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CONSTITUTIONAL AND STATUTORY PROVISIONS

ORDER ON DEFENDANT'S MOTION TO STATE AND PROVE JURISDICTION ON THE OFFICIAL RECORD (SEPTEMBER 17, 2020)

IN THE CIRCUIT COURT OF THE FIFTH JUDICIAL CIRCUIT IN AND FOR LAKE COUNTY, FLORIDA

STATE OF FLORIDA,

v.

STEPHEN LOFTIS WHITE,

Defendant.

Court Case No.: 2019-CF-468

OSP No.: 2017-350-ORL

Before: LARRY METZ, Circuit Judge.

ORDER ON DEFENDANT'S MOTION TO STATE AND PROVE JURISDICTION ON THE OFFICIAL RECORD

THIS CAUSE came before the Court for a hearing on August 26, 2020, upon Defendant's Motion to State and Prove Jurisdiction on the Official Record filed on February 20, 2020 ("Motion"). Present for the hearing were counsel for the state, Attorney Robert C. Finkbeiner Jr., and the Defendant, *pro se*, both appearing via ZOOM video conference. The Court, having heard the arguments of each party and being

otherwise fully advised in the premises, finds and concludes as follows:

FINDINGS

1. The Motion can be viewed from two main perspectives. First, based on its title and most of its content, it can be viewed as a request to have jurisdiction stated on the record so that the Defendant can understand and challenge the basis for the state's exercise of jurisdiction over his pending proceeding. Second, it can be viewed as a request by the Defendant to have the Court dismiss this case based on the lack of jurisdiction even though it is not titled a motion to dismiss.

2. The Defendant apparently does not recognize the sovereignty of the State of Florida as an entity that can legally charge him, an individual, with an alleged criminal violation. After all arguments were completed at the hearing, the Court orally recited the historical bases for the State of Florida exercising criminal jurisdiction in this case. The Court briefly recited the history of the English common law from the signing of the Magna Carta in 1215 forward, highlighting the successful American Revolution; the United States of America's acquisition of the territory of Florida from Spain followed by Florida's statehood in 1845; the adoption of the English common law in Florida by statue effective as of July 4, 1776; the adoption of several state constitutions including the current Florida Constitution in 1968, as amended, which established constitutional officers including the circuit courts; and numerous state legislative enactments by duly elected representatives and senators, with the governor's participation, creating a criminal

code and establishing a criminal justice system under the U.S. and Florida Constitutions to administer justice thereunder. Following the Court's recitation of the historical bases for the State of Florida's jurisdiction in criminal cases, the Defendant was asked if he had any questions and he responded that he did not.

3. In addition, the Court finds that the arguments presented in open court by the Office of Statewide Prosecution established the bases, under the Florida Constitution and the pertinent Florida Statutes, for this Court's jurisdiction in this action.

CONCLUSIONS

In view of the foregoing findings and applicable law, it is ORDERED as follows:

A. To the extent the Motion seeks a statement of the basis for, and proof of, this Court's jurisdiction on the official record as the title of the Motion indicates, at the hearing the Court provided the Defendant with a response on the record. This Order summarizes that response.

B. To the extent the Motion seeks dismissal of the pending criminal charges based on lack of jurisdiction, the motion is DENIED.

DONE and ORDERED in Chambers at Tavares, Lake County, Florida this 17th day of September 2020.

/s/ Larry Metz
Circuit Judge

ORDER OF THE DISTRICT COURT OF APPEAL OF THE STATE OF FLORIDA FIFTH DISTRICT (NOVEMBER 17, 2020)

IN THE DISTRICT COURT OF APPEAL OF THE STATE OF FLORIDA FIFTH DISTRICT

STEPHEN LOFTIS WHITE,

Petitioner,

v.

STATE OF FLORIDA,

Respondent.

Case No. 5D20-1938

Before: COHEN, EISNAUGLE, and HARRIS, Judges.

BY ORDER OF THE COURT:

ORDERED that the Petition for Writ of Prohibition, filed September 28, 2020 (certificate of service date) is denied on the merits. *See Topps v. State*, 865 So.2d 1253 (Fla. 2004).

I hereby certify that the foregoing is (a true copy of) the original Court order.

/s/ Sandra B. Williams
Clerk

[SEAL]

Panel: Judges Cohen, Eisnaugle, and Harris

cc:
Bonnie Jean Parrish
Stephen Loftis White
Office of the Attorney General
Hon. Larry Metz

ORDER OF THE SUPREME COURT OF FLORIDA (DECEMBER 21, 2020)

SUPREME COURT OF FLORIDA

STEPHEN LOFTIS WHITE,

Petitioner(s),

v.

STATE OF FLORIDA,

Respondent(s).

Case No. SC20-1850

Lower Tribunal No(s).:
5D20-1938; 352019CF000468AXXXXX

This case is hereby dismissed. This Court lacks jurisdiction to review an unelaborated decision from a district court of appeal that is issued without opinion or explanation or that merely cites to an authority that is not a case pending review in, or reversed or quashed by, this Court. *See Wheeler v. State*, 296 So.3d 895 (Fla. 2020); *Wells v. State*, 132 So.3d 1110 (Fla. 2014); *Jackson v. State*, 926 So.2d 1262 (Fla. 2006); *Gandy v. State*, 846 So.2d 1141 (Fla. 2003); *Stallworth v. Moore*, 827 So.2d 974 (Fla. 2002); *Harrison v. Hyster Co.*, 515 So.2d 1279 (Fla.1987); *Dodi Publ'g Co. v. Editorial Am. S.A.*, 385 So.2d 1369 (Fla. 1980); *Jenkins v. State*, 385 So.2d 1356 (Fla. 1980).

No motion for rehearing or reinstatement will be entertained by the Court.

A True Copy

Test:

/s/ John A. Tomasino
Clerk, Supreme Court

[SEAL]

td
Served:

Wesley Heidt
Stephen Loftis White
Hon. Gary J. Cooney, Clerk
Hon. Larry Edward Metz, Judge
Hon. Sandra B. Williams, Clerk

REPORT AND RECOMMENDATION[1] BY THE UNITED STATES MAGISTRATE JUDGE PHILIP R. LAMMENS (MARCH 30, 2021)

UNITED STATES DISTRICT COURT
MIDDLE DISTRICT OF FLORIDA
OCALA DIVISION

STEPHEN LOFTIS WHITE,

Plaintiff,

v.

NICHOLAS B. COX, ROBERT C. FINKBEINER, JR., and ASHLEY MOODY,

Defendants.

Case No. 5:21-cv-11-CEM-PRL

Before: Philip R. LAMMENS,
United States Magistrate Judge.

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[1] Within 14 days after being served with a copy of the recommended disposition, a party may file written objections to the Report and Recommendation's factual findings and legal conclusions. *See* Fed. R. Civ. P. 72(b)(3); Fed. R. Crim. P. 59(b)(2); 28 U.S.C. § 636(b)(1)(B). A party's failure to file written objections waives that party's right to challenge on appeal any unobjected-to factual finding or legal conclusion the district judge adopts from the Report and Recommendation. *See* 11th Cir. R. 3-1.

This *pro se* Plaintiff, unhappy with pending state court criminal proceedings, filed a Complaint against Nicholas B. Cox, Statewide Prosecutor, Robert C. Finkbeiner, Jr., Chief Assistant Statewide Prosecutor, and Ashley Moody, Florida Attorney General. Plaintiff contests the state court's jurisdiction and asks this Court to enter judgment in his favor in the state court action for "declaratory and Injunctive Relief, in the form of an order compelling Plaintiff's to prove it's asserted jurisdiction or in the alternative, to dismiss the charging instrument and to vacate/discharge any/all judgment's therefrom against White." The defendants have filed a joint motion to dismiss. (Docs. 14), to which Plaintiff has responded (Doc. 19). While he argues that the *Younger* abstention and *Rooker-Feldman* doctrines (both discussed below) don't preclude his claims, his assessment of their application is incorrect.

I. Standard of Review

"A pleading that states a claim for relief must contain . . . a short and plain statement of the claim showing that the pleader is entitled to relief." Fed. R. Civ. P. 8(a)(2). While detailed factual allegations are not required, "[a] pleading that offers 'labels and conclusions' or 'a formulaic recitation of the elements of a cause of action will not do.'" *Ashcroft v. Iqbal*, 556 U.S. 662, 129 S.Ct. 1937, 173 L.Ed.2d 868 (2009) (quoting *Bell Atl. Corp. v. Twombly*, 550 U.S. 544, 555, 127 S.Ct. 1955, 167 L.Ed.2d 929 (2007)). "To survive a motion to dismiss, a complaint must contain sufficient factual matter, accepted as true, to 'state a claim to relief that is plausible on its face.'" *Id.* (quoting *Twombly*, 550 U.S. at 570). The court must view the allegations of the complaint in the light

most favorable to the plaintiff, consider the allegations of the complaint as true, and accept all reasonable inferences therefrom. *La Grasta v. First Union Sec.*, Inc., 358 F.3d 840, 845 (11th Cir. 2004). In considering the sufficiency of the complaint, the court limits its "consideration to the well-pleaded factual allegations, documents central to or referenced in the complaint, and matters judicially noticed." *Id.*

The Eleventh Circuit utilizes a two-pronged approach in its application of the holding in *Ashcroft* and *Twombly*. First, the Court must "eliminate any allegations in the complaint that are merely legal conclusions," and then, "where there are well-pleaded factual allegations, 'assume their veracity and then determine whether they plausibly give rise to an entitlement to relief." *American Dental Ass'n v. Cigna Corp.*, 605 F.3d 1283, 1290 (11th Cir. 2010) (quoting *Iqbal*, 129 S.Ct. at 1949). A well-pled complaint may proceed even if it strikes a savvy judge that actual proof of those facts is improbable, and "that a recovery is very remote and unlikely." *Twombly*, 550-2 U.S. at 556. The issue to be decided when considering a motion to dismiss is not whether the claimant will ultimately prevail, but "whether the claimant is entitled to offer evidence to support the claims." *Scheuer v. Rhodes*, 416 U.S. 232, 236 (1974), overruled on other grounds by *Davis v. Scheuer*, 468 U.S. 183 (1984).

II. Background

Here, Plaintiff is complaining about his ongoing state court criminal case (case no. 19-CF-468-03), pending in the Fifth Judicial Circuit in Lake County,

Florida[2]. The docket reflects that Plaintiff has been charged with Grand Theft ($100,000 or more) and criminal use of personal identification, and that Mr. Finkbeiner (a defendant in this case) is the prosecuting State Attorney. (Doc. 14-1). *See Ronet v. Clerk of the Thirteenth Judicial Circuit Court in and for Hillsborough County*, No. 6:08-cv-1748-Orl-31KRS, 2008 WL 5110820, at *1 (M.D. Fla. Dec.2, 2008) (noting court may consider records outside the pleadings when determining whether a complaint under § 1915 should be dismissed as frivolous).

Plaintiff attached to the Complaint various documents related to jurisdiction in his state court criminal case. On February 20, 2020, Plaintiff filed a "Motion to State and Prove Jurisdiction on the Official Record." (Doc. 1 at 16-32). On September 17, 2020, the trial court entered an order finding that Plaintiff was provided with the basis for and proof of the trial court's jurisdiction and denied Plaintiff's Motion to Dismiss his pending criminal charges. (*Id.* at 34-35). Plaintiff appealed the state court order which the Fifth District Court of Appeal treated as a Petition for Writ of Prohibition. (Doc. 14-5, 14-6). Plaintiff also attached an order from the Fifth District Court of Appeal, Case No. 5D20-1938, which denied his Petition for Writ of Prohibition on the merits. (Doc. 1. at 37). Plaintiff appealed the Fifth District Court of Appeal's decision to the Florida Supreme Court, which was also dismissed. (*Id.* At 39). Now, in this action, Plaintiff asks this Court to "reverse said case back to the original

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[2] The docket for this case can be accessed electronically at: https://courtrecords.lakecountyclerk.org/showcaseweb/#!/case details

court and put said jurisdiction on the record . . . " (*Id.* at 13).

III. Discussion

This Court lacks jurisdiction to intervene in Plaintiff's ongoing state court criminal proceedings. Under *Younger v. Harris*, 401 U.S. 37 (1971), and its progeny, district courts are instructed to "refrain from enjoining pending state court proceedings except under special circumstances." *Old Republic Union Insurance Co. v. Tillis Trucking Co., Inc.*, 124 F.3d 1258, 1261 (11th Cir. 1997) (explaining that *Younger* abstention applies to injunctions and declaratory judgments that would effectively enjoin state proceedings). The *Younger* abstention doctrine is based on the premise that a pending state prosecution will provide the accused with a sufficient chance to vindicate his federal rights. *Turner v. Broward Sheriff's Office*, 542 Fed. Appx. 764, 766 (11th Cir. 2013)

In determining the applicability of this doctrine, the Court asks three questions: "first, do the proceedings constitute an ongoing state judicial proceeding; second, do [the proceedings] implicate important state interests; and third, is there an adequate opportunity in the state proceedings to raise constitutional challenges." 31 *Foster Children v. Bush*, 329 F.3d 1255, 1274 (11th Cir. 2003) (quoting *Middlesex County Ethics Committee v. Garden State Bar Association*, 457 U.S. 423, 432, 102 S.Ct. 2515, 73 L.Ed.2d 116 (1982)). If the answer to those inquiries is "yes," then federal courts must abstain from intervention in the ongoing, state-court proceedings.

Here, there is no question that abstention is appropriate since the state criminal proceedings against

Plaintiff were (and still are) pending; the criminal proceedings involve important state interests; and Plaintiff has already raised the same jurisdictional arguments he is raising now in the state criminal proceedings.

Moreover, if a final judgment is entered in the state court before this matter is resolved, this Court should dismiss Plaintiff's Complaint for lack of subject-matter jurisdiction under the *Rooker-Feldman* doctrine.[3] This doctrine, "places limits on the subject matter jurisdiction of federal district courts and courts of appeal over certain matters related to previous state court litigation." *Goodman ex rel. Goodman v. Sipos*, 259 F.3d 1327, 1332 (11th Cir. 2001). It precludes "lower federal courts . . . from exercising appellate jurisdiction over final state-court judgments." *Nicholson v. Shafe*, 558 F.3d 1266, 1268 (11th Cir. 2009) (citation and internal quotation marks omitted). The doctrine applies in "cases brought by state-court losers complaining of injuries caused by state-court judgments rendered before the district court proceedings commenced and inviting district court review and rejection of those judgments." *Exxon Mobil Corp. v. Saudi Basic Indus. Corp.*, 544 U.S. 280, 284, 125 S.Ct. 1517, 161 L.Ed.2D 454 (2005).

Accordingly, because Plaintiff has failed to allege a cognizable cause of action within the Court's limited jurisdiction, it is recommended that the motion to dismiss (Doc. 14) be granted and the Complaint (Doc.

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[3] *See Rooker v. Fidelity Trust Co.*, 263 U.S. 413, 415-16, 44 S.Ct. 149, 150, 68 L.Ed. 362 (1923); *District of Columbia Court of Appeals v. Feldman*, 460 U.S. 462, 476-82, 103 S.Ct. 1303, 1311-15, 75 L.Ed.2d 206 (1983).

1) be dismissed. This Court is without jurisdiction to re-litigate the underlying state court action.

Recommended in Ocala, Florida on March 30, 2021.

/s/ Philip R. Lammens
United States Magistrate Judge

Copies furnished to:

Presiding District Judge
Counsel of Record
Unrepresented Party
Courtroom Deputy

ORDER ADOPTING REPORT AND RECOMMENDATION (APRIL 12, 2021)

UNITED STATES DISTRICT COURT
MIDDLE DISTRICT OF FLORIDA
OCALA DIVISION

STEPHEN LOFTIS WHITE,

Plaintiff,

v.

NICHOLAS B. COX, ROBERT C. FINKBEINER, JR., and ASHLEY MOODY,

Defendants.

Case No. 5:21-cv-11-CEM-PRL

Before: Carlos E. MENDOZA, United States District Judge.

THIS CAUSE is before the Court on Defendant's Motion to Dismiss (Doc.14) and Plaintiff's Response (Doc. 19). The United States Magistrate Judge issued a Report and Recommendation ("R&R," Doc. 20), recommending that the Motion to Dismiss be granted and that this case be dismissed for lack of jurisdiction under the Younger abstention doctrine and the *Rooker-Feldman* doctrine. Plaintiff filed Objections (Doc. 22) to the R&R.

Pursuant to 28 U.S.C. § 636(b)(1), when a party makes a timely objection, the Court shall review *de novo* any portions of a magistrate judge's report and recommendation concerning specific proposed findings or recommendations to which an objection is made. *See also Fed. R. Civ. P.* 72(b)(3). *De novo* review "require[s] independent consideration of factual issues based on the record." *Jeffrey S. v. State Bd. of Educ. of Ga.*, 896 F.2d 507, 513 (11th Cir. 1990) (per curiam). The district court "may accept, reject, or modify, in whole or in part, the findings or recommendations made by the magistrate judge." 28 U.S.C. § 636(b)(1). Many of Plaintiff's Objections go to the merits of his underlying claim, but the Court cannot address those issues because it lacks jurisdiction. Plaintiff also argues that both *Younger* abstention and the *Rooker-Feldman* doctrine have been limited and weakened over time. While Plaintiff is correct that they are both of limited application, the case currently before the Court falls squarely within the required parameters. As set forth in the R&R, Plaintiff is asking this Court to reverse a decision of the state court, which is impermissible. (Doc. 20 at 4–5). Accordingly, the Magistrate Judge's recommended disposition is accepted.

Therefore, it is ORDERED and ADJUDGED as follows:

1. Defendant's Motion to Dismiss (Doc. 14) is GRANTED.

2. The Report and Recommendation (Doc. 20) is ADOPTED and made a part of this Order.

3. This case is DISMISSED for lack of subject matter jurisdiction.

DONE and ORDERED in Orlando, Florida on April 12, 2021.

/s/ Carlos E Mendoza
United States District Judge

Copies furnished to:

Counsel of Record
Unrepresented Party

OPINION OF THE UNITED STATES COURT OF APPEALS FOR THE ELEVENTH CIRCUIT (NOVEMBER 29, 2021)

IN THE UNITED STATES COURT OF APPEALS
FOR THE ELEVENTH CIRCUIT

STEPHEN LOFTIS WHITE,

Plaintiff-Appellant,

v.

NICHOLAS B. COX, ROBERT C. FINKBEINER, JR., ATTORNEY GENERAL, STATE OF FLORIDA,

Defendants-Appellees.

No. 21-11337

Appeal from the United States
District Court for the Middle District of Florida
D.C. Docket No. 5:21-cv-00011-CEM-PRL

Before: WILSON, BRASHER, and ANDERSON, Circuit Judges.

PER CURIAM:

Stephen Loftis White, proceeding *pro se*, appeals following the dismissal of his civil complaint under the *Younger*[1] abstention doctrine. Briefly summarized, court filings show that the State of Florida charged

[1] *Younger v. Harris*, 401 U.S. 37 (1971)

White with two criminal violations in state court in 2019 (*White I*). White later pled not guilty and, at one point, challenged the state court's jurisdiction to preside over his case, without success. In the interim, he filed, in January 2021, the present suit in the Middle District of Florida, which he styled as a "Jurisdictional Complaint."

In the present complaint, White argued that the state court violated the separation of powers and his constitutional rights of due process and equal protection because the state court lacked jurisdiction to preside over *White I*. He did not allege or attach any documents showing that the proceedings in *White I* had concluded. Thus, the named defendant, the state, moved to dismiss White's federal complaint under the *Younger* abstention doctrine. The state so moved both because White's criminal case was pending in state court and because any constitutional violations that White alleged were occurring in his prosecution could be adequately addressed in the state proceedings. The district court agreed and dismissed his suit based on, *inter alia*, *Younger*.[2] On appeal, White reiterates that in his state criminal case, the state trial court violated his due process rights because it failed to sufficiently establish jurisdiction. Nevertheless, he does not cite to *Younger* or mention the abstention doctrine which served as

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[2] The district court alternatively addressed his complaint under the *Rooker-Feldman* doctrine. *See Rooker v. Fidelity Trust Co.*, 263 U.S. 413 (1923); D.C.Ct. of *Appeals v. Feldman*, 460 U.S. 462 (1983). Because the state court proceeding is still pending and we may affirm on any ground supported by the record, *see United States v. Gibbs*, 917 F.3d 1289, 1293 n.1 (11th Cir. 2019), that we need not discuss that doctrine further.

the basis, in part, for dismissing his action, although he does do so in his reply brief.

I.

We review the district court's decision to apply the Younger abstention doctrine for an abuse of discretion. *31 Foster Children v. Bush*, 329 F.3d 1255, 1274 (11th Cir. 2003). A district court abuses its discretion when it makes an error of law. *United States v. Pruitt*, 174 F.3d 1215, 1219 (11th Cir. 1999).

While we interpret briefs filed by *pro se* litigants liberally, issues not briefed on appeal are deemed abandoned. *Timson v. Sampson,* 518 F.3d 870, 874 (11th Cir. 2008) (per curiam). Moreover, we do not address arguments raised for the first time in a prose litigant's reply brief. *Id.*

II.

We note that White has abandoned any challenge to the district court's determination because, although he asserts that we have jurisdiction over constitutional claims generally, he does not expressly discuss *Younger* or abstention until his reply brief. *Id.*

Moreover, even if we deem a challenge to *Younger* abstention implicitly preserved, it still fails. In *Younger*, the Supreme Court reaffirmed the doctrine disfavoring federal court intervention in ongoing state court criminal prosecutions unless "absolutely necessary for protection of constitutional rights." *Younger*, 401 U.S. at 43-46. Younger abstention applies to both claims for injunctive relief and for declaratory judgment that would effectively enjoin state proceedings. *See*

Old Republic Union Ins. Co. v. Tillis Trucking Co., 124 F.3d 1258, 1261 (11th Cir. 1997).

For *Younger* abstention to apply, three conditions must be met: (1) state judicial proceedings must be ongoing and the relief sought by the plaintiff would interfere with the proceedings, (2) the proceedings must implicate important state interests, and (3) the federal plaintiff must have an adequate opportunity to raise constitutional challenges in the state court proceedings. 31 *Foster Children*, 329 F.3d at 1274. All three elements are met here.

For the first factor, White's state criminal proceeding was pending at the time he filed his complaint in the district court, in January 2021. *See Liedel v. Juv. Ct. of Madison Cnty.*, 891 F.2d 1542, 1546 n.6 (11th Cir. 1990). Further, because White explicitly asked the district court to dismiss the charging instrument and Opinion of the Court 5 vacate or discharge all judgments, the relief he sought would have interfered with the state proceeding.

For the second factor, *Younger* applies to pending state court criminal prosecutions like White's. *Younger*, 401 U.S. at 42.

For the third factor, White has the burden of showing that the state court proceeding will not provide him an adequate remedy for his federal claim. 31 *Foster Children,* 329 F.3d at 1279. He does not present any authority to the contrary in the face of the presumption that a state's procedures will afford the plaintiff an adequate remedy. *Id.* In fact, White had the opportunity to raise his jurisdictional concerns in the state trial court, the state appellate court, and the Florida Supreme Court.

Nor does the bad faith exception to the *Younger* abstention doctrine apply here. *See Redner v. Citrus Cnty.*, 919 F.2d 646, 649 (11th Cir. 1990) (explaining that exceptions to *Younger* abstention include bad faith, harassment, or a patently invalid state statute). A proceeding is initiated in bad faith if it is brought without a reasonable expectation of obtaining a valid conviction. *Id.* at 650. The bad faith exception requires a substantial allegation that shows actual bad faith. *See Younger*, 401 U.S. at 48. White did not allege any facts showing that the state charged him criminally without having a reasonable expectation of a finding of guilt or a favorable outcome. *See Redner*, 919 F.2d at 650. Furthermore, in denying White's motion to state and prove jurisdiction on the official record, the state trial court addressed White's jurisdictional concerns, as did the state appellate court.

III.

Applying the principles set forth above, we conclude that the district court did not abuse its discretion in dismissing White's complaint under the Younger abstention doctrine. Accordingly, we affirm.

AFFIRMED.

CONSTITUTIONAL AND STATUTORY PROVISIONS INVOLVED

"Due Process" clause of Florida Constitution, Article I, Section 9:

> No person shall be deprived of life, liberty or property without due process of law, or be twice put in jeopardy for the same offense, or be compelled in any criminal matter to be a witness against oneself.

"Due Process" clause; U.S. Constitution, Fourteenth Amendment:

> Section 1. All persons born or naturalized in the United States, and subject to the jurisdiction thereof, are citizens of the United States and of the State wherein they reside. 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.

"Equal before the law" clause of Florida Constitution, Article I, Section 2:

> All natural persons, female and male alike, are equal before the law and have inalienable rights, among which are the right to enjoy and defend life and liberty, to pursue happiness, to be rewarded for industry, and to acquire, possess and protect property. No person shall be deprived

of any right because of race, religion, national origin, or physical disability.

"Equal Protection" clause; U.S. Constitution, Fourteenth Amendment:

Section 1. All persons born or naturalized in the United States, and subject to the jurisdiction thereof, are citizens of the United States and of the State wherein they reside. 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.

"Separation of Powers" clause; Florida Constitution; Article II: General Provisions

Section 3. Branches of government.—The powers of the state government shall be divided into legislative, executive and judicial branches. No person belonging to one branch shall exercise any powers appertaining to either of the other branches unless expressly provided herein.

Separation of Powers in the U.S. Constitution U.S. Constitution, Article I, Section 7:

Clause 1:

All Bills for raising Revenue shall originate in the House of Representatives; but the Senate may propose or concur with Amendments as on other Bills.

Clause 2:

Every Bill which shall have passed the House of Representatives and the Senate, shall, before it become a Law, be presented to the President of the United States; If he approve he shall sign it, but if not he shall return it, with his Objections to that House in which it shall have originated, who shall enter the Objections at large on their Journal, and proceed to reconsider it. If after such Reconsideration two thirds of that House shall agree to pass the Bill, it shall be sent, together with the Objections, to the other House, by which it shall likewise be reconsidered, and if approved by two thirds of that House, it shall become a Law. But in all such Cases the Votes of both Houses shall be determined by yeas and Nays, and the Names of the Persons voting for and against the Bill shall be entered on the Journal of each House respectively. If any Bill shall not be returned by the President within ten Days (Sundays excepted) after it shall have been presented to him, the Same shall be a Law, in like Manner as if he had signed it, unless the Congress by their Adjournment prevent its Return, in which Case it shall not be a Law.

Clause 3:

Every Order, Resolution, or Vote to which the Concurrence of the Senate and House of Representatives may be necessary (except on a question of Adjournment) shall be presented to the President of the United States; and before the Same shall take Effect, shall be approved by him, or being disapproved by him, shall be repassed by

two thirds of the Senate and House of Representatives, according to the Rules and Limitations prescribed in the Case of a Bill.

United States Constitution; Article II, Section 1, Clause 1:

The executive Power shall be vested in a President of the United States of America. He shall hold his Office during the Term of four Years, and, together with the Vice President, chosen for the same Term . . .

United States Constitution; Article II, Section 2, Clause 2:

He shall have Power, by and with the Advice and Consent of the Senate, to make Treaties, provided two thirds of the Senators present concur; and he shall nominate, and by and with the Advice and Consent of the Senate, shall appoint Ambassadors, other public Ministers and Consuls, Judges of the supreme Court, and all other Officers of the United States, whose Appointments are not herein otherwise provided for, and which shall be established by Law: but the Congress may by Law vest the Appointment of such inferior Officers, as they think proper, in the President alone, in the Courts of Law, or in the Heads of Departments.

United States Constitution Article III

Section 1

The judicial Power of the United States, shall be vested in one supreme Court, and in such inferior Courts as the Congress may from time to time ordain and establish. The Judges, both of the

supreme and inferior Courts, shall hold their Offices during good Behaviour, and shall, at stated Times, receive for their Services, a Compensation, which shall not be diminished during their Continuance in Office.

Section 2

The judicial Power shall extend to all Cases, in Law and Equity, arising under this Constitution, the Laws of the United States, and Treaties made, or which shall be made, under their Authority;—to all Cases affecting Ambassadors, other public Ministers and Consuls;—to all Cases of admiralty and maritime Jurisdiction;—to Controversies to which the United States shall be a Party;—to Controversies between two or more States;—between a State and Citizens of another State, between Citizens of different States,—between Citizens of the same State claiming Lands under Grants of different States, and between a State, or the Citizens thereof, and foreign States, Citizens or Subjects.

In all Cases affecting Ambassadors, other public Ministers and Consuls, and those in which a State shall be Party, the supreme Court shall have original Jurisdiction. In all the other Cases before mentioned, the supreme Court shall have appellate Jurisdiction, both as to Law and Fact, with such Exceptions, and under such Regulations as the Congress shall make.

The Trial of all Crimes, except in Cases of Impeachment, shall be by Jury; and such Trial shall be held in the State where the said Crimes shall have been committed; but when not com-

mitted within any State, the Trial shall be at such Place or Places as the Congress may by Law have directed.

Section 3

Treason against the United States, shall consist only in levying War against them, or in adhering to their Enemies, giving them Aid and Comfort. No Person shall be convicted of Treason unless on the Testimony of two Witnesses to the same overt Act, or on Confession in open Court.

The Congress shall have Power to declare the Punishment of Treason, but no Attainder of Treason shall work Corruption of Blood, or Forfeiture except during the Life of the Person attainted.

Rule E. Actions in Rem and Quasi in Rem: General Provisions

(8) Restricted Appearance. An appearance to defend against an admiralty and maritime claim with respect to which there has issued process in rem, or process of attachment and garnishment, may be expressly restricted to the defense of such claim, and in that event is not an appearance for the purposes of any other claim with respect to which such process is not available or has not been served.

"Florida Evidence Code"
FL Stat § 90.101-958 (2019-2020);

90.804 Hearsay exceptions; declarant unavailable.

(1) Definition of Unavailability.—"Unavailability as a witness" means that the declarant:

(a) Is exempted by a ruling of a court on the ground of privilege from testifying concerning the subject matter of the declarant's statement;

(b) Persists in refusing to testify concerning the subject matter of the declarant's statement despite an order of the court to do so;

(c) Has suffered a lack of memory of the subject matter of his or her statement so as to destroy the declarant's effectiveness as a witness during the trial;

(d) Is unable to be present or to testify at the hearing because of death or because of then-existing physical or mental illness or infirmity; or

(e) Is absent from the hearing, and the proponent of a statement has been unable to procure the declarant's attendance or testimony by process or other reasonable means. However, a declarant is not unavailable as a witness if such exemption, refusal, claim of lack of memory, inability to be present, or absence is due to the procurement or wrongdoing of the party who is the proponent of his or her statement in preventing the witness from attending or testifying.

(2) Hearsay Exceptions.—The following are not excluded under s. 90.802, provided that the declarant is unavailable as a witness:

(a) Former testimony.—Testimony given as a witness at another hearing of the same or a different proceeding, or in a deposition taken in compliance with law in the course of the same or another proceeding, if the party against whom the testimony is now offered, or, in a civil action or proceeding, a predecessor in interest, had an opportunity and similar motive to develop the testimony by direct, cross, or redirect examination.

(b) Statement under belief of impending death.—In a civil or criminal trial, a statement made by a declarant while reasonably believing that his or her death was imminent, concerning the physical cause or instrumentalities of what the declarant believed to be impending death or the circumstances surrounding impending death.

(c) Statement against interest.—A statement which, at the time of its making, was so far contrary to the declarant's pecuniary or proprietary interest or tended to subject the declarant to liability or to render invalid a claim by the declarant against another, so that a person in the declarant's position would not have made the statement unless he or she believed it to be true. A statement tending to expose the declarant to criminal liability and offered to exculpate the accused is inadmissible, unless corroborating circumstances show the trustworthiness of the statement.

(d) Statement of personal or family history.—A statement concerning the declarant's own birth, adoption, marriage, divorce, parentage, ancestry, or other similar fact of personal or family history, including relationship by blood, adoption, or marriage, even though the declarant had no means of acquiring personal knowledge of the matter stated.

(e) Statement by deceased or ill declarant similar to one previously admitted.—In an action or proceeding brought against the personal representative, heir at law, assignee, legatee, devisee, or survivor of a deceased person, or against a trustee of a trust created by a deceased person, or against the assignee, committee, or guardian of a mentally incompetent person, when a declarant is unavailable as provided in paragraph (1)(d), a written or oral statement made regarding the same subject matter as another statement made by the declarant that has previously been offered by an adverse party and admitted in evidence.

(f) Statement offered against a party that wrongfully caused the declarant's unavailability.—A statement offered against a party that wrongfully caused, or acquiesced in wrongfully causing, the declarant's unavailability as a witness, and did so intending that result.

90.805 Hearsay within hearsay.—

Hearsay within hearsay is not excluded under s. 90.802, provided each part of the combined

statements conforms with an exception to the hearsay rule as provided in s. 90.803 or s. 90.804.

History.—s. 1, ch. 76-237; s. 1, ch. 77-77; s. 22, ch. 78-361; s. 1, ch. 78-379.

90.902 Self-authentication.—

Extrinsic evidence of authenticity as a condition precedent to admissibility is not required for:

(1) A document bearing:

(a) A seal purporting to be that of the United States or any state, district, commonwealth, territory, or insular possession thereof; the Panama Canal Zone; the Trust Territory of the Pacific Islands; or a court, political subdivision, department, officer, or agency of any of them; and

(b) A signature by the custodian of the document attesting to the authenticity of the seal.

(2) A document not bearing a seal but purporting to bear a signature of an officer or employee of any entity listed in subsection (1), affixed in the officer's or employee's official capacity.

(3) An official foreign document, record, or entry that is:

(a) Executed or attested to by a person in the person's official capacity authorized by the laws of a foreign country to make the execution or attestation; and

(b) Accompanied by a final certification, as provided herein, of the genuineness of the signature and official position of:

1. The executing person; or

2. Any foreign official whose certificate of genuineness of signature and official position relates to the execution or attestation or is in a chain of certificates of genuineness of signature and official position relating to the execution or attestation. The final certification may be made by a secretary of an embassy or legation, consul general, consul, vice consul, or consular agent of the United States or a diplomatic or consular official of the foreign country assigned or accredited to the United States. When the parties receive reasonable opportunity to investigate the authenticity and accuracy of official foreign documents, the court may order that they be treated as presumptively authentic without final certification or permit them in evidence by an attested summary with or without final certification.

(4) A copy of an official public record, report, or entry, or of a document authorized by law to be recorded or filed and actually recorded or filed in a public office, including data compilations in any form, certified as correct by the custodian or other person authorized to make the certification by certificate complying with subsection (1), subsection (2), or subsection (3) or complying with any act of the Legislature or rule adopted by the Supreme Court.

(5) Books, pamphlets, or other publications purporting to be issued by a governmental authority.

(6) Printed materials purporting to be newspapers or periodicals.

(7) Inscriptions, signs, tags, or labels purporting to have been affixed in the course of business and indicating ownership, control, or origin.

(8) Commercial papers and signatures thereon and documents relating to them, to the extent provided in the Uniform Commercial Code.

(9) Any signature, document, or other matter declared by the Legislature to be presumptively or prima facie genuine or authentic.

(10) Any document properly certified under the law of the jurisdiction where the certification is made.

(11) An original or a duplicate of evidence that would be admissible under s. 90.803 (6), which is maintained in a foreign country or domestic location and is accompanied by a certification or declaration from the custodian of the records or another qualified person certifying or declaring that the record:

(a) Was made at or near the time of the occurrence of the matters set forth by, or from information trans-

mitted by, a person having knowledge of those matters;

(b) Was kept in the course of the regularly conducted activity; and

(c) Was made as a regular practice in the course of the regularly conducted activity, provided that falsely making such a certification or declaration would subject the maker to criminal penalty under the laws of the foreign or domestic location in which the certification or declaration was signed.

(12) A legal notice published in accordance with the requirements of chapter 50 in the print edition or on the website of a qualified newspaper.

90.955 Public records.—

(1) The contents of an official record or of a document authorized to be recorded or filed, and actually recorded or filed, with a governmental agency, either federal, state, county, or municipal, in a place where official records or documents are ordinarily filed, including data compilations in any form, may be proved by a copy authenticated as provided in s. 90.902, if otherwise admissible.

(2) If a party cannot obtain, by the exercise of reasonable diligence, a copy that complies with subsection (1), other evidence of the contents is admissible.

90.402 Admissibility of relevant evidence.—

All relevant evidence is admissible, except as provided by law.

Florida Statutes, Title VII Evidence
FL Stat § 92.525 (2019-2020)
Chapter 92 Witnesses, Records, and Documents
Section 525 Verification of documents; perjury by false written declaration, penalty.

92.525 Verification of documents; perjury by false written declaration, penalty.—

(1) If authorized or required by law, by rule of an administrative agency, or by rule or order of court that a document be verified by a person, the verification may be accomplished in the following manner:

(a) Under oath or affirmation taken or administered before an officer authorized under s. 92.50 to administer oaths;

(b) Under oath or affirmation taken or administered by an officer authorized under s. 117.10 to administer oaths; or

(c) By the signing of the written declaration prescribed in subsection (2).

(2) A written declaration means the following statement: "Under penalties of perjury, I declare that I have read the foregoing [document] and that the facts stated in it are true," followed by the signature of the person making the declaration, except when a verification on information or belief is permitted by law, in which case the words "to the best of my knowledge and belief" may be added. The written declaration shall be printed or typed at the end of or imme-

diately below the document being verified and above the signature of the person making the declaration.

(3) A person who knowingly makes a false declaration under subsection (2) is guilty of the crime of perjury by false written declaration, a felony of the third degree, punishable as provided in s. 775.082, s. 775.083, or s. 775.084.

(4) As used in this section:

(a) The term "administrative agency" means any department or agency of the state or any county, municipality, special district, or other political subdivision.

(b) The term "document" means any writing including, without limitation, any form, application, claim, notice, tax return, inventory, affidavit, pleading, or paper.

(c) The requirement that a document be verified means that the document must be signed or executed by a person and that the person must state under oath or affirm that the facts or matters stated or recited in the document are true, or words of that import or effect.

Federal Rules of Evidence
Rule 803 Exceptions to the Rule Against Hearsay

(6) Records of a Regularly Conducted Activity. A record of an act, event, condition, opinion, or diagnosis if:

(A) the record was made at or near the time by —or from information transmitted by—someone with knowledge;

(B) the record was kept in the course of a regularly conducted activity of a business, organization, occupation, or calling, whether or not for profit;

(C) making the record was a regular practice of that activity;

(D) all these conditions are shown by the testimony of the custodian or another qualified witness, or by a certification that complies with Rule 902(11) or (12) or with a statute permitting certification; and

(E) the opponent does not show that the source of information or the method or circumstances of preparation indicate a lack of trustworthiness.

(8) Public Records. A record or statement of a public office if:

(A) it sets out: the office's activities; a matter observed while under a legal duty to report, but not including, in a criminal case, a matter observed by law-enforcement personnel; or in a civil case or against the government in a criminal case, factual findings from a legally authorized investigation; and

(B) the opponent does not show that the source of information or other circumstances indicate a lack of trustworthiness.

(14) Records of Documents That Affect an Interest in Property. The record of a document that purports to establish or affect an interest in property if: the record is admitted to prove the content of the original recorded document, along with its

signing and its delivery by each person who purports to have signed it; the record is kept in a public office; and a statute authorizes recording documents of that kind in that office.

(15) Statements in Documents That Affect an Interest in Property. A statement contained in a document that purports to establish or affect an interest in property if the matter stated was relevant to the document's purpose—unless later dealings with the property are inconsistent with the truth of the statement or the purport of the document.

Rule 901. Authenticating or Identifying Evidence

(7) Evidence About Public Records. Evidence that:

(A) a document was recorded or filed in a public office as authorized by law; or

(B) a purported public record or statement is from the office where items of this kind are kept.

Rule 902. Evidence That Is Self-Authenticating

The following items of evidence are self-authenticating; they require no extrinsic evidence of authenticity in order to be admitted:

(1) Domestic Public Documents That Are Sealed and Signed. A document that bears:

(A) a seal purporting to be that of the United States; any state, district, commonwealth, territory, or insular possession of the United States; the former Panama Canal Zone; the Trust Territory of the Pacific Islands; a

political subdivision of any of these entities; or a department, agency, or officer of any entity named above; and

(B) a signature purporting to be an execution or attestation.

[. . .]

(4) Certified Copies of Public Records. A copy of an official record—or a copy of a document that was recorded or filed in a public office as authorized by law—if the copy is certified as correct by:

(A) the custodian or another person authorized to make the certification; or

(B) a certificate that complies with Rule 902(1), (2), or (3), a federal statute, or a rule prescribed by the Supreme Court.

[. . .]

(11) Certified Domestic Records of a Regularly Conducted Activity. The original or a copy of a domestic record that meets the requirements of Rule 803(6) (A)-(C), as shown by a certification of the custodian or another qualified person that complies with a federal statute or a rule prescribed by the Supreme Court. Before the trial or hearing, the proponent must give an adverse party reasonable written notice of the intent to offer the record—and must make the record and certification available for inspection—so that the party has a fair opportunity to challenge them.

FRCP 26(b)(1)
Rule 26. Duty to Disclose; General Provisions Governing Discovery

(b) Discovery Scope and Limits.

(1) Scope in General. Unless otherwise limited by court order, the scope of discovery is as follows: Parties may obtain discovery regarding any non-privileged matter that is relevant to any party's claim or defense and proportional to the needs of the case, considering the importance of the issues at stake in the action, the amount in controversy, the parties' relative access to relevant information, the parties' resources, the importance of the discovery in resolving the issues, and whether the burden or expense of the proposed discovery outweighs its likely benefit. Information within this scope of discovery need not be admissible in evidence to be discoverable.