

No. 21-6938

FILED

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IN THE

SUPREME COURT OF THE UNITED STATES

ORIGINAL

David Charles Sussman — PETITIONER
(Your Name)

Secretary, Fla. Dept. of Corrections; and
The Fla. Atty. General — RESPONDENT(S)
vs.

ON PETITION FOR A WRIT OF CERTIORARI TO

First District Court of Appeals, State of Florida
(NAME OF COURT THAT LAST RULED ON MERITS OF YOUR CASE)

PETITION FOR WRIT OF CERTIORARI

David Charles Sussman
(Your Name)

Fla. State Prison, P. O. Box 800
(Address)

Raiford, FL 32083
(City, State, Zip Code)

(Phone Number)

QUESTIONS PRESENTED

1. Does the Fla. court's imposition of an all-inclusive, total pro se filing bar violate the "Suspension Clause" of U.S. Const., art. I, sec. 9?
2. Does the U.S. Const. 14th Amend. require a litigant is given a plenary appeal of a court's imposition of an all-inclusive pro se filing bar?
3. Where a Fla. court has never deemed any of a litigant's pleadings he filed therein to have been frivolous, malicious or repetitive, would that court's imposition of an all-inclusive, total pro se filing bar on that litigant be impermissibly overbroad in violation of U.S. Const. 1st & 14th Amendments?

LIST OF PARTIES

All parties appear in the caption of the cover page.

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I. OPINIONS BELOW

1. The Fla. Supreme Court's order denying its discretionary jurisdiction appears at App. C, and is not published. The Fla. 1st DCA's Spencer order imposing a pro se filing bar^{FNI} on Sussman, and its show cause order which preceded it, are located at Appendices A and B, respectively. None of these three orders were published.

II. JURISDICTION

2. The Fla. Sup. Court issued its order denying its discretionary jurisdiction on 8/5/21. App. C. The jurisdiction of this U.S. Sup. Court is invoked under 28 U.S.C. § 1254(1).

III. CONSTITUTIONAL AND STATUTORY PROVISIONS INVOLVED

3. The 1st and 14th Amendments to the U.S. Const.; art. I, sec. 9, cl. 2 of the U.S. Const.; and art. I, §§ 13 and 21 of the Fla. Const.; and art. V, § 3(b)(3) & (7), Fla. Const. all appear in App. J.

IV. STATEMENT OF CASE AND FACTS

4. Since 2006, Petitioner, David Charles Sussman, has filed 19 appeals or petitions in the 1st DCA. Other than a vague, obscure warning issued by said DCA "that abusive, repetitive, malicious or frivolous filings would result in... a bar on pro se filings," Sussman v. DOC, 257 So.2d 604, 605 (1st DCA 2018) (hereinafter Sussman I), said DCA has never stated unequivocally that Sussman I, or any other specific action or pleading he has filed, had been "abusive, repetitive, malicious or frivolous." Thus, given the ambiguous, seemingly pro forma nature of the warning given to Petitioner in Sussman I, he was quite shocked when, on 8/25/20, with said DCA still having yet to actually rule that any of his filings were abusive or frivolous, the Clerk of said DCA ordered him to, pursuant to State v. Spencer, 751 So.2d 47, 48-49 (Fla. 1999), show cause why a pro se filing bar should not be imposed on him.^{FNI} See Appx. B at 1 (citing State v. Spencer, and quoting In re McDonald, 489 U.S. 180, 181 (1989)).

¹ See State v. Spencer, 751 So.2d 47, 48-49 (Fla. 1999) (requiring "a trial court... to provide a litigant with notice and an opportunity to respond before prohibiting further pro se filings.")

5. In response to said show cause order,^{App. D,} Sussman differentiated his having filed 19 cases over a 14-year period from the 99 petitions McDonald had filed within a 3-year period in the U.S. Supreme Court. In re McDonald, 489 U.S. at 184. Additionally, he argued that virtually all of his filings in said DCA involved legitimate family law, gain time, close management^(CM) habeas claims, and/or other legit const'l issues; that no Fla. court had ever ruled definitively that any action he had filed therein had been "frivolous"; that four of his appeals he filed in said DCA were necessary to challenge the impermissibly overbroad application of a pro se filing bar that the 1st DCA itself had deemed to have been impermissibly overbroad and unsupported by the lower court record, Sussman v. DEC, 276 So.2d 68, 69 (1st DCA 2019) (hereinafter Sussman II), and which was subsequently vacated by the lower court; that an all-encompassing filing bar that included collateral criminal or CM habeas petitions would surely violate the Suspension Clauses of the Fla. and U.S. Const's; and that placing a pro se filing bar on Sussman based on the limited, insufficient record the 1st DCA had before it would engender an intradistrict conflict with Sussman II. App. D (^{Sussman's} Response To 1st DCA's Order To Show Cause at pg. 2, par. 4 (quoting Sussman II, 276 So.2d at 69)).

6. On 9/30/20, the 1st DCA Clerk (as opposed to a Justice of the DCA) ~~was~~ issued a Spencer Order that, unlike her Spencer Show Cause Order, declared for the first time that 1st DCA appeal # 1D19-2163 "was meritless" (as opposed to being "abusive, repetitive, malicious or frivolous")², see Appx. A, ~~and~~, and imposed an all-encompassing, total pro se filing bar on him. Appx. A. ~~and~~. Incredibly, said Spencer Order additionally "prohibited Sussman from filing... any response or [rehearing] motion directed to that very same Order." App. A. Sussman sought discretionary review in Florida's finicky Sup. Court, App. E, but was denied. App. C. This instant certiorari petition follows:

2. It should be noted that 1st DCA case no. 1D19-2163 was per curiam affirmed without an opinion, and without any indication that it may have been "meritless" or "frivolous."

V. MOTION TO STAY & ABET PENDING DISCOVERY OF "FREEDOM OF INFO ACT REQUESTS"; and MOTION FOR EXTENSION OF TIME TO FILE AN AMENDED PETITION TO INCLUDE DISCOVERY³

7. Sussman postulates that, and initial results indicate that, when compared to the case-specific and all-inclusive filing bars which have been imposed by this Sup. Court, other Fed. courts, and other state courts since this Sup. Court opened the door for such with the filing bar it imposed in In re McDonald, supra, discovery of said FOIA requests ^{in 1989} will show conclusively that the State of Fla. has imposed a number of filing bars that is inordinate to those imposed by Fed Courts, and by other state's courts. See App. I. Even worse, it will reveal that his filing bar is not the only one Fla. has imposed without having first ruled that even one of the sanctioned litigant's previous filings had been frivolous or malicious as is required by the Due Process standards enunciated in State v Spencer, supra, but is just one of hundreds of such bars imposed in violation of the 14th Amendment's Due Process Clause, and in furtive unpublished orders, as was the bar imposed on Sussman. At this juncture of these proceedings, Sussman recognizes his postulate may be somewhat speculative.⁴ Nevertheless, it will only be after he obtains the information he seeks in his FOIA requests³, appended hereon at App. H, that he will be able to conclusively show this Sup. Court that Fla's relentless, knee-jerk imposition of thousands of pro se filing bars — hundreds of which, like Sussman's, were imposed in furtive unpublished orders, and in violation of the 14th Amend. — "so far departed from the accepted... course of judicial proceedings... as to call for an exercise of this [Sup.] Court's supervisory power," S. Ct. Rule 10(a), in order to rein in Florida's unconstitutional practices. WHEREFORE, Sussman respectfully asks this Hon. Sup. Court to stay and hold in abeyance these proceedings until such time that he receives responses to all of his FOIA requests, App. H, so that he may present them in an amended petition.

3. Said requests were sent to several Fla., N.Y., and Fed Courts. App. H. Some early responses to said FOIA requests are at App. I.

4. Notwithstanding, initial responses to said FOIA requests, App. I, support Sussman's postulate. See FN10, infra (interpreting initial FOIA responses).

VI. REASONS FOR GRANTING THE WRIT

GROUND (1): THE FLA. 1st DCA'S IMPOSITION OF A PRO SE FILING BAR VIOLATES THE "SUSPENSION CLAUSE" OF THE U.S. CONST.

8. Art. I, sec. 9, cl. 2 of the U.S. Const. strictly prohibits the suspension of habeas corpus. The only two exceptions are in the events of rebellion against, or invasion of, the U.S.A. Therefore, when the Fla. 1st DCA, without having ever determined that Sussman had ever filed any frivolous appeals therein, imposed on Sussman an all-inclusive, total pro se filing bar which did not exclude from its ambit habeas corpus and collateral criminal actions, said DCA violated the Suspension Clause of the U.S. Const. See Jackson v Fla. DOC, 790 So.2d 398, 402 (2001) (Anstead dissenting) ("I would exclude access to... habeas corpus from the reach of the [pro se filing bar] sanctions imposed.") (quoting Fla.'s "Suspension Clause," art. I, sec 13 Fla. Const (same as Suspension Clause in U.S. Const.)).

GROUND (2): THE 14th AMEND. REQUIRES A LITIGANT IS GIVEN A PLENARY APPEAL OF A COURT'S IMPOSITION OF A PRO SE FILING BAR

9. The Fla. Sup. Ct. rejected this argument in case SC20-1570. App. E, C. An exact duplicate of it follows. Only the paragraph numbers have been conformed for clarity.⁵

10. Fla. Const., art. V, § 3(b)(7) confers this Court with the "ancillary... power... to fully and effectively decide cases that have [already] been... presented [to it] on independent jurisdictional grounds." Padavano's App. Prac., § 3:18 n. 3 and its accompanying text. It "is used to protect [this Court's] jurisdiction conferred [to it] elsewhere in the [Fla.] Const," id. at § 3:18 n. 2 and its accompanying text, such as, e.g., art. V, § 3(b)(3), but "only if the action of the lower tribunal... interferes with [its] existing... jurisdiction," id. at par. 4, and only if that "jurisdiction over the matter is exclusive." Roberts v. Brown, 43 So.3d 673, 677 (Fla. '10).

11. Sub judice, Petitioner has properly invoked the jurisdiction of this Court on an independent basis "elsewhere in the const.," Padavano's, supra, ^{that is} pursuant to art. V, § 3(b)(3). Insofar as the Spencer Order in controversy implicates both "the constitutional guarantee of citizen access to the courts," State v. Spencer, 751 So.2d at 48 (citing Fla. Const., art. I, § 21), and "the procedural due process rights of a pro se litigant," id. (internal quote marks and cites omitted); and to

5. Thus, references to "this Court" are to the Fla. Sup. Court; not to this Fed. Sup. Court.

the extent that no other Fla. court has the potential jurisdiction to conduct a plenary, direct review of said Spencer Order, so that this Sup. Court's "jurisdiction over [the] matter is exclusive," Roberts, supra, this Court has the power to exercise its all writs jurisdiction over said Spencer Order pursuant to Fla. Const. art. V, § 3(b)(7) if it finds that § 3(b)(3) prevents it from "fully and effectively deciding this case that has been... presented [to it] on independent jurisdictional grounds [under § 3(b)(3)]." Pad. App. Prac., § 3:18 n.3 and its accompanying text.

12. As is discussed in Point II, supra, the primary goal of this Sup. Court's decision in State v. Spencer, after it "recognized the importance of the constitutional guarantee of citizen access to the courts," id. [citing Fla. Const., art. I, § 21], and "after [it] acknowledged [the] procedural due process rights of a pro se litigant," id., "[was] to generate a more complete record... [so that] appellate courts would] have an enhanced ability to determine [in a plenary appeal] whether the denial of [court] access is an appropriate sanction under the circumstances" Id., 751 So. 2d at 48-49. Although this Court did not use the exact words "in a plenary appeal" in this ruling, its textual gist leaves no doubt that, after a court issues a Spencer Order imposing a pro se filing bar, a direct, plenary appeal is the only way to "guarantee... citizen access to the courts," id. at 48, and ensure that "the procedural due process rights of a pro se litigant [are protected]." Id. This is precisely how the 2nd DCA construed State v. Spencer in its well-reasoned decision in Thomas v State, 1 So. 3d at 194 ("... the litigant has the right to challenge [in a direct, plenary appeal] whether the order was warranted, and whether the proper procedure was followed.") (construing Spencer). Thus, in view of these common sense decisions in Spencer and Thomas, it is clear that the avenue of appeal "conferred [to this Sup. Court] elsewhere in the const.," Pad. App. Prac., § 3:18 n.2 and its text, by art. V, § 3(b)(3), to challenge a DCA's pro se filing bar, where said § 3(b)(3) is the only avenue a pro se litigant has to do so, is woefully inadequate to "challenge whether the order was warranted, and whether the proper procedure was followed," Thomas, and to protect "the procedural due process rights of a pro se litigant," Spencer, as is required by Fla. Sup. Court in its construal of the Fla. Const. in State v Spencer, 751 So. 2d 48-49.

13. For example, even before the 1980 Amendments to the Fla. Const. instituted "the most radical, [restrictive] change in this sup. court's discretionary jurisdiction," see Committee Notes to Fla. Rule 9.030(a)(2)(A)(iv) (1980 Amend.), this Court was already "not permitted the judicial luxury of upsetting a decision of a [DCA] merely because [it] might disagree with the justice of the

case' announced by the [DCA]. "Nielsen v. City of Sarasota, 117 So.2d 731, 734-35 (Fla. 1959). After 1980, "whether this Sup Court has discretionary jurisdiction is one issue, and whether it elects to exercise [it] is an entirely different issue." Pad. App. Prac., § 3:10 at par. 2. In other words, regarding the Spencer Order sub judice, even if Petitioner has sufficiently shown above that this Court has jurisdiction to review it under Fla. Const., art. V, § 3(b)(3) (which he has), this Court, for no good reason other than the "the [in]justice of the case' announced by the [DCA]", Nielsen, does not please its finicky palate, "may [arbitrarily] chose not to exercise [its] discretionary jurisdiction." Pad. App. Prac.

Pad. App. Prac. Additionally, the high bar Petitioner must hurdle to show an "express and direct conflict" under § 3(b)(3) precludes him from arguing virtually all of the potentially appealable const'l due process issues that motivated this Court in State v. Spencer to guarantee the "generation of a more complete [lower] record... [so that] appellate courts w[ould] have an enhanced ability to determine [in a plenary appeal] whether the denial of [court] access is an appropriate sanction under the circumstances," id., 751 So.2d at 48-49, or "whether proper procedure was followed." Thomas.

14. Indeed, due to the restrictive 10-page limitation of this instant jurisd'l brief (as opposed to 40 pages allowed in a direct appeal brief), Petitioner must now relegate his list of potentially appealable const'l due process issues he is foreclosed from arguing herein by art. V, § 3(b)(3) to footnote 6, *infra*.

15. Wherefore, based on the preceding argument Sussman made in Fla. Sup. Court case SC20-1570, he asks this U.S. Sup. Court to find a 14th Amend. violation, & grant relief requested.

FN6. Art. V, § 3(b)(3) precludes Petitioner from arguing the following issues herein: (a) Intradistrict conflicts discussed in par. 14, *supra*. (b) "Whether the Spencer Order was warranted, and whether proper procedure was followed" (as opposed to "express & direct conflict"), see Thomas, *supra*. (c) The Spencer Order sub judice and its antecedent show cause order should have been issued by a Judge (as opposed to a clerk). (d) Fla. Sup. Court should reexamine its rejection of Procyp v. Strickland, 792 F.2d 1069 (11th Cir. 1986) (severely limiting the breadth of pro se filing bars) it enunciated in Martin v. State, 833 So.2d at 759 (rejecting Procyp as not being "The current state of the law"), as Procyp is still binding precedent in the Fed's. See Brewer v. U.S., 614 Fed. Appx. 426, 427-29 (11th Cir. 2015) (following Procyp). (e) There should be a "set standard," Ferris v. State, 100 So.3d 142, 144 (1st DCA 5012), "on the max # of filings a pro se litigant can do before he is barred," Gaston v. State, 141 So.3d 627, 629 (4th DCA 2014); and the max # for all-encompassing filing bars like Sussman's should be double or triple than that for case specific bars, where all-encompassing bars account for < 10% of the approx. 225 pro se filing bar cases digested in West's Fla. Digest 2d, Injunctions, key 1207. (f) Compared to other all-encompassing filing bars — e.g. Jackson v. FDOC, 790 So.2d 398 (Fla. 2001); Mora v. McNeil, 984 So.2d 513 (Fla. 2008) — Sussman's filing history is not abusive. (g) All-encompassing pro se filing bars suspend habeas corpus. See Jackson, 790 So.2d at 402 (Anstead dissenting); also take judicial notice of Petitioner's argument of such in Point II of his Initial Brief in Sussman v. DOC, 1D19-2147 (1st DCA).

GROUND (3): BECAUSE FLA.'s 1st DCA NEVER DEEMED ANY OF SUSSMAN'S PLEADINGS HE FILED THEREIN TO HAVE BEEN FRIVOLOUS OR MALICIOUS, ITS ALL-INCLUSIVE, TOTAL PRO SE FILING BAR IS IMPERMISSIBLY OVERBROAD, AND VIOLATES THE 1st and 14th AMENDMENTS OF U.S. CONST.

16. Although "courts have considerable discretion when designing an anti-filing injunction," Brewer v. U.S., 614 F.Appx.426, 427 (11th Cir. 2015) (citing Procup v. Strickland, 792 F.2d 1069, 1074 (11th Cir. 1986)⁷ (en banc)), "it abuses its discretion when it applies an incorrect legal standard, follows improper procedures in making the determination, or makes findings of fact that are clearly erroneous," id. (quoting Sacred Heart Health Sys. v. Humana Health Svcs, 601 F.3d 1159, 1169 (11th Cir. 2010)), "[or] applies the law in an incorrect or unreasonable manner," id. (citing Sacred Heart), "[or] imposes...[a] restriction... that is unnecessarily [over]broad." Id. (quoting Sacred Heart). Thus, because "prisoners have a [1st Amend.] constitutional right of access to the courts," id. (quoting Bounds v. Smith, 430 U.S. 817, 821 (1977)), "a court... cannot completely foreclose a litigant from any access [whatsoever]." Id. (citing Procup, 792 F.2d at 1074 ("the injunction was [impermissibly] overbroad because... [it completely] foreclosed [Procup] from filing any suits at all." (emphasis added))). Moreover, "before [a court may] commence down the road to bar future pro se filings," Jordan v. State, 768 So.2d 973, 974 (Fla. 2nd DCA 2000), 14th Amend. Due Process requires "it must first address [with specificity] the merits of the claims advanced by the litigant, and [then] determine they are frivolous." Id. (emphasis added) (construing State v. Spencer, 751 So.2d 47-49). Therefore, it is only after the court considering the imposition of a pro se filing bar has completed these preliminary tasks that it may then issue its order for the litigant to show cause why he should not be sanctioned. Id. Of course, that show cause order "should delineate in detail" its findings of frivolity, id., and if it does not, it is fatally flawed, and violates 14th Amend. Due Process. Id.

17. As is mentioned above, it was in the 1989 case of In re McDonald that

7. See footnote 8, *infra*.

this Sup. Court first "embarked on the... dangerous course [it] charted [back then]." Id., 489 U.S. at 185 (Brennan dissenting). Foreknowingly, in his well-reasoned, foresighted dissent, in which Marshall, Blackmun and Stevens joined, Justice Brennan noted that due process required "individualized assessments of frivolousness," id. at 186, before a case could even be dismissed. Id. Additionally, he foresaw that "the course we chart today... will end by closing our [courthouse] doors to a litigant with a meritorious claim," Id., 489 U.S. at 187.

18. In the case at bar, no Fla. court or DCA has ever definitively ruled or authoritatively declared any action he has filed therein to have been "abusive, repetitive, malicious or frivolous." Indeed, Petitioner brought this to the 1st DCA's attention in his response to its show cause order, see Resp. at App. D, and reminded said DCA that it even reversed in Sussman II a lower court's pro se filing bar based on, inter alia, facts and arguments virtually identical to those asserted herein. See Sussman II, 276 So.3d at 68-69 ("The rationale in the show cause order for considering [a pro se filing bar] was that [Sussman] had filed repetitious and frivolous pleadings... The [lower] court attached a printout showing the list of [15] cases [he] had filed [therein],... but did not indicate the nature of the closed cases, or how they had been resolved.... Sussman contended his pleadings were not abusive... Based on this limited record, we [Fla. 1st DCA] cannot conclude that the severe sanction of a total prohibition on pro se filings is supported by the record. Accordingly, we reverse..."). The Sussman II DCA even quoted its own ruling in Spencer v. State, supra, see Sussman II, 276 So.2d at 69 ("Courts may, upon a demonstration of egregious abuse of the judicial process, restrict parties from filing pro se pleadings...") (emphasis in Sussman II) (quoting Spencer v. State, 717 So.2d at 96), that Fla's Sup. Court subsequently adopted in State v. Spencer, 751 So.2d at 47 (same) (quoting 1st DCA in Spencer v. State). Therefore, because the Fla. 1st DCA never specifically ruled that any of Sussman's nineteen appeals which he filed therein were abusive, frivolous or malicious "before it commence[d] down the road to [totally] bar [his] future [pro se] filings," Jordan, 760 So.2d at 974; and because said DCA's show cause order (see App. B)

did not "delineate in detail" any findings of the sort, Jordan, so that its Spencer Order imposing a pro se filing bar on Sussman (Appx. A) did not even come close to showing that he had engaged in an "egregious abuse of judicial process" as is contemplated by Fla's Sup. Court in State v. Spencer, 751 So.2d at 47 (internal quotes omitted); and so that his filing history in said DCA cannot even come close to qualifying him as being a litigant who is anything like the "worst of the worst" Fla's Sup. Court identified in Martin v. State, 833 So.2d at 759, this U.S. Sup. Ct. should rule that, when the Fla. DCA issued its show cause order, App. B, and then issued its subsequent "Spencer" order imposing a total, all-inclusive pro se filing bar, App. A, said DCA "applied an incorrect legal standard, followed improper procedure... or made findings of fact that are clearly erroneous" as was contemplated by the U.S. 11th Cir. Ct. of Appeals in Sacred Heart, 601 F.3d at 1169, so that said DCA, ipso facto, "abused its discretion." Brewer, 614 F.Appx. at 427 (quoting Sacred Heart).

19. Moreover, given that the pro se filing bar imposed on a hopelessly destitute Sussman is all-inclusive, with absolutely no exceptions whatsoever, this U.S. Sup. Court should rule that, under the 1st Amend., "the injunction was [impermissibly] overbroad because the requirement that [the indigent inmate] file suits only through [a] counsel [he cannot afford] has [completely] foreclosed him from filing any suits at all." Brewer at 428 (emphasis added) (citing and explaining as binding 11th Cir. precedent the facts and ruling in Procup, 792 F.2d at 1071 (en banc)⁸). See also id. at 427 ("[pro se filing bar] cannot completely foreclose a litigant from any access [at all] to the courts.") (citing Procup at 1074); Smith v. U.S., 386 F.Appx. 853, 858 (11th Cir. 2010) ("The injunction in this case is similarly overbroad [as it] bars Smith from filing any motions except one alleging imminent physical harm.") (emphasis in orig.) (citing Miller v. Donald, 541 F.3d

8. In fact, Procup is the seminal case in the 11th Cir. concerning pro se filing bars. See Miller v. Donald, 541 F.3d 1091, 1097 (11th Cir. 2008) ("Although Procup is over 20 years old, ... [it] still guides us today."); Smith v. U.S., 386 F.Appx. 853, 856-57 (11th Cir. 10) (rejecting govt's argument because "we are guided... by Procup..."); see also cases cited in this instant footnotes accompanying text.

1091, 1098 (11th Cir. '08)); Simmons v. Warden, 598 F.Appx. 919, 923 (11th Cir. '14) ("The district judges order directing the clerk not to accept any further filings from Simmons, absent our authorization, is too broad.") (emphasis in orig.) (quoting Procup at 1074); U.S. v. Flint, 178 F.Appx. 964, 969 (11th Cir. 2006) (same) (quoting Procup at 1074); id. at 970 ("The district [court's] injunction is [impermissibly] overbroad under Procup"); Miller v. Donald, 541 F.3d at 1098 (vacating an injunction that "[went] beyond what [was] sufficient to protect the... court... from [inmate's] repetitive filings..., and failed] to uphold [inmates] right of access to the courts," and concluding that "[t]he... limited exceptions in the injunction, taken together, do not provide [inmate] with meaningful access." 9).

GROUND (4)

20. Ground (4) will be added by amendment after Sussman receives the date he needs to support it via responses to FOIA requests discussed in his Motion To Stay on p. 3, supra, and will allege that the inordinately high number of pro se filing bars imposed by Florida violates 1st & 14 Amendments of the U.S. Const.¹⁰

9. Of course, in Sussman's case, his pro se filing bar provided for no exceptions at all. Regardless of exceptions, the pro se filing bars being imposed in Fla. in unprecedented numbers violate int'l treaties into which the U.S.A. (and, ipso fact, Fla.) has entered — to wit: The Universal Declaration of Human Rights (adopted U.N. Gen. Ass. 1948) (UDHR); The American Declaration of the Rights and Duties of Man (adopted by Org. of Amer. States 1948) (ADRD); and The Int'l Covenant On Civil and Political Rights (ICCPR) — and is obligated to obey. See UDHR, art. 8 ("Everyone has the right to an effective remedy by the competent national tribunals for acts violating the fundamental rights granted him by the constitution, or by law."); ADRD, art. XVIII ("Every person may resort to the courts to ensure respect for his legal rights. There should likewise be available to him a simple, brief procedure whereby the courts will protect him from acts of authority that... violate any fundamental constitutional rights."); ADRD, art. XXIV ("Every person has the right to submit respectful petitions to any competent authority..."); ICCPR, art. 2, §§ 3(a)-(c) (same as ADRD articles XVIII and XXIV).

10. As of 12/27/21, out of the 13 FOIA requests Sussman mailed out to 13 different Fla., N.Y. and Fed. courts, App. H, 5 responses have come back, App. I, but only 2 are responsive. App. I at 1-2. They came from Fla's 1st and 5th (FN 10 continues on next page)

VII. CONCLUSION

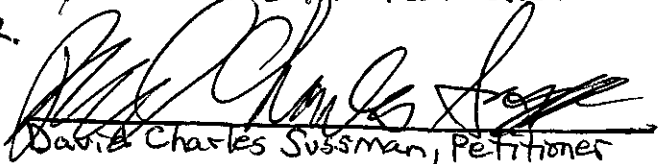
21. WHEREFORE, base on the facts, arguments and authorities presented in Grounds (1)-(3), supra, Sussman respectfully asks this U.S. Sup. Court to declare under its Rule 10(b) that the "[Fla] court of last resort has decided an important Federal question in a way which conflicts with the decisions of... [the 11th U. S. Cir.] court of appeals" cited and quoted in paragraphs 16, 18 and 19, supra; to wit: Procup; Miller; and Sacred Heart. IN ADDITION, he asks this Hon. Court to grant his Motion To Stay so he may effectively and properly develop Ground (4), supra, and add it herein by amendment.

(FN 10 continued from previous page) DCA's, and reveal an alarming total of 739 litigants (340 in the 1st DCA; 399 in the 5th DCA) are barred from submitting pro se filings in those two courts. App. I at 1, 2, respectively. Of the 340 litigants barred in the 1st DCA, 284 (84%) are case specific, and 56 (16%) are total, all-inclusive bars like Sussman's. App. I at 1. These percentages are not inconsistent with those found in 19D West's Fla. Dig., Injunctions, Key 1207, pp. 22-25 (2nd ed. 2021 P/P). See App. F (revealing the vast majority of pro se filing bars in Fla. are, unlike Sussman's, case-specific). Surprisingly, the 1st DCA added a whopping 74 litigants (22.5% of the total) to its list in 2020 (the same year Sussman was added). WHEREFORE, in view of these disturbing statistics, this Court should grant Sussman's Motion To Stay, see p. 3, supra, so he may develop Ground (4), and add it herein by amendment.

11. See footnote 8, supra.

VIII. SWORN OATH

UNDER PENALTY OF PERJURY, I declare the facts above are true & correct on 1/3/2022.


David Charles Sussman, Petitioner