to contact Petitioner. Instead, the judicial system ran by those involved herein prefer the ambush and arrest method, salivating thinking of Petitioner's unexpected arrest and prolonged detention.

21. These actions reek of deliberate injustice and when considered against an innocent individual in full compliance with this State's Law of adverse possession; deliberate injustice translates to malicious persecution, intentional deprivation, and violation of petitioners Constitutional Rights.

22. The court failed to consider the written waiver or whether good cause exists to notify and require Petitioner's presence thus issuance of the capias was erroneous and without discretion. Once capias issued he is with no other legal remedy for relief. Petitioner's fundamental rights have been violated and for these reasons the petition for writ of mandamus must be granted, and the capias quashed.

Wherefore, Petitioner prays this Honorable Court will grant the relief requested, mandate the lower court immediately quash the erroneously capias upon recognition and acceptance of the written appearance waiver and representation of petitioners presence made by appointed counsel, and for all additional relief this court deems appropriate (Prohibition) in response to the State prosecuting an adverse possessor contradictory to and despite his compliance with Florida Statutes 95.18.

/s/ Steven Cooper, Pro Per

CERTIFICATE OF INTERESTED PARTY

Brantley S. Clark, Jr. is the Circuit Judge presiding over the defendants' prosecution in the lower court.

Respectfully Submitted,

/s/ Steven Cooper, Pro Per
Petitioning Defendant

CERTIFICATE OF SERVICE

I certify that a copy hereof has been furnished immediately hereafter filing this document on this 31st day of August 2020, via email and/or electronic service to Circuit Court Judge Brantley S. Clark, Jr. at ClarkB@JUD14.FLCourts.org and Jennifer.moore@myfloridalegal.com, Attorney for State of Florida Assistant Attorney General Office of the Attorney General PI-01, the Capitol Tallahassee, Fl 32399-1050:

Respectfully Submitted,

/s/ Steven Cooper, Pro Per
Petitioning Defendant

CERTIFICATE OF COMPLIANCE

I certify that the size and style of type used in this brief is Courier New 12 point Font and Times New Roman 14- point Font and complies with the font requirements of Florida Rule of Appellate Procedure 9.210(a) (2).

Respectfully Submitted,

/s/ Steven Cooper, Pro Per
Petitioning Defendant

850-312-5243
P.O. BOX 18617
PANAMA CITY, FL 32417

IN THE CIRCUIT COURT, IN AND FOR BAY COUNTY FLORIDA

STATE OF FLORIDA,
Plaintiff,

vs.

CASE NO. 032019CF00866A

STEVEN COOPER,
Defendant,

WRITTEN WAIVER OF APPEARANCE

The Defendant, STEVEN COOPER, pursuant to Fla.R.Crim.P 3.180(a)(3) and 3.220(p)(1), and *Walters v. State*, 905 So. 2d 974 (Fla. 1st DCA 2005), hereby files his written waiver of appearance for the December 17, 2019, pre trial management conference. In support thereof, Defendant states as follows:

1. Rule 3.180(a)(3), Florida Rules of Criminal Procedure, states that “[i]n all prosecutions for crime the defendant shall be present . . . unless waived by the defendant in writing.”
2. Rule 3.220(p)(1), Florida Rules of Criminal Procedure, permits a trial court to hold one or more pre-trial conferences and provides that “[t]he defendant shall be present unless the defendant waives this in writing.”
3. In *Walters v. State*, 905 So. 2d 974, 977 (Fla. 1st DCA 2005), “the district court held that a court's refusal to accept a defendant's written waiver of appearance at a pre-trial conference was in direct contravention of the rules of criminal procedure and therefore warranted mandamus relief” citing *Lynch v. State*, 736 So.2d 1221 (Fla. 5th DCA 1999) and “where the trial court rejected a defendant's signed, written waiver of appearance for a pretrial status conference in his criminal prosecution and required the defendant's

personal appearance, the trial court contravened the clear dictates of Florida Rules of Criminal Procedure” citing *Stout v. State*, 795 So.2d 227 (Fla. 4th DCA 2001).

4. The 14th Judicial Circuit Office of the Public Defender and the assigned Public Defender continues to intentionally provide incompetent ineffective assistance by its refusal to file a written waiver of appearance for the December 17, 2019, pre trial management conference, despite the Defendants multiple request to do so, stating “I am not filing a waiver of your presence” because “you are represented by counsel” of which has nothing to do with and is in direct conflict with Fla.R.Crim.P 3.180(a)(3) and 3.220(p)(1), *Walters v. State*, 905 So. 2d 974 (Fla. 1st DCA 2005), and in violation of its Constitutional obligations, and the Rules, Ethics & Professionalism requirements as regulated by the Florida Bar.
5. Although the Defendant may be “assigned” counsel, he surely is not “represented” by counsel and he undoubtedly has been deprived of the assistance of counsel so guaranteed by the Sixth Amendment to the United States Constitution.

Respectfully Submitted,
/s/ Steven Cooper, Pro Per

CERTIFICATE OF SERVICE

I HEREBY CERTIFY that a true and correct copy of the foregoing document has been furnished to the Office of the State Attorney at: 421 Magnolia Ave. Panama City, FL 32401 by mailing by pre-paid first class U.S. mail on this 16th day of December, 2019, Attn:

1. Cord Grimes
2. Calie Marie

Respectfully Submitted,
/s/ Steven Cooper, Pro Per

Mr. Cooper,

We are having the motion hearing regarding the state's request that the court take judicial notice of the pleadings filed in the civil lawsuit you filed. I need you to be present for court.

Ann

1 On Fri, Dec 13, 2019 at 3:10 PM Pleasant Oak Ct <pleasantoakct@gmail.com> wrote:
Ms. Grabner,

Pursuant to Fla.R.Crim.P 3.180(a)(3) and 3.220(p)(1), I waive my right to be present for the December 17, 2019, pre-trial management conference.

For your convenience, I have drafted and signed the attached waiver.

Please sign, file the attached waiver with the court, and provide a copy thereof for my records at your earliest convenience in advance of the scheduled event.

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"Injustice anywhere is a threat to justice everywhere" thus "what affects one directly, affects all indirectly".



Pleasant Oak Ct <pleasantoakct@gmail.com>

Re: Third and Final Request Re: Waiver of Presence RE: 12/17 PT Mgmt.

Pleasant Oak Ct <pleasantoakct@gmail.com>

Mon, Mar 8, 2021 at 3:52 PM

Draft

From: **Ann Grabner** <ann.grabner@pd14.fl.gov>Date: **Mon, Dec 16, 2019 at 12:11 PM**Subject: **Re: Third and Final Request Re: Waiver of Presence RE: 12/17 PT Mgmt.**To: **Pleasant Oak Ct** <pleasantoakct@gmail.com>Cc: **Mark Sims** <mark.sims@pd14.fl.gov>, **Kimberly Jewell** <kimberly.jewell@pd14.fl.gov>, **Brittany Smith** <brittany.smith@pd14.fl.gov>

Mr. Cooper,

Correct, you are represented by counsel and I am not filing a waiver of your presence for tomorrow's court date.

Ann

On Mon, Dec 16, 2019 at 12:06 PM Pleasant Oak Ct <pleasantoakct@gmail.com> wrote:

Ms. Grabner,

Are you refusing to file the Written Waiver of Presence? Please state with specificity whether you will comply or once again seek to deprive me of my rights.

The decision to waive a constitutional right to be present is mine and I elect to waive my right to be present for the December 17, 2019, pre-trial management conference pursuant to Fla.R.Crim.P 3.180(a)(3) and 3.220(p)(1) therefore, I will not be present.

Given your intentional ineffective assistance and incompetence, I have drafted and signed the attached waiver for you to sign, file and provide a copy thereof with sufficient time to do so in advance of the scheduled event.

Please ensure you file a Written Waiver (the one provided or one of your choice) on this day or specify your refusal to do so.

On Mon, Dec 16, 2019 at 10:11 AM Pleasant Oak Ct <pleasantoakct@gmail.com> wrote:

Ms. Grabner,

The decision to waive a constitutional right to be present is mine and independent of your pseudo "need".

I elect to waive my right to be present for the December 17, 2019, pre-trial management conference pursuant to Fla.R.Crim.P 3.180(a)(3) and 3.220(p)(1) therefore, I will not be present.

Given your intentional ineffective assistance and incompetence, I have drafted and signed the attached waiver for you to sign, file and provide a copy thereof with sufficient time to do so in advance of the scheduled event.

Please ensure you do so.

On Sat, Dec 14, 2019 at 3:20 PM Ann Grabner <ann.grabner@pd14.fl.gov> wrote:

IN THE CIRCUIT COURT, IN AND FOR BAY COUNTY FLORIDA

STATE OF FLORIDA,
Plaintiff,

vs.

CASE NO. 019000866CFMA

STEVEN COOPER,
Defendant,

MOTION TO DISCHARGE INCOMPETENT INEFFECTIVE COUNSEL

The Defendant, STEVEN COOPER, moves this Honorable Court to discharge the 14th Judicial Circuit Office of the Public Defender from any and all further representation of the Defendant from the above styled cause and files this Motion to Discharge Counsel necessitated by the Public Defenders incompetency and intentional ineffective assistance, resulting in an adversarial relationship. This request is unequivocal and the following is provided in support thereof:

The court appointed counsel has failed to properly represent the Defendant through its incompetent and intentional ineffective actions, and/or lack thereof, of which give rise to fundamental error should this Honorable Court deny the requested relief. The ends of justice would be best served by allowing the Defendant Replacement Counsel, as/if needed given the previously filed Motion for Discharge and Notice of Expiration of Speedy Trial Time.

Specific allegations suggesting the Office of the Public Defender's incompetent and intentional ineffectiveness include but are not limited to:

INCOMPET INTENTIONAL INEFFECTIVE ASSISTANCE OF COUNSEL

1. Absence / Refusal to meet with and represent Defendant until arraignment; six weeks after arrest.
2. Refusal to file desired written plea of not guilty and arraignment waiver in accordance with FL.R.Cr.Pr 3.160 for arbitrary / self serving reasons.
3. Providing and suggesting Defendant sign an erroneous "waiver of presence" not in accordance with or citing any Rules of Procedure, Statutory or Case Law.
4. Intentionally failing to timely provide discovery materials.
5. Pleading to the Charges against the will, wishes and desire of the Defendant.
6. Refusing to provide specifically demanded discovery materials and motions.
7. Purposefully misleading Defendant as to calendared events and Orders.
8. Refusing to investigate and interview/depose witnesses.
9. Refusing to consult and confer with Defendant despite specific request.
10. Refusal to invoke / file Notice of Expiration of Speedy Trial Time.
11. Insulting and making derogatory comments towards the Defendant.
12. Filing invalid Demand for Speedy Trial after expiration and pro per filing, followed by attending Demand hearing without noticing Defendant and thereby waiving his presence without his approval or knowledge.
13. Pressuring Defendant to waive his right to a jury trial after expiration of speedy trial time.

ADVERSARIAL RELATIONSHIP

On October 25, 2019, at 3:06 pm the Defendant reached out to the appointed Public Defender stating, "The Speedy Trial period commenced on May 2, 2019, expired yesterday, October 24th, and, as of the time of this message, you have yet to file the required Notice of Expiration of Speedy Trial Time in accordance with FRCP 3.191 of which is necessary to invoke my right to a fair and speedy trial; a right I have not waived. Please ensure you file the required Notice of Expiration of Speedy Trial Time by the end of this day."

That Friday night, at 11:10 pm, the appointed Public Defender (Ann Grabner) replied **“your problems are psychological in nature, you need to seek help elsewhere”**, intentionally depriving the Defendant of his Due Process rights.

Despite reminding the appointed Public Defender (Ann Grabner) that the Speedy Trial Time had expired and directing her to file the required Notice of Expiration of Speedy Trial Time on October 25th, she chose to attack and insult the Defendant. Both clear violations of the Rules, Ethics & Professionalism requirements as regulated by the Florida Bar, her oath as a Public Employee, and the Defendants Constitutional Rights. She followed this despicable display of unprofessionalism not just by intentionally suffocating the Defendants Constitutional Rights, but by seeking to further harm him by prejudicially filing an invalid demand for speedy trial on November 7, 2019, despite “setting the case for trial” already being set for December 2nd in 25 days.

The Defendant asked the appointed Public Defender (Ann Grabner) on November 8th to “Please state your motives and explain why you filed a Demand for Speedy Trial: 1. After the expiration of the Speedy Trial (without demand) Time Period. 2. After refusing to file the required Notice of Expiration of Speedy Trial Time. 3. After setting the case for trial has already occurred.” and to this date, no response has been provided.

Instead, the appointed Public Defender (Ann Grabner) has continued her dangerous, rogue and prejudicing ways by attending the 11/12/19 calendar call for demand for speedy without providing notice to the Defendant and waiving his presence without his consent.

WHEREFORE, the Defendant requests this Honorable Court discharge the 14th Judicial Circuit Office of the Public Defender from any and all further representation of the Defendant and issue Defendants previously requested Order forever discharging him from the above styled cause upon the States failure to bring him to trial prior to expiration of his Constitutional Speedy Trial rights.

Respectfully Submitted,
/s/ Steven Cooper, Pro Per

CERTIFICATE OF SERVICE

I HEREBY CERTIFY that a true and correct copy of the foregoing document has been furnished to the Office of the State Attorney at: 421 Magnolia Ave. Panama City, FL 32401 by mailing by pre-paid first class U.S. mail on this 1st day of December, 2019, Attn:

1. Cord Grimes
2. Calie Marie

Respectfully Submitted,
/s/ Steven Cooper, Pro Per