

Supreme Court of Florida

MONDAY, SEPTEMBER 20, 2021

CASE NO.: SC21-1313

Lower Tribunal No(s).:
2D21-1815; 20-55AP-88B

RUSS SCOHY

vs. PINELLAS COUNTY CODE
ENFORCEMENT DIVISON

Petitioner(s)

Respondent(s)

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:

CASE NO.: SC21-1313

Page Two

td

Served:

CAROLINE ROJAS

RUSS SCOHY

HON. MARY BETH KUENZEL, CLERK

HON. KEN BURKE, CLERK

IN THE CIRCUIT COURT FOR THE SIXTH JUDICIAL CIRCUIT
IN AND FOR PINELLAS COUNTY, FLORIDA
APPELLATE DIVISION

RDF REIT,
Appellant,

vs.

PINELLAS COUNTY CODE
ENFORCEMENT DIVISION,
Appellee,

Ref. No.: 20-0055AP-88B
UCN: 522020AP000055XXXXCI

ORDER DISMISSING APPEAL

THIS CAUSE came before the Court on the Court's own motion. Appellant's Amended Notice of Appeal, filed on January 6, 2021, includes an order to be reviewed that is dated September 15, 2020. Appellant's original notice of appeal was filed November 16, 2020, which is more than thirty days from the date of the order to be reviewed. *See* Fla. R. App. P. 9.110. Therefore, this Court is without jurisdiction to hear the appeal. Accordingly, it is

ORDERED AND ADJUDGED that the above-styled appeal is hereby **DISMISSED**.

DONE AND ORDERED in Chambers at St. Petersburg, in Pinellas County, Florida, on this 11th day of March, 2021.

/s/ Pamela A.M. Campbell
PAMELA A.M. CAMPBELL
Circuit Judge, Appellate Division

/s/ Linda R. Allan
LINDA R. ALLAN
Circuit Judge, Appellate Division

/s/ Thomas M. Ramsberger
THOMAS M. RAMSBERGER
Circuit Judge, Appellate Division

Copies furnished to:

RDF REIT
5421 33RD ST N
ST. PETERSBURG, FL 33714

PINELLAS COUNTY
CODE ENFORCEMENT DIVISION (CED)
631 CHESTNUT STREET
CLEARWATER, FLORIDA 33756

Filing # 132151362 E-Filed 08/05/2021 07:45:24 PM

**IN THE SECOND DISTRICT COURT OF APPEAL
STATE OF FLORIDA**

RUSS SCOHY

Petitioner

vs.

**REF. NO.: 20-0055AP-88B
UCN: 522020AP000055XXXXCI**

PINELLAS COUNTY CODE ENFORCEMENT DIVISION

Respondents.

PETITIONS RESPONSE TO ORDER TO SHOW CAUSE

In response to the Courts Order to Show Cause Petitioner Russ Scohy restates from his original filing as his answer:

“This Petition for a Writ of Certiorari comes before the Court as a result of a system error in the Courts online filing system resulting in my original appeal being lost by the system.
(Exhibit A Courts emailed response to my filing the Notice of Appeal)

If required, please consider this a Motion to File out of time.

I am unsure of what point this appeal started since the initial filing was lost in the system. The only reason it has moved forward is that I followed up with the Court to see where the case stood, as also happened in the County Court's e-filing.

(Exhibit B emails and calls to DCA).

I have expended considerable time energy and resources to respond to what I believed was a unique system error.

In an effort to offer a more professional Petition for Writ of Certiorari I contacted attorneys, purchased access to legal websites, searched and reviewed many Florida cases, read Statutes, case law, citations and statutes to offer a more educated response. I am aware nonprofessional's efforts are an embarrassment to the Courts normal filings, all in the time of Covid.

I consider this a very serious action. I will LOSE my HOME due to abuse of power and criminal activity by civil employees!

I support my argument that this case remains appealable with the following cites:

Famsun Invest, LLC v. Therault, 95 So. 3d 961, 963 (Fla. Dist. Ct. App. 2012) (“This court later affirmed the 'non-final appeal' that had been filed in this court.”)

Brown v. State, 647 So. 2d 214, 0 (Fla. Dist. Ct. App. 1994) ("The motion on appeal and its unsworn predecessor were initially misplaced by the clerk of circuit court.")

Sanchez v. Swanson, 461 So. 2d 155, 0 (Fla. Dist. Ct. App. 1985) ("She docketed the appeal as of that date.")

State v. Johnson, 139 So. 3d 968, 969 (Fla. Dist. Ct. App. 2014) ("We deny the motion to dismiss finding that the clerk of the circuit court should have accepted the notice of appeal on the original date it was electronically filed.")

Hughes v. Home Sav. of America, 675 So. 2d 649, 650 (Fla. Dist. Ct. App. 1996) ("This court discovered the notice of filing in reading the record on appeal.")

Pettway v. City of Jacksonville, No. 1D17-2279, at *3 (Fla. Dist. Ct. App. Apr. 30, 2018) ("See State v. Johnson, 139 So. 3d 968, 969 (Fla. 1st DCA 2014) (holding that notice of appeal timely filed electronically, despite clerk of court placing it in 'e-filing portal queue' for correction by filing party).")

Linville v. State, 260 So. 3d 440, 0 (Fla. Dist. Ct. App. 2018) ("In his petition, he asserts that 'he timely provided a Notice of Appeal to officials for mailing, and the docket indicates that it was never received.'")

Original Exhibits A – G also resubmitted, demonstrate the extensive, lengthy and timely efforts expended attempting to file this document with the e-filing system

As a Pro Se litigant, I am unaware of the deficiency of the response contained in the Writ of Certiorari I previously filed. I believe this was the response this Court seeks. Holding me responsible for matters out of my control including the Courts ineffective website and support staff is irresponsible.

To deny my appeal perpetuates criminal and Constitutional violation activities by Pinellas County employees and deny my rights in those matters.

CONCLUSION

The Petitioners respectfully request that this Honorable Court review and allow my Writ of Certiorari to proceed and to grant such other relief as it deems appropriate under the circumstances.

Respectfully submitted,

/s/ Russ Scohy
5421 33RD ST. N
St. Petersburg, Florida 33714
Email: RDFREIT@GMAIL.COM

Exhibit A

B-1 Gmail - Registration Processed

See uploaded PDF

Exhibit B

B-2 Gmail - Assistance for self represented Litigant

See uploaded PDF

Exhibit C

B-3 Gmail - Incident#10241990 is resolved

See uploaded PDF

Exhibit D

B-4 Gmail - How to file using the e-portal [Incident report - 10241990]

See uploaded PDF

Exhibit E

B-5 Gmail - FL Courts E-Filing Portal - Access Security Matrix Information

See uploaded PDF

Exhibit F

B-6 Unable to Access eDCA Login again For Writ Cert

See uploaded PDF

Exhibit G

B-7 Required to Re-Register to upload SDCA1

See uploaded PDF

CERTIFICATE OF SERVICE

Appendix B
5/5

I HEREBY CERTIFY that on this 5th day of August, 2021, I caused a true and correct copy of the foregoing to be served via the Florida Courts' E-Filing Portal on the following including counsel of record.

E-service recipients:

Russ Scohy:

rdfreit@gmail.com

Jeffrey N. Klein, Esq. Assistant County Attorney:

jklein@pinellascounty.org

Joann Miele, Judicial Assistant to Judge Campbell:

section4@jud6.org

Caroline Rojas:

J.D.crojas@pinellascounty.org

/s/ Russ Scohy

IN THE SECOND DISTRICT COURT OF APPEAL
STATE OF FLORIDA

Appellant/Petitioner RUSS SCOHY

v. PINELLAS COUNTY
CODE ENFORCEMENT
DIVISION

CASE NO.: 2D21-1815

L.T. No.: 20-55AP-88B

Appellee/Respondent RUSS SCOHY

CERTIFICATE OF SERVICE

I hereby certify that a copy has been furnished through
E-service to:

E-service recipients:

crojas@pinellascounty.org
Caroline Rojas, J.D.
Code Enforcement Liaison
Pinellas County Code Enforcement
Special Magistrate Division
631 Chestnut Street
Clearwater, Florida 33756

kmclaughlin@pinellascounty.org
Karen McLaughlin
Administrative Support Specialist
Deputy Clerk,
Special Magistrate Court,
Pinellas County

Section4@jud6.org
Joann Miele
Judicial Assistant to
Judge Pamela A.M. Campbell
St. Petersburg Judicial Building

Russ Scohy

Signature

Russ-Scohy

Printed name

Rdfreit@gmail.com

5421 33rd St. N,

St Petersburg, Florida 33714

Your address

For additional information, consult Florida Rule of Appellate Pro

SERVICE OF COURT DOCUMENT CASE NUMBER UNKNOWN

From : eservice@myflcourtaccess.com

To :

2021-06-21 12:55:17

Notice of Service of Court Documents

Filing Information

Filing #: 129177315
Filing Time: 06/21/2021 03:53:02 PM ET
Filer: Russ Scohy 720-249-7708
Court: Second District Court of Appeal
Case #: UNKNOWN
Court Case #: UNKNOWN
Case Style:

Documents

Title	File
Exhibits	PETITION FOR WRIT OF CERTIORI PDF.pdf
Exhibits	Exhibit C Plaintiffs Composite Exhibit.pdf
Exhibits	Petitioners combined pdf EXHIBITS.pdf

E-service recipients selected for service:

Name	Email Address
Russ Scohy	rdfreit@gmail.com
Joann Miele, Judicial Assistant to Judge Campbell	section4@jud6.org
Karen McLaughlin, Deputy Clerk Special MgistrATE	KMCLAUGHLIN@CO.PINELLAS.FL.US
Caroline Rojas J.D.	crojas@pinellascounty.org

E-service recipients not selected for service:

Name	Email Address
No Matching Entries	

This is an automatic email message generated by the Florida Courts E-Filing Portal. This email address does not receive email.

Thank you,
The Florida Courts E-Filing Portal

BEFORE PINELLAS COUNTY CODE ENFORCEMENT
SPECIAL MAGISTRATE
CASE NUMBER: CM20-00009

Pinellas County,
Petitioner,

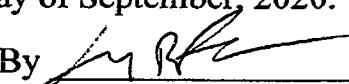
vs.

RDF REIT
1510 Madeira Way Unit 86112
Madeira Beach, FL 33708-1900
and
RDF REIT
PO Box 7238
Hudson, FL 34674,
Respondent.

ORDER

Respondent, RDF REIT, having filed a Motion for Rehearing, it is hereby ordered that Petitioner, Pinellas County, file a response within twenty (20) days.

DONE AND ORDERED this 23rd day of September, 2020.

By 

Jeffrey R. Fuller, Special Magistrate

I hereby certify that a copy of the foregoing Order was mailed to:

RDF REIT
15019 Madeira Way Unit 86112
Madeira Beach, FL 33708-1900

RDF REIT
PO Box 7238
Hudson, FL 34674

Appendix E 2/2

Page 2

Joseph Brickleyer Law, P.A.
Attn: J.B. Brickleyer, Esquire
601 N. Ashley Drive
Ste 700
Tampa, FL 33602

Pinellas County
Code Enforcement Division (CED)
631 Chestnut Street
Clearwater, FL 33756

Caroline Rojas
Code Enforcement Liaison

**PINELLAS COUNTY CODE ENFORCEMENT
SPECIAL MAGISTRATE**

PINELLAS COUNTY,

CASE NO.: CM20-00009

Petitioner,

v.

RDF REIT,

Respondent,

PINELLAS COUNTY RESPONSE TO RESPONDENT'S MOTION FOR REHEARING

PINELLAS COUNTY, by and through its undersigned attorney, hereby files this Response to RDF REIT's ("Respondent") Motion for Rehearing, and states as follows:

1. Pinellas County ("County") is a political subdivision of the State of Florida.
2. Respondent, RDF REIT, states that it is a "lawful" Florida Land Trust, managed by Mr. Russ Scohy. *See* Petitioner's Composite Exhibit at 4.¹
3. Although Respondent was represented by counsel at the September 14, 2020 Special Magistrate hearing, *see id.*, it now appears that Respondent is proceeding *pro se* in seeking its Motion for Rehearing, therefore, generally entitling Respondent's filings to liberal substantive construction, but not greater leeway to deviate from any procedural rules. *See Chancey v. Chancey*, 880 So. 2d 1281, 1282 (Fla. 2d DCA 2004) (recognizing that where, as here, a *pro se* party's arguments are not "artfully stated," courts should still liberally

¹ The page numbers cited correspond to those reflected in the Adobe Acrobat Reader DC software for the 76-page Petitioner's Composite Exhibit submitted in support of this Response.

construe the *pro se* party's filings); *but see Pino-Allen v. Santelises*, 240 So. 3d 89, 91 (Fla. 3d DCA 2018) (acknowledging that, while *pro se* filings are entitled to liberal construction, even *pro se* parties must comply with applicable procedural rules); *see also Barrett v. City of Margate*, 743 So. 2d 1160, 1162 (Fla. 4th DCA 1999) (explaining that, notwithstanding the technical leniency granted to *pro se* litigants, *pro se* litigants are not immune from the rules of procedure).

4. Respondent appeared at the September 14, 2020 Special Magistrate hearing through its then-counsel, Mr. J.B. Brickleyer, Esq. Petitioner's Composite Exhibit at 13.
5. On September 22, 2020, Respondent filed a Motion for Rehearing before this Special Magistrate, seeking a rehearing of this tribunal's Order Assessing An Administrative Fine Until Compliance is Achieved ("Order"), for several uncured violations of the County Code of Ordinances, codified in P.C.C. §§ 22-299, 58-304, 154-231, and 138-3703. *See* Petitioner's Composite Exhibit at 4-12, 14.
6. Respondent raises a myriad of substantive arguments in its Motion for Rehearing, including (1.) insufficient statutory notice for the September 14, 2020 Special Magistrate hearing, (2.) what the undersigned has liberally construed as an insufficiency of service of process argument, and (3.) an assortment of due process and federal constitutional arguments. *See generally* Petitioner's Composite Exhibit at 4-12.
7. All of Respondent's arguments must fail.
8. First, Respondent's Fla. Stat. § 162.12-related arguments are moot, and this Special Magistrate cannot provide any relief to him because Respondent did in-fact appear at the September 14, 2020 hearing. *See* Petitioner's Composite Exhibit at 13-14. "An issue is moot when the controversy has been so fully resolved that a judicial determination can

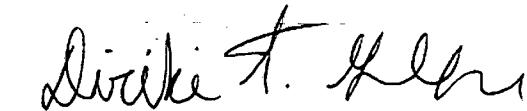
have no actual effect.” *City of Sweetwater v. Lopez*, 245 So. 3d 863, 868 (3d DCA 2018).

Because Respondent was present at the hearing through its counsel, it cannot raise a new argument about the effectiveness of the notice for a hearing it was represented at. *Id.*

9. Second, Respondent concomitantly appears to attack the sufficiency of the service of process it received. *See* Petitioner’s Composite Exhibit at 4–12. But, as stated above, Respondent was present at the hearing, and whatever defects it now alleges were present with the insufficiency of the process, are thus untimely. *See generally* Fla. R. Civ. P. 1.140(b); *Israel v. Flick Mortg. Investors, Inc.*, 23 So. 3d 1196, 1199 (3d DCA 2008) (reaffirming that under Fla. R. Civ. P. 1.140(b), failure to raise insufficiency of service of process as a ground for dismissal **at the earliest opportunity** constitutes a waiver of that defense) (emphasis added). All of Respondent’s assorted substantive challenges, which were then-known or could have been known with appropriate due diligence at or before the initial hearing, could have been raised at the initial hearing. *Id.*
10. Third, because Respondent’s assortment of due process and federal constitutional arguments all derived from conduct transpiring *before* the September 14, 2020 hearing, and therefore could have been raised at that time, there is an insufficient basis for a rehearing. Respondent’s Motion for Rehearing should be denied.
11. Lastly, Respondent makes several self-characterized “discovery” requests in its Motion for Rehearing. *See* Petitioner’s Composite Exhibit at 4–12. To the extent that the County has construed these requests as public records requests, the County is actively processing such requests. To the extent that Respondent makes requests that are not subject to the public records law, because the rehearing should be denied, there is no further need to provide any “discovery.”

CERTIFICATE OF SERVICE

I HEREBY CERTIFY that a true and correct copy of the foregoing has been furnished via e-mail to the Attorney for Respondent, Joseph Brickleyer at jbbricklaw@icloud.com, 601 N Ashley Drive, Ste 700, Tampa, FL 33602 and *pro se* Representative for Respondent Russ Scohy at rdfreit@gmail.com on this 9th day of October 2020.



DIRIKI T. GEUKA, ESQ.
Pinellas County Attorney's Office
315 Court St. 6th Floor
Clearwater, FL 33756
T: (727)464-3354; F: (727)464-4147
dgeuka@pinellascounty.org
FBN: 1010497
Attorney for Pinellas County

PINELLAS COUNTY CODE ENFORCEMENT
SPECIAL MAGISTRATE
CASE NO.: CM20-00009

PINELLAS COUNTY,
Petitioner,

v.

RDF REIT,
Respondent.

ORDER DENYING MOTION FOR REHEARING

THIS CAUSE came to be heard upon Respondent's Motion for Rehearing.
Having considered :

1. The Order Assessing an Administrative Fine Until Compliance Is Achieved entered September 15, 2020,
2. The evidence and legal argument from the September 14, 2020 hearing,
3. Respondent's Motion for Rehearing,
4. Petitioner's Response to Respondent's Motion for Rehearing, and,
5. Petitioner's Composite Exhibit A for Rehearing,

It is hereby ORDERED AND ADJUDGED that Respondent's Motion for Rehearing is DENIED.

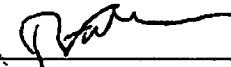
Respondent raises essentially three issues all of which are without merit:

1. The Respondent appeared through counsel at the September 14, 2020 and neither before nor at the hearing raised any issue concerning sufficiency of service of process. The issue was raised for the first time in the September 21, 2020 Motion for Rehearing. By not raising the defense before or at the September 14, 2020 hearing the defense was waived. *Israel v. Flick Mortgage Investor's Inc.* 23 So.3d 1196 (Fla. 3 DCA 2008), *Lennar Homes, Inc. v. Gabb Const Services* 654 So.2d 649 (Fla. 3DCA 1995).
2. Similarly, Respondent's argument that there was insufficient statutory notice was waived. The issue was not raised at the September 14, 2020 hearing nor was there any request for a continuance.

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3. As to the merits, Respondent was found under the evidence to be in violation of Pinellas County Ordinance Code provisions 22-299; 58-304; 154-231 and 138-3703. The Motion for Rehearing for the most part rehashes the evidence and argument at the September 14, 2020 hearing and makes some public policy arguments concerning the wisdom of the code sections. There is no allegation or argument of newly discovered evidence that was not available to the Respondent at the time of the public hearing or that the Special Magistrate made a mistake in determination of a relevant fact. There is no basis for a rehearing.

DONE AND ORDERED this 14th day of October, 2020.

By 

Jeffrey R. Fuller, Special Magistrate

I hereby certify that a copy of the foregoing Order was mailed to:

RDF REIT
15019 Madeira Way Unit 86112
Madeira Beach, FL 33708-1900

RDF REIT
PO Box 7238
Hudson, FL 34674

Joseph Brickleyer Law, P.A.
Attn: J.B. Brickleyer, Esquire
601 N. Ashley Drive
STE 700
Tampa, FL 33602

CERTIFICATE OF COMPLIANCE

Russ Scohy hereby certifies that this Petition is submitted in Times New Roman 14-point font and otherwise complies with the requirements of Rule 9.100(l), Fla. R. App. P.

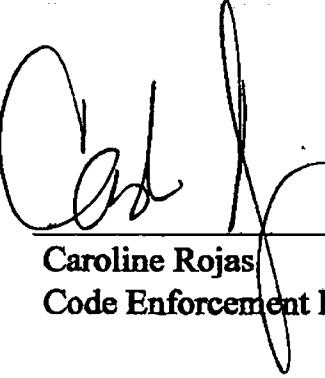
/s/ Russ Scohy

Page 3

Pinellas County
Code Enforcement Division (CED)
631 Chestnut Street
Clearwater, FL 33756

Russ Scohy rdfreit@gmail.com

Diriki T. Geuka, Esquire
Pinellas County Attorney's Office
315 Court St. 6th Floor
Clearwater, FL 33756



Caroline Rojas
Code Enforcement Liaison