

ORIGINAL

No. _____

21 - 6725

IN THE

SUPREME COURT OF THE UNITED STATES

RUSS SCOHY

vs.

PINELLAS COUNTY CODE ENFORCEMENT
DIVISION, ET AL

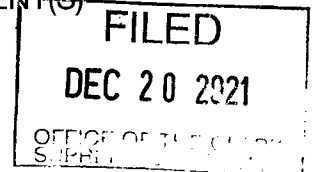
PETITIONER
ORIGINAL

— RESPONDENT(S)

ON PETITION FOR A WRIT OF CERTIORARI TO
Supreme Court of Florida

PETITION FOR WRIT OF CERTIORARI

RUSS SCOHY
5421 33RD ST N
ST PETERSBERG, FLORIDA 33714
720 249-7708



QUESTION(S) PRESENTED

The importance to the public of the issues.

Appeal issues

- 1. Trespass by government officials without warrant violates constitutional law.**
- 2. Illegal search & seizure violate constitutional law.**
- 3. Excessive fees resulting in loss of properties are not settled law, but are a national issue of particular concern to the citizenry.**
- 4. Unequal access to the courts for Pro Se defendants including through failing uploads to the E-Filing System, and lack of support for assistance and corrections place undue burdens on Pro Se defendants punishing them for poverty and resulting in inability to meet deadlines.**

LIST OF PARTIES

☒ All parties appear in the caption of the case on the cover page.

☐ All parties do not appear in the caption of the case on the cover page. A list of all parties to the proceeding in the court whose judgment is the subject of this petition is as follows:

Pinellas County Code Enforcement Division, 631 Chestnut St, Clearwater, Florida 33756

RELATED CASES

**Before Pinellas County Code Enforcement Special Magistrate
Case #CM20-00009**

**Sixth District Court Of Appeal For the State of Florida
Reference # 20-0055AP-88B UCN: 522020AP000055XXXXCI**

**Second District Court Of Appeal For the State of Florida
Case #2D21-1815, LT: 20-55AP-88B UCN: 522020AP000055XXXXCI**

**Supreme Court of the State of Florida
Case #SC21-1313**

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APPENDIX B 6th Judicial order Dismissing appeal

APPENDIX C 2nd District Appellee Answer Brief order to show cause

APPENDIX D 2nd District Certificate Of Service

APPENDIX E Special Mag CM20-00009 - RDF Reit - Motion for Rehearing

APPENDIX F Special Mag CM20-00009 - RDF Reit - ^{RESPONSE TO} Order Motion for Rehearing

APPENDIX G Special Magistrate PC Resp to RDF REIT Motion for Rehearing CM20-00009

TABLE OF AUTHORITIES CITED

CASES

PAGE NUMBER

In text below

STATUTES AND RULES

IN THE
SUPREME COURT OF THE UNITED STATES

PETITION FOR WRIT OF CERTIORARI

Petitioner respectfully prays that a writ of certiorari issue to review the judgment below.

OPINIONS BELOW

☐ For cases from **federal courts**:

The opinion of the United States court of appeals appears at Appendix
the petition and is

☐ reported at _____ ; or,
☐ has been designated for publication but is not yet reported; or,
☐ is unpublished.

The opinion of the United States district court appears at Appendix
the petition and is

☐ reported at _____ ; or,
☐ has been designated for publication but is not yet reported; or,
☐ is unpublished.

☒ For cases from **state courts**:

☒ The opinion of the highest state court to review the merits appears at Appendix A to
the petition and is unpublished.

☐ reported at _____ ; or,
☐ has been designated for publication but is not yet reported; or,
☐ is unpublished.

The opinion of the _____

appears at Appendix _____

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☐ reported at
☐ has been designated for publication but is not yet reported; or,
☐ is unpublished.

JURISDICTION

☐ For cases from **federal courts**:

The date on which the United States Court of Appeals decided my case
Was _____.

☐ No petition for rehearing was timely filed in my case.

☐ A timely petition for rehearing was denied by the United States Court of

Appeals on the following date: _____, and a copy of the
order denying rehearing appears at Appendix _____.

☐ An extension of time to file the petition for a writ of certiorari was granted

to and including _____ (date) on _____ (date)

in Application No. _____ A _____.

The jurisdiction of this Court is invoked under 28 U. S. C. § 1254(1).

☒ For cases from **state courts**:

The date on which the highest state court decided my case was
September 20th, 2021

A copy of that decision appears at **Appendix A**.

☐ A timely petition for rehearing was thereafter denied on the following date:
_____, and a copy of the order denying rehearing
appears at Appendix _____.

☐ An extension of time to file the petition for a writ of certiorari was granted

to and including _____ (date) on _____ (date) in

Application No. _____ A _____.

The jurisdiction of this Court is invoked under 28 U. S. C. § 1257(a).

CONSTITUTIONAL AND STATUTORY PROVISIONS INVOLVED

In text below

STATEMENT OF THE CASE

The original Complaint of violations visible from the public right of way were 6 broken pickets on my fence that were repaired before the hearing, and about 20 feet of soffit deemed in need of painting.

The code enforcement officer removed my gate clearly posted with no trespassing sign to enter my property and trespassed on my private property.

With fines for this "violation" at \$1000 per day, \$30,000 per month plus costs and fees that will consume the value of my home in just 60 days. Depriving me of my life's savings, costing me a free and clear home for my retirement.

This is the very definition of excessive fines designed specifically to be punitive.

If the government is allowed liberty to defy the constitution, then clearly, there is no difference from China. The government owns it all and takes it whenever, however it wants. Ownership and Constitutional rights become just fictional works of art.

Covid has eliminated my self employment income and the unconstitutional excessive fines in this case will take my last asset from a lifetime of earnings, my home leaving me to be supported by the government instead of contributing to the social good.

If I lose my home, I lose everything

Instead of sending the case back down to the lower courts please rule to apply its incorporation of Eighth Amendment through the 14th Amendment's due process clause, which states that "nor shall any state deprive any person of life, liberty, or property, without due process of law. It is time for the court to clarify this issue.

The hope for critics of civil forfeiture is that the Supreme Court's decision will make it easier to fight such seizures — and civil forfeiture in general — in court, or perhaps deter police from the seizures to begin with. Ginsburg noted that the Supreme Court has, at the federal level, found civil forfeiture actions are covered by the excessive fines clause "when they are at least partially punitive." With incorporation of the excessive fines clause at the state level, the same standard should now apply in the state context too.

The majority opinion incorporated the Eighth Amendment through the 14th Amendment's due process clause, which states that "nor shall any state deprive any person of life, liberty, or property, without due process of law

In separate opinions, Justices Neil Gorsuch and Clarence Thomas argued that the ban on excessive fines should be incorporated through the privileges or immunities clause, which states, "No state shall make or enforce any law which shall abridge the privileges or immunities of citizens of the United States." (Crucially, the privileges or immunities clause is specific to US citizens — not "any person," like the 14th Amendment's due process clause.)

For cities and states, the ruling could pose some financial challenges — since many local and state governments have come to rely on fines and civil forfeiture for income in recent years.

But, ultimately, the Supreme Court upheld a broader constitutional protection of property rights

“Pro Tanto Quid Retribuamus,” Having been given much, what will you give in return?

REASONS FOR GRANTING THE PETITION

1. Trespass:

Ms Oblerle trespassed on December 18th, again in January 2020 and then at 7:50 am on Feb 26 2020. (What time does she start her shift? Is this a personal abuse of power?)

A city code inspector may enter your property only with your permission or a search warrant. Without either, an inspector may only view your property from the street or sidewalk.

This is a repeated pattern for this property. I do not believe I am special and expect this is the way she engages all of the residents of Pinellas County. Clearly she believes she is above the law. The Pinellas County Inspector and her office have been specifically noticed that they are not to enter the property without a warrant and that they would be charged with trespass if they did. This notice was provided both in person and in writing in 2016

We have put a great deal of effort into making sure the property and gardens are not visible from outside of the property **protecting my right to exclude others, right against trespass and right of quiet enjoyment.**

The property is clearly posted "No Trespassing." and yet Pinellas County continues to trespass at will without warrant, notice or due cause. This, despite previously having been specifically noticed in 2016 that they were in fact trespassing and not allowed on the property.

2. Illegal search and seizure:

The Third Amendment: Protects the zone of privacy of the home. **Fourth Amendment:** Protects the right of privacy against unreasonable searches and seizures by the government.

There are a number of legal precedents and facts surrounding what constitute illegal search and seizure, which include: ... Law enforcement cannot use illegally seized evidence or information as probable cause for further searches of evidence through a legal precedent known as "the fruit of the poisonous tree doctrine" evidence gathered in this illegal search is poison fruit and can not be used.

Because I have chosen to use my constitutionally guaranteed rights to both Active Use and Peaceful Enjoyment of my property to grow food, Pinellas County is initiating a takings action by regulating against my use.

In the process they have violated my constitutionally protected privacy and property rights, trespassed and additionally they have failed to meet regulations concerning notice and notification.

3. Property Rights:

America's Founders understood clearly that private property is the foundation not only of prosperity but of freedom itself. Thus, through the common law, state law, and the Constitution, they protected property rights — the rights of people to acquire, use, and dispose of property freely.

The Constitution protects property rights through the **Fifth and Fourteenth Amendments' Due Process Clauses** and, more directly, through the **Fifth Amendment's Takings Clause**: "nor shall private property be taken for public use without just compensation." There are two basic ways government can take property: (1) outright, by condemning the property and taking title; and (2) through regulations that take uses, leaving the title with the owner — so-called regulatory takings.

4. "Property: The Foundation of All Rights

It is no accident that a nation conceived in liberty and dedicated to justice for all protects property rights. Property is the foundation of every right we have, including the right to be free. Every right claim, after all, is a claim to some thing — either a defensive claim to keep what one is holding or an offensive claim to something someone else is holding. John Locke, the philosophical father of the American Revolution and the inspiration for Thomas Jefferson when he drafted the Declaration of Independence, stated the issue simply: "Lives, Liberties, and Estates, which I call by the general Name, Property." And James Madison, the principal author of the Constitution, echoed those thoughts when he wrote, "as a man is said to have a right to his property, he may be equally said to have a property in his rights."

The Cato Institute

5. Improper service:

The notice of a hearing date received by mail just 10 days before the hearing was the first notice I have received. It claims the code officer gave prior notice, but it was clearly not legal service or adequate notice since I have not seen it, nor was it mailed to me at either

the property or the mailing address of record. My history battling Pinellas makes it obvious I would not have missed an opportunity to confront a new incidence of trespass, illegal search, unequal enforcement etc.

Inadequate notice:

I note this is my first notice and many of the statutory requirements have not been met. 12 days notice to appear before a magistrate is unconstitutional!

I have a right to discovery, the first is requested here and was requested in 2016, but was never responded to which is legally improper. I have a right to depositions and interrogatories. I have a right to counsel and for my attorney to have sufficient time to prepare.

Additionally, I require adequate time to travel from out of state to face my accusers. We are in the midst of a nationwide COVID19 quarantine. As a snow bird, I am enjoying the other side of the continent. There is insufficient time for travel within current restricted movement. Especially for someone running a fever.

6. Denied demand for Discovery:

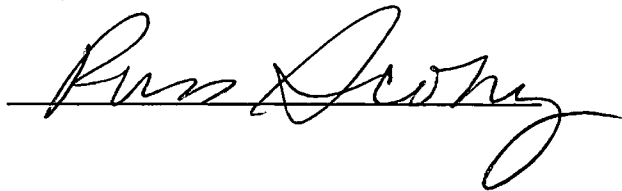
I have a right to discovery. I requested it in Feb 2016 in this officer's first round of trespassing and received nothing. I demanded the name of the person(s) filing the alleged complaint as I have the right to face my accusers. My requests for discovery were ignored in violation of my Due Process..

I again requested production of copies of all documents, internal notes, time sheets, travel logs, emails, photos, including all officers cam footage unedited, all digital and hard copy files and records. Also all her credentials, service records, complaints and suits filed against her and the County, in this and all cases she has worked on during her employment with Pinellas County. I note her code enforcement credentials were expired for years previously. I demand the same for all interactions with the Sheriff's Department regarding this address and myself personally.

CONCLUSION

The petition for a writ of certiorari should be granted.

Respectfully submitted,

A handwritten signature in cursive script, appearing to read "Russ Dwyer", is written over a horizontal line.

Date: December 19, 2021