

No. 22-854

Supreme Court, U.S.
FILED

OCT 17 2022

OFFICE OF THE CLERK

In The
Supreme Court of the United States

DAVID D. ARCHER,

Petitioner,

v.

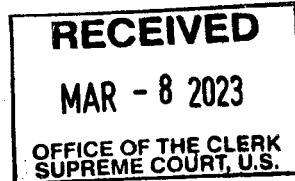
WINN DIXIE STORES, INC., et al.,

Respondents.

**On Petition For Writ Of Certiorari
To The District Court Of Appeal Of The
State Of Florida, Fourth District**

PETITION FOR WRIT OF CERTIORARI

DAVID D. ARCHER
7010 NW 89th Avenue
Tamarac, Florida 33321
(954) 297-5817
Pro Se Petitioner



QUESTIONS PRESENTED

(1) The trial and appellate court ruled against Petitioner on rehearing filed under Florida rules of civil procedures 1.540 and 1.530 and 28 U.S.C. 455(a) and (b) for biased ruling filed for disqualification of judge for the reentry of default knowingly that Respondents showed no meritorious defense to vacate the previous judge warning, that default be entered. Petitioner petition for direct Appeal filed in Florida Fourth District Court to the United States Supreme Court and it was redirected by the Clerk of Court acting together under 'the color of law' and sent to Florida Supreme Court and Subsequently, dismissed in admitting it lacked Jurisdiction.

The first question presented is rather any and all judges and officers of the court who were sworn by the constitution to uphold the law, and who contravened the law under 42 U.S.C. SECTION 1983 are immune from "conflict of interest or lack of impartiality" when judges ruled out of jurisdiction. should any court indulged in prejudiced cases causing irreparable harm, or failed to apply the remedy as substantiated court dockets records holds the answers to Justify corrective measures to ensure both injustice and ineffective administration preservation of a fair trial in a civil trial case be maintain in remedying inadvertent and intentional misconduct by trial Attorneys and judges. Fletcher v. Tomlinson, #16-4399 (8th circuit. 2018)

18 U.S.C. section 242. ACTING UNDER COLOR OF LAW

QUESTIONS PRESENTED – Continued

(2) The trial court and Appellate Courts ruled subsequently in protecting or providing avoidance of certiorari conundrum for rehearing with intention in depriving under, 18 U.S.C. Section, 242; improper demeanor by the judge not disqualifying him-self by engaging in ex parte conflict contrary to due process.

The second question presented is rather the court Should consider default against a Respondent as expressed originally by the First judge Or should the court switched judges with a biased and prejudiced Judge to overruled the original judge's decision and in fact ruled out of jurisdiction dismissing Petitioner's case because of the duo longtime friendship.

(3) The trial court and the Appellate Court ruled in favor of the judge, Judges or Courts of Clerk departed from the accepted usual course of Judicial duties of office by not setting precedence over all activities, in violation of hierarchy rules and code of conduct. Article VI, paragraph, 2 U.S.C.

The third question presented is rather the second judge subject matter by ruling out of jurisdiction and failure to comply under Rules of Fla, rule of Judicial Admin. 2.160 and Fla Statue 38.10, As established by law for disqualifications of judges applies.

(4) The trial and the appellate Court ruled unconstitutionally by siding not to follow the law acting as trespassers of the law, as stated in ruling that judges are immune from wrong doing.

QUESTIONS PRESENTED – Continued

The fourth question presented is rather Judges or Attorneys who violates the State's Constitution, the Federal Constitution and Federal laws, pertaining to conflict of interest where the duo, [t]he now Presiding Judge and Counsel his longtime Friendship violated the rules of oath of office 28 U.S.C. 453(a) 28 U.S.C. 455 together with 18 U.S.C. section 371 conspiracy act offenses in committing criminal Overt acts, offense in violation to Sworn oaths to uphold the constitution and laws of the United States of America. *Pinkerton v. united States*, 328 U.S. 640 (1946) “Late Joiners” be added to the JQC cases of Florida. Where recusal for disqualification on fraud and irreparable Harm existed.

The trial and the appellate court ruled against Petitioner knowingly or knew or should have known that the Judge refused to recuse himself for “serious risk of actual bias” therefore, due process clause required the recusal of Judge Michael Robinson for lack of impartiality from hearing the case for not following the consistency for wrong doing, based on fundamental constitutional rights to due process of law. Where the Judge ruled out of Jurisdiction on consolidated appealed issues, by not Following the Fourth District Court of Appeals order dated the 5th of November 2018, was it unconstitutional, miscarriage of justice, bias and Judicial misconduct. Should judges refuse to stay or give hearing dates to Petitioner’s Motions,

QUESTIONS PRESENTED – Continued

additionally instructing his judicial assistant not to give hearing dates to Petitioner's motions on merits.

(5) The fifth question presented is rather Counsel was required by rules as instructed by the previous judge to respond to the Amended Complaint within the time required by law and furthermore, failed to request any enlargement of time, yet failed to file a timely response that lacked a meritorious defense to vacate default prior to Petitioner's application for default was filed. Should Appeals Court agree with the Tribunal in knowingly knew errors of law existed or judges trespassers of the law Wasn't applied by the 3 panel Judges, that caused irreparable harm regarding, judicial misconduct JUDGES ACTING AS TRESPASSERS OF THE LAW- ALL RULINGS NULL / “ULTRA VIRES”.

(6) The trial and appellate court ruled that Judge Michael A. Robinson was absolutely immune from judicial misconduct, implying that everything a judge does while in chambers or out of court including all acts in session or outside the court are considered judicial acts, departing from Florida Statute, title v. 38.10 **(Fla. Code Jud. Conduct, 3E(1) A judge shall disqualify himself or herself where his or her Impartiality might reasonably be questioned.**

The sixth Question presented is if when a civil conspiracy or fraud upon the court occurs between, clerks

QUESTIONS PRESENTED – Continued

of courts, judges, and attorney who participate in the conspiracy or fraud would it be the same to lose their immunity like attorneys.

(7) The trial and appellate court ruled that to the extent that petitioner seeks a writ of prohibition the petition is hereby denied because petitioner has failed to demonstrate that a lower court is attempting to act in excess of its jurisdiction. See *Mandico v. Taos Constr.*, 605 So. 2d 850 (Fla. 1992); *English v. Mc Crary*, (Fla. 1977) 348 So. 2d 293 (1977). To the extent that petitioner seeks mandamus relief, the petition for writ of mandamus is hereby dismissed. See *Mathews v. Crews*, 132 So. 3d 776 (Fla. 2014)

The seventh question presented is if the clerk of court, having jurisdiction, why would the court deny a petition for writ of mandamus that was never filed by petitioner in that court, why would the petition be stricken as unauthorized and rehearing denied by the clerk of court . Would the same clerk of Court, not of a different branch, have the inherent power and jurisdiction to dismissed a case that was filed in the United States Supreme Court, that was not file by petitioner in Florida Supreme Court, Should Clerks of Courts Correct errors of the Court.

(8) The trial and appellate court ruled that rehearing is denied without opinion as requested and denied Motion to recall mandate as expressed by Petitioner's motion on more than one occasion.

QUESTIONS PRESENTED – Continued

The eighth question presented is rather the trial and appellate court recognize that the judge in fact ruled out of jurisdiction, in spite of petitioner bringing the matter as evidence before the courts, in the petition as stated from the beginning throughout this case filed before the trial court and the appellate courts. Petitioner requested twice that the judge, because of fear, that he be disqualified from continuing the case as stated, the judge ruled out of jurisdiction and became belligerent, due to the duo friendship, counsel and presiding judge.., should the courts encourage or engage in biased or prejudiced acts in violation of due process rights, because of judicial immunity, or should the judicial review be implemented under laws of unlawful abused of discretion. *Canakoris v. Canakaris*, 382 So. 2d 1197 (Fla. 1980). See 28 U.S.C. SECTION 144, bias or prejudice action.

(9) The trial court and the appellate court ruled not to comply with the rules of law that “A judge shall regulate extrajudicial Activities to minimize the Risk of Conflict with Judicial Duties” see Supreme Court of Fla, RE Code of Judicial Conduct, 643 So. 2d 1037 (1994)

The ninth question presented is rather the trial and appellate courts awareness to judicial misconduct should give cause to review, “judicial acts of individuals” when it denied by siding with the lower court dismissal of the case and the denial for rehearing, knowingly the Respondent never file any answers to

QUESTIONS PRESENTED – Continued

motions in objection to Petitioner's Complaint for default and appealed made to the appellate court in which the court denied Appellant/Petitioner for Oral Arguments requested . when judges failed by not following judicial laws, should the judge loses subject matter jurisdiction as trespasser of law to the extended power beyond the legal limits.

(10) The trial and the appellate court denied rehearing, affirming that the trial judge did nothing wrong because of immunity, overlooking judicial misconduct, biased and prejudiced and the judges accountability of invasion of fundamental due process of law creating irreparable harm that damaged the foundation of faith and trust of incompetent judges that should form the authoritatively prescribed rules of ethical standards of laws.

The tenth question is rather the clerks of courts, the panel judges in denying rehearing, to a certain or significant extent or degree expressed emphatic affirmation agreement or acceptance towards the presiding judge in not overturning orders in making them null and void.

LIST OF PARTIES TO THE PROCEEDING

David D. Archer (Petitioner)

Winn Dixie Stores, Inc. and Western Union Financial Services, Inc. (Respondents)

RELATED CASES

COLQUETT V. WILLIAMS 264 ALA. 214, 86 So. 2d 3811 (1956)

Marbury v. Madison .. 5 U.S. 137 2 L. Ed. 60 1803

Caperton v. Massey 556 U.S. 868

Canakaris v. Canakaris, 382 So. 2d 1197 (Fla. 1980)

Bundy v. Rudd, 366 So. 2d 440 (Fla. 1978)

Maddrie v. McDonough, 945 So. 2d 573, 574. (Fla. 1st DCA 2006)

Seaboard sur co. v. Richard F. kline, Inc., 91 Md. App. 236, 242-43, 603 A.2d 1357 (1992)

Bradley v. Fisher, 688 A.2d 527 (1997)

Scheuer v. Rhodes, 416 U.S. 232 94.Ct. 1683, 1687 (1974)

Brokaw v. Mercer County, 235 F.33d, 1000 (7th Cir. 2000)

Valley v. Northern Fire & Marine Ins Co., 254 us. 348, 41 S. Ct 116 (1920)

Fletcher v. Tomlinson # 16-4399 (8th Cir. 2018)

TABLE OF CONTENTS

	Page
Questions Presented.....	i
List of Parties to the Proceeding	viii
Related Cases	viii
Table of Contents.....	ix
Table of Authorities	xii
Petition for Writ of Certiorari.....	1
Opinions Below	1
Statement of Jurisdiction	1
Statutory Provisions Involved.....	2
Statement of the Facts.....	4
Statement of the Case	5
Introduction Constitutional Lens.....	11
Reasons for Granting Writ	12
Default Entry Against Respondent	12
Granting Writ Under Color Of Law 18 U.S.C. 242....	13
Conclusion.....	17

APPENDIX

District Court of Appeal of the State of Florida, Fourth District, Opinion, June, 23, 2022.....	App. 1
--	--------

TABLE OF CONTENTS – Continued

	Page
Circuit Court of the Seventeenth Judicial Circuit In and For Broward County, Florida, Order on Motion for Expedited Hearings on All Issues, November 9, 2021	App. 2
Circuit Court of the Seventeenth Judicial Circuit In and For Broward County, Florida, Order on Motion for Default Enforcement Entry, November 9, 2021.....	App. 4
Circuit Court of the Seventeenth Judicial Circuit In and For Broward County, Florida, Order on Motion for Hearing for Damages, November 9, 2021.....	App. 6
Circuit Court of the Seventeenth Judicial Circuit In and For Broward County, Florida, Order on Motion for Judgement on the Pleadings, November 9, 2021	App. 8
Circuit Court of the Seventeenth Judicial Circuit In and For Broward County, Florida, Order on Motion for Disqualification of Judge, November 9, 2021.....	App. 10
District Court of Appeal of Florida, Fourth District, Opinion, January 9, 2020	App. 12
Supreme Court of Florida, Opinion, May 15, 2020	App. 13
Circuit Court of the Seventeenth Judicial Circuit and For Broward County, Florida, Order Resetting Trial, January 28, 2018	App. 14
Supreme Court of Florida, Opinion (denying petition), June 8, 2020	App. 16

TABLE OF CONTENTS – Continued

	Page
Supreme Court of Florida, Opinion (denying motion for remand), June 16, 2020.....	App. 17
Supreme Court of the United States, Opinion (denying petition), February 22, 2021	App. 18
Supreme Court of the United States, Opinion (denying petition for rehearing), April 26, 2021	App. 19
District Court of Appeal of the State of Florida, Fourth District, Order (denying motion for rehearing), August 1, 2022	App. 20
Supreme Court of Florida, Order (denying petition), September 6, 2022	App. 21
Excerpt of Florida Fourth District Court of Appeal Docket, Case Number: 4D21-3258.....	App. 23
Mandate from District Court of Appeal of the State of Florida, Fourth District, August 19, 2022	App. 25
Proposed Settlement Letter to Attorney Wesley Catri, October 21, 2017	App. 27
Circuit Court of the Seventeenth Judicial Circuit In and For Broward County, Florida, Plaintiff's Motion for Judicial Disqualification or Recusal Pursuant Florida Rules of Judicial Administration, Rule 2.330 (d), January 30, 2018	App. 41

TABLE OF AUTHORITIES

	Page
CASES	
Brown v. Rowe 96 Fla. 289 118 So. 2d (1928)	14
Bundy v. Rudd, 366 So. 2d 440 (Fla. 1978)	9
Canakoris v. Canakaris, 382 So. 2d 1197 (Fla.1980)	10
Consuegra v. Lloyd's Underwriters at London, 801 So. 2d 111 (Fla. 2d DCA 2001).....	13
Gibson Trust, Inc, v. Office of Atty Gen, 883 So. 2d 379 (Fla. 4th DCA 2004)	14
Maddrie v. McDonough, 945, So. 2d 573 (Fla. 1st DCA 2006)	14
Meadows Cmtv. Assn v. Russell-Tutty, 928 So. 2d 1276 (Fla. 2d DCA 2006).....	13
Oliveira v. State, 765 So. 2d 90 (Fla. 4th DCA 2020)	9
Wilson v. News-Press Publ'g Co., 738 So. 2d 1000 (Fla. 2d DCA 1999).....	13
STATUTES AND RULES	
18 U.S.C. § 242	2, 3, 4, 13, 17
28 U.S.C. § 144	2, 11, 13, 14
28 U.S.C. § 351	3
28 U.S.C. § 453	11
28 U.S.C. § 455	3
28 U.S.C. § 1254	4

TABLE OF AUTHORITIES – Continued

	Page
28 U.S.C. § 1254(1).....	4
28 U.S.C. § 1257(a).....	2
28 U.S.C. § 2101(c)	4
28 U.S.C. § 2101(e).....	4
42 U.S.C. § 1983	3, 4
Fla. R. Civ. P. (60)b.....	11
Fla. R. Civ. P. 1.190	6
Fla. R. Civ. P. 59(e)	11
Fla. R. Civ. P. 1500(b).....	6
Fla. Stat. § 43.26(4).....	3
Fla. Stat. § 43.26(g)(4)	9
Sup. Ct. R. 14.1(e)	2
Sup. Ct. R. 20	4
Sup. Ct. R. 20.1	4

PETITION FOR WRIT OF CERTIORARI

David Archer, litigant, respectfully petitions this court for a writ of certiorari to review the judgment of the 17th judicial circuit court in and for Broward County of Florida and the Fourth District Court Of Appeals of the State of Florida.

OPINIONS BELOW

Order of dismissal Inst # 115478603: "Not Reported."

Order of Dismissal Amended order of the Court's Dismissal Inst Inst # 115552164: "Not Reported."

Final Cost of Judgment Inst # 116339178: "Not Reported."

Mandate Affirmed Inst # 116469899 04/17/2020: "Not Reported."

Mandate Affirmed Inst # 118352540: "Not Reported."

See attached Appendix, App. 1-43.

STATEMENT OF JURISDICTION

The undersigned Petitioner complaint was filed on 01/12/17 before judge William W. Haury Jr. the Original Judge, Respondent failed to file timely answers to the amended complaint and in fact defaulted,

subsequently Counsel for Respondent was able to switched judges with his friend judge, Judge Michael A. Robinson in the 17th judicial circuit court in and for Broward county who failed to enforce default entry against Respondent yet rather dismissed the case on 11/26/18 Petitioner with good cause shown at all times attempting to prevent Irreparable harm previously disclosed in both trial and appellate court, Petitioner appealed the dismissal on 01/10/18. Petitioner on 01/30/18 and 10/27/2021 a second demand to have the judge disqualify himself from the case as requested that the replacement judge disqualify himself from the case in fear of injustice and irreparable harm, the trial and appellate court denied the request and the appellate court dismissed the judge ruling on 03/13/2018 for lack of jurisdiction. Petitioner appealed the trial Court's decision again on 07/30/18 The fourth District Court on 10/04/ 2018 allowed the case to proceed to a final order and on 08/01/2022 denied rehearing under color of law. 18 U.S.C. SECTION 242. This court has jurisdiction pursuant to 28 U.S.C. section 1257(a). See Rule 14.1(e). See App. 1-43.

STATUTORY PROVISIONS INVOLVED

28 U.S.C. Section 144: “The Judge before whom the matter is pending has a personal bias or prejudice whether against him or in favor of any adverse party, such judge should proceed no further therein, but another judge shall be assigned . . .”

28 U.S.C. Section 455: Any judge or magistrate judge of the United states should disqualify himself in any proceeding in which impartiality might reasonably be questioned.

28 U.S.C. Section 351: “The clerk shall promptly transmit the complaint to the chief judge of the circuit . . .”

Cannon 3 Fla Code Jud. Conduct: “A judge shall [perform the duties of judicial office impartially and diligently.”

42 U.S.C. section 1983: “Section 1983 provides an individual the right to sue state government employees and others acting under “color of state law”.”

Fla. Stat. Section 43.26(4) s. 2(d) Art V. of the Fla Constitution: “The chief judge of each judicial circuit, who shall be a circuit judge shall exercise administrative supervision over all the trial courts . . .”

18 U.S.C. section 242: “Whoever, under color of any law, statute, ordinance, regulation, or custom, willfully subjects any person in any State, Territory, Commonwealth, Possession, or District to the deprivation of any rights, privileges, or immunities secured or protected by the Constitution or laws of the United States, or to different punishments, pains, or penalties, on account of such person being an alien, or by reason of his color, or race, than are prescribed for the punishment of citizens, shall be fined under this title or imprisoned not more than one year, or both . . .”

Petitioner invoked this court' jurisdiction under appeal to review appealed cases on trespassers of the law and constitutional matters, pursuant to; 42 U.S.C. Section 1983. 28 U.S.C. 2101(e) 28 U.S.C. section 1254(1) Acknowledged previously by "Not Authorized" orders of Both Courts when appealed to The Fourth District Court Of Appeals and the Florida Supreme Court of Appeals as lacking jurisdiction. Petitioner movant in the above captioned cause and with having Honorable respect therefore acceding to this Court Jurisdiction 28 U.S.C. 1254 section Provides that "[c]ases in the courts of appeals maybe reviewed by the supreme Court . . . [b]y writ of certiorari granted upon the petition of any party to any civil or Criminal case",.. in part. Drastic and extraordinary remedies Pursuant to Rule 20. hereby gives notice pursuant to, Rule 20.1, 28 U.S.C. Section 2101(e) for discretionary review as outlined under the surrounding Exceptional Warranted circumstances under 18 U.S.C. 242.

STATEMENT OF THE FACTS

Petitioner the undersigned in this appealed case from the Seventeenth judicial circuit Court in the state of Florida and appealed to fourth district appellate court, states that this case was decided by both courts without motions file by Counsel to defend the issues appeal from the tribunal and Florida Supreme Court order dated June 23rd 2020, as unauthorized as claimed, "Not Authorized" notwithstanding the lack of jurisdiction, in the appellate Courts. Inasmuch

verified, evidently justifying constitutional matters as contained and acknowledged by the Courts not having the judicial authorized powers consistently expressed throughout decisional orders outlined in the Appeals Courts. The 4DCA order dated 10/31/19 “Not Authorized.” The Florida Supreme Court order Dated 06/16/20 “Not Authorized.” Only this Court has the Judicial powers on constitutional Authority review matters that lacked jurisdiction of the Florida Supreme Court. September 6, 2022 order. App. P.

STATEMENT OF THE CASE

This case presents the questions of whether the judge should have removed himself from this case due the duo relationship and the judge requesting from his assistant not to give Petitioner hearing dates on motions, in which the court refused to maintain the standards and rules of the court. In light of the facts that the judge ruled out of jurisdiction and further, the duo, counsel and the judge did not fully comply with the orders of the Fourth District Court of Appeals. App. (I).

On 01/11/17 Petitioner Case was filed for damages against the Respondent in a Slipped and fall case, as resulted Petitioner sustained permanent injuries after Having two (2) surgeries caused by the incident on 01/17/13 as filed in the Complaint in the **17th Judicial Circuit Court in and for Broward County Florida**. This case was assigned to the original Judge, The Honorable William A. Haury Jr. Respondent was

Properly served and in fact moved to dismiss the case for Petitioner's failure to state a cause of action.

On 03/27/17 Petitioner's motion to the amended the complaint was filed.

On 04/17/17 during hearing on issues, the Honorable Judge William A. Haury reminded Respondent, that no reply was received by the court, pursuant to applicable laws and that, Respondent's "**ten (10) days will expire soon or that he can seek an extension of time.**" Protocol was abandoned and not followed by Respondent. On 05/04/17 Respondent failed to file the timely answers to Petitioner's Amended Complaint and accordingly by law has defaulted pursuant to Fla. R. Civ. P. 1.190. and Fla. R. Civ. P. 1500(b).

The Oath of Judges became Villainous and subvert by Counsel's friendship "Judicial Misconduct" knowingly, the Oath of duty to uphold their oath of duties were unconstitutional switched, which violated Petitioner's rights. Counsel's friendship with the judge submitted for review before the court by Petitioner on irregularities, fraudulent illegalities, developed into fear as guided by the actions of "bias and prejudice" conducted by the duo after, in removing the first Judge did caused irreparable harm. Petitioner filed a motion to disqualify the judge for errors and lack of due process. Petitioner appealed the case to the Fourth District Court of Appeals, which the Court was not authorized to conclude constitutional matters, said was not entertained; subsequently, by a not authorized order, taking several months was followed by a P.C.A.

decision in light of all the years under appealed in the appellate Court. App. J.

Which said court fundamentally failed to enforce its own orders on irreparable harm directed to respondent Counsel. No Rehearing order of 08/01/22. App. K.

The Fourth District Court was unauthorized as claimed "Not Authorized" to remand to the tribunal to correct errors on irreparable harm, biased and prejudiced conducted behavior by the duo, counsel and judge for unconstitutional oath of office or duties, as established by Judge and Counsel actions of the Court's Mis-carriage of Justice. App. L.

Respondent knew or should have known that counsel's first duty to the court and oath of the Florida's Bar, the Public, and not clients be established not to "win at any Cost", to prevent violating the Attorney's Oath of Office and to prevent the Judge biased orders in exceeding judicial truth, fairness, honesty, integrity authority; when the duo, violated the sua sponte rules by together having an out of chambers agreement without notifying Petitioner in its sua sponte order dated Sunday, 01/28/18. Note: out of judicial jurisdiction with Counsel. App. M.

The Appellate Court erred or was not authorized by not vacating and remanding this case for default according to law, for abused of discretion, irreparable harm bias and prejudice conflict of interest of officers of the Courts.

The Fourth District Court error of law, in Applying its P.C.A. decision Knowingly knew, that Respondent failed to respond to irreparable harm as directed by the order of the Fourth District Court of Appeals as ordered to do so. This was an abused of discretion of powers to accept Respondent's motion filed "out of Order" which the Court failed to enforced the issues raised by Petitioner in its 4DCA Court order on irreparable harm, instead Respondent, filed to consolidate appeals. App. N.

Petitioner appealed to the Florida Supreme Court and was denied as "Not Authorize" unconstitutionally not granting petitioner in the instant case, but in different cases, the same cited cases for other's cases were granted. The Court did denied Petitioner's Motion despite the facts and grounds under the surrounding circumstances of cases granted in retrospect with cited authorities in the Florida's Supreme Court of law. Petitioner, even with factual showing of Evidence and Empirical truth of great generality conceived within the Courts as Knowingly knew or should have known of the biased and prejudiced out of Jurisdiction rulings by the Judge, claimed Petitioner failed to state that the "**Judge ruled out of jurisdiction**" and the judge failed under the consequences of factual conditions of the rules of law in failing to follow the Standards of (Fla. R. Civ. (P) Procedural laws, by non Compliance with local States and constitution laws, subsequently are Acts of Violations of Fla statutes, Constitution and the United States Constitution. Thus, causing irreparable harm is, unconstitutional, even to replaced,

Judge A. Haury Jr., the original judge, with respondent friend Judge, Michael A. Robinson, Counsel's choice in this Instant case, with all due respect to the Courts, subsequently, substantially and significantly did interfered with the outcome of the case, as raised in the appealed motions as miscarriage of justice and the Judge who without jurisdiction authority, violated the oath of office section 43.26(g)(4) Fla. stat. constitutional requites office of duties expected. Should reversible errors be allowed for conflict of oath and unconstitutional Acts, as the present judge who's bias and prejudice actions called for his Disqualification from Hearing the Case due to the duo, Counsel and Judge Longtime Relationship, which affected the outcome and substantial rights of petitioner's case. Which behavior Directly Created Manifest Injustice. Should the Judge exceed judicial authority and instruct his Judicial Assistant not to give hearing dates to Petitioner' motions as announced, which gave rise, for prohibition based on Florida's Rules of Appellate Procedures R. P. 9100(e) and (h) Cited cases. Bundy v. Rudd, 366 So. 2d 440 (Fla. 1978) Oliveira v. State, 765 So. 2d 90 (Fla. 4th DCA 2020) for Judge's failure to comply. It is Unconstitutional for the Courts to agree with a bias and prejudice judge, who were asked to be disqualify and did failed to follow the Fourth District Court orders as prescribed remedies outlined, which the Judges knowingly, knew or should have known that if any Court violates its powers, just to bring an end to any case, violated its powers by abused of discretion, miscarriage of justice and errors of law. Paraphrased "NOT Authorized,

Moot, Dismissed, Lack of Jurisdiction, Miscellaneous, Other Substantive” Stricken as Unauthorized, Sua Sponte, Denied, P.C.A. “Per Curiam Affirmed”, To the extent, Under the circumstances, failing the Standards of review to administer justice, and matters of “great public Importance” in light of administration rules and laws prohibiting, unlawful abused of discretion. Canakoris v. Canakaris, 382 So. 2d 1197 (Fla.1980).”

Failed to prevent harm by applying precedential effects over lower courts. Should the Judge have had adhere with the order of the fourth District court of appeals dated 11/05/18 and Petitioner requested filed motion, to stay any and all proceedings, pending the appellate process. In light of motions filed and the 4 DCA order as instructed to the Judge, yet on his own accord because of the duo friendship dismissed the case and deliberately, ruled out of Jurisdiction.

Should the judge on his own dismissed Petitioner’s case under appealed, because of the duo, counsel and judge longtime relationship. Should Counsel for Respondent not address the issues on irreparable harm directly Requested by the Order of the 4DCA, dated 01/10/19, as directed to respond, and Counsel failed by ignoring the orders of the court. “ORDERED THAT APPELLEE IS DIRECTED TO RESPOND, WITHIN (5) DAYS FROM THE DATE OF THIS ORDER, TO THE DECEMBER 21, 2018 “APPELLANT’S APPLICATION FOR WRIT OF CERTIORARI REVIEW AND

EXTENSION OF 30 DAYS TO FILE BRIEF ON THE
MERITS ON IRREPARABLE HARM.”

INTRODUCTION CONSTITUTIONAL LENS

Subsequently, the Court ruled out of Jurisdiction. The Judge violated the Amendments of Florida’s Constitution Article 1 section (2) Article v. section (5) b Article v. Section (12) Article v. section (15), Abuse of discretion cause for Discretionary review; Joiner 522 U.S.C. 136 (1997) .., U.S.C. 28 section 144 U.S. CONSTITUTION. FIFTH AMENDMENT., DUE PROCESS. THE SEVENTH AMENDMENT, THE TENTH AMENDMENT AND THE FOURTEENTH AMENDMENT, EQUAL PROTECTION. The Lower courts Failed to correct errors of law.

Should the Florida’s Courts Comply with Florida’s Rule of civil Procedures and Florida’s Rules Of Appellate Procedures. This United States Supreme should use the prescribed remedies and the “ad hoc” test to correct improvident exercise discretion of irreparable harm and abused of discretion clearly unreasonable erroneous, or arbitrary and not justifiable to the facts of rules of statues and laws. Whether, strict scrutiny, intermediate scrutiny, or rational basis scrutiny. Pursuant to Federal Rules of Civ. P. (60)b and Fed. R. Civ. Rule 59(e) 28 U.S.C. section 453.

REASONS FOR GRANTING WRIT

On 01/08/18 Petitioner appealed the Lower Court denial for wages claimed #4D18-0080. Dismissed by the court for lack of jurisdiction.

On 07/24/18 Petitioner appealed multiple orders including default motion that were not comprehensively argue neither, entertain by the court.

On 08/01/22 The 4DCA failed to issue an order on denied docketed rehearing dated.

08/01/2022 also failed to enter at Westlaw a written opinion for 4D21-3258.

On 11/29/18 Petitioner appealed the Lower Court order, the Fourth District Court of appeals was “Not Authorized” as claimed and denied Petitioner’s MotionsAppealed to the Courts to remand to the tribunal for corrections of Errors of the court and the Court’s ruling out of jurisdiction based on bias and Prejudice conduct by the duo, counsel and the Judge out of oath unconstitutional conduct. In light thereof, the Florida Supreme Court recognized that decisions were constitutional matter and ruled “Not Authorized” due in fact that rulings were made out of Jurisdiction by the Tribunal judge Michael A. Robinson.

DEFAULT ENTRY AGAINST RESPONDENT

“[a] party shall plead in a response to a pleading within 10 days after service of the amended complaint,

unless the court otherwise orders.” Respondent when reminded contemporaneously was informed simultaneously by the judge during hearing but failed to seek an enlargement of time on fundamental imperative issue that would of course prevent default entry and Judgment. See Meadows Cnty. Assn v. Russell-Tutty, 928 So. 2d 1276, 1280 (Fla. 2d DCA 2006) (quoting Consuegra v. Lloyd’s Underwriters at London, 801 So. 2d 111, 112 (Fla. 2d DCA 2001. Wilson v. News-Press Publ’g Co., 738 So. 2d 1000, 1001 (Fla. 2d DCA 1999) App. (F).

GRANTING WRIT UNDER COLOR OF LAW 18 U.S.C. 242

On 05/17/17 Petitioner filed for entry of default and subsequently, Respondent was able to have the case switched out of “pro.to.col” to his friend judge.

On 01/28/18 a clandestine meeting between counsel and the new judge were Held on the eve Sunday, knowingly that the issue on default was before the court, that following Monday, which default motion was never heard that Monday, but the court delayed the default demanded motion for several months.

The duo met out of jurisdiction of the Court’s Chambers and set a new “Sua Sponte” trial out of order from the Honorable WILLIAM A. HAURY Jr., who was replaced by the Present Judge, who’s rulings is in violation of 28 U.S.C. section 144. “bias or prejudice” actions. **App. (D).**

On 01/30/18 Petitioner requested that the judge disqualify himself from the case in Fear of the judge making bias decisions of personal interest and not objective criteria based on the duo unethical conduct and errors of laws, abused of discretion. See 28 U.S.C. Section 144 Bias or Prejudice of Judge. See, Maddrie v. McDonough, 945, So. 2d 573, 574.(Fla. 1st DCA 2006) See Gibson Trust, Inc, v. Office of Atty Gen, 883 So. 2d 379, 382. (Fla. 4th DCA 2004).

On 02/5/18 Petitioner's motion for disqualification was denied by the judge.

On 07/24/18 the Judge denied Petitioner's motion filed for default on 05/17/17 see Brown v. Rowe 96 Fla. 289 118 So. 2d (1928) based on the abuse of discretion.

On 01/10/19 the order of the 4 DCA ordered "that appellee is directed to respond, Within five days (5) days from the date of this order, to the December 21, 2018 "appellant's application for writ of certiorari review and extension of 30 days to file brief on the merits on irreparable harm" instead of facing the issues on irreparable harm, counsel avoided the real issue and filed to consolidate appeals. Further, failed to address the issues on fraud upon the court and misleading motion pursuant to 57.105 motion for cost and fees, once again the judge ruled out of jurisdiction, knowing the case was not relinquish to the tribunal. App. (F).

On 08/30/19 Petitioner filed Appellant's reply brief with Appendix.

On 09/20/19 Petitioner requested Oral arguments and was denied on 09/24/19.

On 10/15/19 Petitioner filed a memorandum on merits with Appendix.

On 10/25/19 Petitioner made a request for Oral arguments.

On 10/31/19 Petitioner's request for oral arguments was "Stricken as unauthorized" "ORDERED sua sponte that the appellant's October request for oral arguments is stricken as unauthorized."

On 01/09/20 the Fourth district Court made a PCA ruling against all odds to bring the case to an end, knowingly having facts and knowledge of the duo injustice, no one is above the law, when it comes to abused of miscarriage of justice.

On 03/26/20 Notice of Discretionary jurisdiction was filed in the Florida Supreme Court.

On 6/24/20 "Petitioner's motion for reconsideration and clarification of orders dated 06/08/20 and 06/16/20 and reinstatement on Petitioner's Writ of Prohibition and the inadvertently denied motion," Writ of Mandamus" Which Denial at issue was not filed at no time by Petitioner but erred "to the extent" Evidently denied by this Supreme Court of Florida.

On 06/08/20 It Should be noted that the Florida Supreme Court dismissed "Writ of mandamus" mandamus motion was not filed prior to the denial.

On 06/25/20 The Florida Supreme Court claimed that Petitioner filed on 06/23/20 a request for Mandamus. In light of the error of the Court's Order dated on 06/08/20, which denied Prohibition and Mandamus knowingly that only Petitioner's motion for prohibition was before the court.

The decisions of the trial court's Judge acting as trespasser of the law to "Sua Spont dismissed Petitioner complaint that was under appealed in the Fourth District Court of Appeals, with Petitioner's filed motion to the trial Court's Judge to stay any and all hearings as expressed by the 4 D.C.A. order of 11/05/18 was not adhere too by the judge, and or neither Petitioner was given due process to be heard, rather the court dismissal lacked jurisdiction at the time of dismissal, knowingly, that the order was invoked to the jurisdiction of the appellate's Court Jurisdiction. See Federal Rules of civil Procedure 60(b)3 and 4; "Fraud (whether heretofore denominated intrinsic or extrinsic), misrepresentation, or other misconduct of an adverse party."

The First amendment to the United States Constitution guarantees "Congress shall make no law respecting an establishment of religion, or prohibiting the freedom exercise thereof; or abridging the freedom of speech, or of the press; or the rights of the people peaceably to assemble, and to petition the government for a redress of grievances."

CONCLUSION

Wherefore For the foregoing reasons, under the surrounding circumstances, 60(b)(3) Mr. David D. Archer respectfully requests that this Court grant this Writ of certiorari. Petitioner Civil trial was a trial by ambush that was decided by the duo counsel and the judge on 01/28/2018 to dismiss the case, subsequently to the replacement of the previous Judge. On 01/28/2018, outside of the court's jurisdiction to the planned conspiracy to dismiss the complaint, that the reviewed judgments of the Trial and appellate court / Fourth District Court of appeals and the Florida Supreme Court decisions were based on Miscarriage of Justice, overlooked, oversight and or biased and prejudiced conduct by the duo counsel the panel Judges and clerk of courts together in the alternative, overruling of all orders of the Tribunal Judge, and the denied rehearing order of the 4 D.C.A. dated 08/01/2022 as error of law and null orders starting from 01/28/18 to present dated last order, remanding this case to the original Judge, accordingly for Default hearing on Damage, together with any and all reprimands to the duo unethical conduct that this court deems just under the laws of the constitution of the united states of America under 18 U.S.C. section 242 .. App. (G).

Respectfully Submitted on this 6th day of March,
2023.

DAVID D. ARCHER
7010 NW 89th Avenue
Tamarac, Florida 33321
(954) 297-5817

Pro Se Petitioner

Originally Submitted On:
Oct. 17, 2022 and Jan. 4, 2023.
Resubmitted On: Mar. 6, 2023.