

Case No. 20-7835

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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 REHEARING**

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

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/s/Steven Cooper, Pro Se

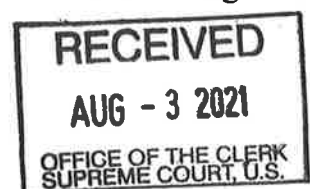
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AdversePossessionIsNotACrime@gmail.com

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Pursuant to Rule 44 of this Court, petitioner hereby respectfully petitions for rehearing of this case on substantial grounds not previously presented and limited to the notification of related cases prudent to and arising from the same originating



underlying circumstances yet presenting separate and additional related subject matter issues of which are compounded when considered with the issues presented in this case. Petitioner respectfully requests this Court considered them all together when making its final decision as to the merits of this case and those related cases.

The related cases are USSC 20-6207 and USSC 20-7834.

### **STATEMENT OF CASE**

This case, along with the two other cases presented to this Honorable Court arising from the same issue, provide an opportunity for your Honors to opine on the history, requirements, legality, and responsibilities of an adverse possessor as well as a State and local government when presented with a citizen whom has established actual adverse possession with the necessary intent to own in strict accordance with the States' Statutes as provided by our Federal Constitutional Rights to *possess* land while being free from Government intrusion.

Additionally, this case also provides Your Honors an opportunity to address an individual's right to determine his or her own course of action as desired in defending or when confronted with a criminal allegation especially when provided legal representation by a Public Defender. In this case, not only has a citizen been intentionally accused of a crime out of spite and in retaliation by a small town County wide conspiracy policy by the local Sheriff, Municipality, and State Attorney's Office – the group of conspirators has grown to include the local Public

Defenders office as well as the Judge presiding over the case to which is aware of not having the necessary subject matter jurisdiction yet continues to intentionally and willingly deprive petitioner of what started as his right to the adverse possession of property but has since snowballed into deprivation of his State and Constitutional Rights to a free, fair and speedy trial.

This is a story of the “good ole boy” mentality plaguing small town America where local Governmental and Judicial Representatives intentionally abuse their presumptive immunity in an effort to harm a citizen they are actively discriminating against despite his actions being provided for by State Statute and or Rules of Court, whom they know has committed no crime, for the only reason of covering up for and attempting to assist the intentional depriving acts of others, their friends and colleagues, after that citizen continues to fight the hard fight for FREEDOM.

I very respectfully, humbly yet urgently ask Your Honors to grant Certiorari in this case along with USSC Case No. 20-7834 where this Honorable Court issued a Response Request of which is due on or before August 16, 2021. Please, please address the merits of this case where a defendant has been provided intentional ineffective assistance of counsel, made the court aware of said unsatisfactory representation and requested self representation while providing a written waiver of presence as allowed for by Rules of Court, yet being denied the right to

adequate representation, denied the right to self representation, denied the right to waive appearance – all of this after being denied the right to adverse possession, denied the right to a speedy trial after the State intentionally delayed trial then again postponed trial the morning trial was scheduled to start despite petitioners presence, then issued a capias warrant despite the written waiver of presence and the public defenders presence.

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 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.

This case was originally presented to this Honorable Court in USSC Case No. 20-6207 where 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.

The circuit court denied mandamus claiming a clear legal right to compel law enforcement to enforce the laws of Florida does not exist for a citizen seeking adherence to a law, despite the existence of FS 95.18 which affords the right, “because he has not adversely possessed the subject property for the seven-year period”. Thus, the trial court opined that an adverse possessor does not have the right through mandamus to compel law enforcement to perform its duty as prescribed by State Law until ownership is obtained at the end of the statute of limitations holding period.

Emboldened by this erroneous ruling, and in retaliation to the petitioners legal action and a written complaint to the agency, the Bay County Sheriff’s Office sought, obtained an arrest warrant, and arrested the petitioner for grand theft and criminal mischief simply for exercising his statutory right to adversely possess real property and exercising his constitutional rights to petition the government for redress of grievances.

The trial court erred in denying Mandamus relief requested stating, “Petitioner fails to make a prima facie case that he has a clear legal right to relief sought” (despite the statutory right as provided by Florida Statute 95.18) because “adverse possession without color of title requires seven years of open, continuous,

actual possession”. This statement alone contradicts the Courts decision and reasoning for denying relief requested. Actual possession is a requirement. The right to actual possession is what’s at stake here and is the relief requested. The Court sites Candler Holdings Ltd. I v. Watch Omega Holdings which, in fact, actually originates “As stated in Meyer v. Law, 287 So.2d 37, 40-41 (Fla.1973):” and the Court fails to include the most important words in this case law which is “there are only two ways to ACQUIRE LAND by adverse possession” followed by the exact reason mandamus was requested as “the claimant must show seven years of open, continuous actual possession”. Mandamus was requested to direct the respondents to “enforce a clear legal right to the performance of a clear legal duty” which in this case, was to comply with FS 95.18 and correct its improper doing of criminally trespassing an adverse possessor when the correct action is for the owner of record to seek civil ejection or civil trespass in order to quiet title and remove the cloud of adverse possession.

The trial courts August 13, 2018 Order Denying Mandamus failed to address the relief sought in the original petition as it erred in its understanding and application of the *actual possessory* requirement of FS. 95.18 adverse possession which requires actual possession, for the statute of limitation seven year period, of which serves to expire ones right to commence an action to recover real property. Upon expiration of the seven year holding period, the result is the transfer of title

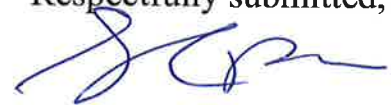
from the owner of record, to the adverse possessor; NOT the establishment of the right to then possess the property. In doing so, the trial court directly prejudiced the petitioners right to possess property under a claim of title exclusive of any other right in accordance with Florida Statutes §95.18- *Adverse Possession without Color of Title* and his ability to satisfy the statute of limitations seven year holding period requirement of hostile, open, continuous, and ***actual possession***. An adverse possessor must provide clear and convincing positive proof that the land adversely possessed has been continuous, open, exclusive, and notoriously possessed for an uninterrupted period of 7 years. Such possession may ripen into title by adverse possession. In Florida, it is *lawful to acquire land by adverse possession* without color of title when the occupant or possessor is an actual, continued the occupation of real property under claim of title, exclusive of any other right, even though not founded on a written instrument. Property is deemed possessed when it has been usually cultivated or improved or it has been protected by substantial enclosure. Furthermore, property is deemed possessed when it has been used for the ordinary use of the occupant, construed to mean a use appropriate to the character and location of the property.

The actions of the State of Florida are depriving the petitioner not only of his statutory right to adverse possession, he is being deprived of his constitutional right to life, liberty, or *property* without due process of law, and he is being deprived of

his constitutional right to due process according to the rules of the common law and the equal protection of these laws. The simple mandamus petition to affirm an adverse possessor's rights and requirements should not have been treated like a standard, quiet title action. The petitioner was unlawfully criminally trespassed from the property in his adverse possession and the trial court was asked to, and should have, declared it wrong given the appropriate remedy is an civil action through judicial procedure in order for all parties claiming an interest to have their day in court to declare and assert their interest for a decision based upon the merits in accordance with state and case law. The decision is not a discretionary one the Sherriff's Office is authorized nor tasked to decide irrationally in the field. The action of criminally trespassing a civil adverse possessor directly infringes upon his constitutional rights to possess property and due process to assert his interests.

Petitioner respectfully preys this Honorable Court grant the petition for rehearing and review this case along with the recently filed related cases to review both the civil and criminal atrocities being committed against him and adverse possessors alike, and discharge him from the criminal sham prosecution.

Respectfully submitted,



/s/Steven Cooper, Pro Se

**CERTIFICATION OF GOOD FAITH**

Petitioner hereby certifies that this rehearing petition is presented in good faith, not for delay, and on the grounds specified in paragraph 2 of Rule 44.

Respectfully submitted,

A handwritten signature in black ink, appearing to read 'S Cooper', is written over the printed name.

/s/Steven Cooper, Pro Se