No. ____________

In The

SUPREME COURT OF THE UNITED STATES

DONIVON CRAIG TINGLE,
Petitioner,

v.

FLORIDA DEPARTMENT OF HEALTH,
Respondent.

On Petition for Writ of Certiorari on Appeal to
the First District Court of Appeals
for the State of Florida

PETITION FOR WRIT OF CERTIORARI

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QUESTIONS PRESENTED FOR REVIEW

In November, 2016, Florida voters approved what became Article X § 29 of the Florida Constitution (the Amendment). This Amendment authorized Florida, through its Department of Health, to register Medical Marijuana Treatment Centers (MMTCs). In 2017 to establish a regulatory framework, the legislature codified the Amendment into what it is today, F.S. § 381.986(8)(a)(1). Further, in an effort to address generations of past racial discrimination, the legislature, through the efforts of the Democratic Black Law Caucus, passed F.S. § 381.986(8)(a)2.b. (the Statute). Previously, this had been known as Emergency Rule 64ER21 (the Rule) instituted by the Florida Department of Health (DOH). This legislation establishes an exception for recognized class members of the *Pigford* and *Black Farmers* litigation. No provisions have ever been made for a recognized class member of *Keepseagle,* the class action for Native American Farmers and Ranchers, of which Petitioner belongs.

1. Whether the actions of Florida, through its legislative and executive branches in passing, implementing, and enforcing the Rule and the Statute constitute government action that discriminates between similarly situated members of a suspect class based solely upon their race without serving a compelling governmental interest and narrowly tailored to support that interest.

2. Whether strict scrutiny is the correct standard of Constitutional review to apply to race-based discrimination and did the trial court properly apply that standard.

3. Whether Florida has violated the Petitioner's rights to Equal Protection under the United States Constitution, the Florida Constitution, and United States Supreme Court precedent by affording greater rights and protections to recognized black-class members to the exclusion of Native American-class members similarly situated.

4. Whether the actions of the lower courts either singularly or combined violate the Due Process rights afforded under the U. S. Constitution and the Florida Constitution and inure for the benefit and protection of the Petitioner, a Native American and *Keepseagle* class member.

5. Whether this Court and the lower courts have the Inherent Power to order the Florida Department of Health to issue a Medical Marijuana Treatment Center (MMTC) license to Petitioner based upon the well-settled powers and principles of the Inherent Powers Doctrine.

LIST OF PARTIES

Petitioner, Donivon Craig Tingle, was the Applicant in an earlier pleading to this Court, the Appellant, below and the Plaintiff at the trial court. He is a resident of Florida, a citizen of the United States, an enrolled member of a recognized Indian tribe, and a successful member of the *Keepseagle* class.

Respondent is the State of Florida, particularly the Florida Department of Health, who was the Appellee below and the Defendant before the trial court in Leon County, Florida.

LIST OF RELATED PROCEEDINGS

This case arises from and is therefore related to the following proceedings in the Circuit Court for the Second Judicial Circuit in and for Leon County, Florida and the First District Court of Appeals for Florida.

- Donivon Craig Tingle v. Florida Department of Health, No. 2021 CA 2155 (April 11, 2022)

- Donivon Craig Tingle v. Florida Department of Health, No. 1D22-1096 (May 24, 2023)

Aside from the above, there are no other proceedings in the state or federal appellate courts directly related to this case within the meaning of the Court's Rule 14.1.(b)(iii).

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OPINIONS BELOW

The Final Judgment of the Circuit Court for the Second Judicial Circuit of Florida in and for Leon County filed on April 11, 2022, is set forth in Appendix A, 1a-3a.

The Per Curiam Affirmed decision of the First District Court of Appeals for the State of Florida filed on April 14, 2023, is set forth in Appendix B, 4a-5a.

The Denial of the Appellant's Motion for a Written Opinion of the First District Court of Appeals for the State of Florida filed on May 24, 2023, is set forth in Appendix C, 6a-7a.

The disposition denying Appellant's Motion for Rehearing *En Banc,* of the First District Court of Appeals for the State of Florida filed on May 24, 2023, is set forth in Appendix D, 8a-9a.

JURISDICTION STATEMENT

The First District Court of Appeals for the State of Florida entered judgment against Appellant below, Petitioner, herein, on April 14, 2023, and denied Petitioner's Petition for Rehearing *En Banc,* on May 24, 2023. This Court has jurisdiction under 28 U.S.C. § 1254(1) and United States Supreme Court Rule 13(3) because within 90 days after the First District Court of Appeals for the State of

Florida denied Petitioner's Petition for Rehearing, Petitioner filed this Writ of Certiorari.

Petitioner submits its Writ of Certiorari to the United States Supreme Court because the Supreme Court of Florida is not empowered to hear appeals from Per Curiam decisions of the District Courts of Appeal. See *R.J. Reynolds Tobacco Co. v. Kenyon,* 882 So.2d 986 (Fla. 2004); *Beaty v. State,* 684 So.2d 206 (Fla. 2d DCA 1996), Fla. Const. Art. V. §(3)(b); Fla R. App. P. 9.030(a); *Jenkins v. State,* 385 So.2d 1356 (Fla. 1980); *Grate v. State,* 750 So.2d 625 (Fla. 1999). However, this Court has the authority to hear such cases. Per Curiam Affirmances by a Florida District Court of Appeals are, of course, not beyond the review of this court. See *Palmore v. Sidoti,* 460 U.S. 429 (1984). In *Palmore,* another race based Equal Protection case from Florida, this Court granted certiorari directly from the Florida Second District Court of Appeals because, "[the] Second District Court of Appeal Affirmed without opinion, 426 U.S. 2d 34 (1982), thus denying the Florida Supreme Court jurisdiction to review the case. See Fla. Const., Art. V. § 3(b)(3), *Jenkins v. State,* 385 So.2d 1356 (Fla. 1980). **We granted certiorari,** 464 U.S. 913 (1983), **and we reverse."** There is further precedent for this Court to review the Per Curiam Affirmed of the lower court. See *Philadelphia Newspapers, Inc. v. Jerome,* 98 S.Ct. 546, 548 (1978).

The relief that is being sought in this Writ of Certiorari is for this Court to grant Petitioner's Writ of Certiorari to declare the Florida

Department of Health's actions unconstitutional and order the immediate issuance of a Florida Medical Marijuana Treatment Center License (MMTC) to the Petitioner. This is the same relief that has been sought four times from the Florida Courts. The Petitioner sought this relief from the First District Court of Appeals for Florida and that court summarily rejected the relief being requested herein by issuing a PCA Affirmed. See Appendix B, 4a-5a. The Petitioner, at bar, asked the First District Court of Appeals for Florida, a second time, to grant the relief and issue a written opinion and was denied. See Appendix C, 6a-7a. The Petitioner, herein, asked the First District Court of Appeals for Florida to immediately grant a MMTC license by way of an *En Banc* hearing and was denied for a third time by the First District Court of Appeals for Florida. See Appendix D, 8a-9a. Each time, the requested relief was the exact same relief that is being sought in this Writ of Certiorari. This is the same relief that was also sought from the trial court before the Second Circuit for the State of Florida. See Appendix A, 1a-3a.

Petitioner submits this Writ of Certiorari because the trial court for the Circuit Court of the Second Judicial Circuit in and for Leon County, Florida, decided an important state and federal equal protection claim that conflicts with the United States Constitution, the Florida Constitution, and precedent established by this Court. Subsequently, this matter received a PCA without case citation by the First District Court of Appeals for Florida.

These combined decisions are such a radical departure from laws of the lands that have been in place well over one hundred years and also departs from the usual and accepted course of judicial proceedings that the due process rights of the Petitioner have also been violated. So much so, as to call for an exercise of the United States Supreme Court's supervisory power.

CONSTITUTIONAL AND STATUTORY PROVISIONS INVOLVED.

Section 1 of the Fourteenth Amendment to the Constitution for the United States provides:

All persons born or naturalized in the United States, and subject to the jurisdiction thereof, are citizens of the United States and of the state wherein they reside. No state shall make or enforce any law which shall abridge the privileges or immunities of citizens of the United States; nor shall any state deprive any person of life, liberty, or property, without due process of law; nor deny to any person within its jurisdiction the equal protection of the laws.

Section 1 of Article 1 of the Constitution of the State of Florida provides:

All natural persons, female and male alike, are equal before the law and have inalienable rights, among which are the right to enjoy and defend life and liberty, to pursue happiness, to be rewarded for industry, and to acquire, possess, and protect property. No person shall be deprived of any right **because of race**, religion, national origin, or physical disability. [Emphasis supplied].

Florida Statute § 381.986(8)(a)2.b provides:

"As soon as practicable, the department shall license one applicant that is a recognized class member of *Pigford v. Glickman,* 185 F.R.D. 82 (D.D.C. 1999), or *In Re Black Farmers Litig.,* 856 F. Supp. 2d 1 (D.D.C. 2011). An applicant licensed under this sub-subparagraph is exempt from the requirement of subparagraph (b)2…"

STANDARD OF REVIEW

The United States Supreme Court typically applies the *de novo* standard of review and this is the standard of review that should be applied herein. No weight should be applied to the decisions of the lower tribunal. "De novo review tends to unify precedent and will come closer to providing…a defined set of rules which in most instances, makes

it possible to reach a correct determination beforehand." See *Ornelus v. United States,* 517 U.S. 690, 697 (1996).

When considering matters involving race-based classifications, it has long been held that *strict scrutiny* is the only standard of review to be applied and there can be no better case for this proposition than *Korematsu v. United States,* 323 U.S. 214 (1944).

STATEMENT OF HISTORY AND FACTS

On April 14, 1999, the case that would become the class action lawsuit *Pigford v. Glickman,* 185 F.R.D. 82 (D.D.C. 1999) was filed. That same year on November 24th, another case was filed that would become known as *Keepseagle v. Vilsak,* 102 F. Supp. 3d 205 (D.D.C. 2015) and *Keepseagle v. Purdue*, 856 F. 3d 1039, cert. Denied ____U.S.____(D.C. Circuit 2017). These two separate cases sought to recover from the United States Department of Agriculture (USDA) for past discrimination. In *Keepseagle,* particularly Plaintiffs, argued *inter alia*, violations under the Equal Credit Opportunity Act, 15 U.S.C. §§ 1691-1691(f), alleging discrimination against Native Americans in its Farm Loan Program. Two years later, the district court certified a class under Federal Rule of Civil Procedure 23 for purposes of declaratory and injunctive relief. The class was defined as:

All Native American farmers and ranchers, who (1) farmed or ranched between January 1, 1981, and November 24, 1999; (2) applied to the USDA for participation in a farm program during that period; and (3) filed a discrimination complaint with the USDA either individually or through a representative during the time period.

Individual members were only joined to the *Keepseagle* class after a detailed and arduous vetting process that required demonstration of farming, affidavits, and other proof, as well as proving enrollment in a recognized Indian tribe. Petitioner was joined to the class without incident.

After lengthy negotiations, the parties to *Keepseagle* reached a settlement agreement in October, 2010. This included: injunctive relief and $680 Million Dollars in monetary relief that was paid to the class representatives according to a schedule of payouts and the rest went into a *cy pres* account.

In *Pigford,* for reasons not entirely known to the Petitioner, a second lawsuit was filed and certified as a class action and this case became known as: *In Re Black Farmers Litigation,* 856 So. 2d (D.D.C. 2011). Together, *Pigford* and *Black Farmers* became the largest civil rights lawsuit in United States history with over $2.2 Billion Dollars being paid out to the class members.

Each of these three cases sought to provide some relief to historic abuses of people marginalized by racial discrimination and who, in this case, were farmers or ranchers who had been discriminated against by the United States government.

In 2016, in response to overwhelming voter support, the State of Florida passed an amendment to its Constitution which would allow it to license individuals to grow and distribute medical marijuana. In 2017, the following year, the Constitutional Amendment was codified into F.S. § 381.986(8)(a)(1).

In addition, the Florida legislature codified an emergency rule of the Florida Department of Health, F.S. § 381.986(8)(a)2.b. This new legislation was created expressly and exclusively for members of the *Pigford and Black Farmers* class members who were also residents of Florida. It allowed for a class member to receive a license, without having to meet the arduous requirements of §381.986(8)(a)(1). This exclusive exception for black farmers was designed to help redress past discrimination and mistreatment of African Americans.

No provision was made for Native Americans who were members of the *Keepseagle* class, who were similarly situated, and except for race, were identically situated. This discriminatory act and its result of discrimination and marginalization, can only be described as a race-based classification and, therefore, race-based discrimination. Because the classification is race and race is not only a suspect

class, but the original suspect class, the only review that can be applied is Strict Scrutiny.

Over a period of several months, Petitioner met with, in person, via telephone, or wrote letters to a myriad of state officials in the Executive Branch, the Administrative Branch (which in practicality forms the 4th branch of government in some respect, after all they pass their own laws, sort of), and the Legislative Branch. Among those approached were Petitioner's current and former state representatives, the Petitioner's state senator, the director for the Office of Medical Marijuana, the Secretary for the Department of Health, and the current governor for the State of Florida. Only after exhausting every conceivable administrative remedy, did Petitioner file his complaint in Circuit Court.

During the trial court procedures, the Plaintiff/Petitioner was held to an evidentiary and procedural standard to which Florida was relieved. In Florida, the term has sometimes been called "home cooking." The trial court judge, Judge Angela Dempsey, had stated in her personal rules which were also displayed on her court page, that no party was permitted to provide to the trial court any exhibits consisting of pages of raw data to which there was no analysis.

Despite this instruction, the Florida Department of Health chose to file over 40 pages of raw data, which was factually incorrect, prejudicial, misleading in its conclusions, and manipulative in

its invalid assertions. Each of which were expertly addressed and debunked by the Plaintiff (Petitioner herein) both in its pleadings and on the oral record, as well. The plaintiff having data which could have refuted all of this misleading and prejudicial behavior was constrained by the requirements of the judge which were clearly enforced in a whimsical and arbitrary fashion. The lack of impartiality is one prong of a denial of due process under the law.

In addition to the above, the trial court judge, Judge Angela Dempsey, a self-described constitutional law expert, applied the wrong legal standard by stating to the effect, "that it is either strict scrutiny and that burden has been met or it is rational basis and Florida has met its burden" By applying no legal standard or trying to apply diametrically opposed legal standards in the same breath, the trial judge at the same time violated Petitioner's rights under equal protection and due process. Equal protection was violated because if the correct standard is strict scrutiny (and it is), then Florida has the burden of proving that it has met its burden and that there is no less intrusive method of accomplishing its goal, or, if it is rational basis, what is the government interest that is being put forth. At a minimum, the trial court judge erred in not providing a definitive statement from which a well-reasoned analysis could be gained. Moreover, by not providing a legal standard, the Petitioner was denied due process under the law.

This is particularly egregious because the legal issue presented is the most clear, precise, and straight forward legal issue. Was this a violation of Equal Protection by treating a Native American differently from an African American? Even in lawyer world you cannot get around the clear answer of - Yes.

The First District Court of Appeals for Florida, after holding onto the case for over nine (9) months, issued a PCA without a citation to case law. Typically, even when a PCA is issued, it takes about four months. Anytime a PCA is issued, it invites parties and readers alike to ponder a myriad of questions. This is especially the case when one considers all the errors made by the trial court, including applying the incorrect legal standard, offering nothing of substance to support a decision of this magnitude, and acting in a manner that lacked impartiality, thus denying due process.

Moreover, this is the type of case that a learned, appellate panel should relish and savor. It is an opportunity to write a well-reasoned opinion on Equal Protection in Florida, uphold the Inherent Powers Doctrine, and do the right thing from a moral perspective. This case had the potential, if dealt with in a thorough and competent manner, to be the signature opinion of the author's career. Indeed, there was enough to be written and enough that should have been written that every jurist on the panel could have taken a different component or issue and write an opinion on Equal Protection, taken a position on Due Process, upheld the strength

and integrity of the Inherent Powers Doctrine, and provided a scathing rebuke of the Department of Health, the Executive Branch, and the Legislature. It is astounding and mystifying that they chose to issue a measly, mealy mouthed PCA. Given the biggest opportunity of their careers, they chose to recede into the shadows and hide rather than stand and be counted as jurists of courage and principle, and why, to mollify a Chief Executive who would throw a tantrum!

BRIEF STATEMENT OF THE CASE AND BRIEF ARGUMENT

This case is about Equal Protection under the law, as well as Due Process, and what authority does this Court and the lower courts have to fashion a proper remedy pursuant to the Inherent Powers Doctrine. Because this is a *brief* statement of the case, we shall reserve case law analysis for the full Argument Section of this Writ of Certiorari. The due process violation will be discussed secondarily because that argument did not appear until the trial court and the intermediate appellate court acted incompetently in the former instance and improperly in the latter.

Nevertheless, the Equal Protection claim was ripe the moment the Florida Legislature passed F.S. § 381.986(8)(a)2.b., failing to take into account Native Americans. The subject of the unequal protection is race. Race is a violation for the Equal Protection clause of the Fourteenth Amendment to

the United States Constitution, and we get to race being classified as a suspect class through a variety of landmark U.S. Supreme Court Cases, not the least of which would be *Brown, Korematsu* and others. Under the Florida Constitution, the protection is much less laborious because race is expressly set forth as a protected class.

Having established that equal protection for racial classifications is required under both the U.S. Constitution and the Florida Constitution we must agree that *strict scrutiny* is the proper standard of review. There are no legitimate arguments to the contrary, that Florida, has disreputedly tried to do just that. Once strict scrutiny is in place, then it becomes clear that Florida has the burden, which it has not met, not by a mile, and therefore, they lose.

Next, we are faced with the issue regarding what this Court is to do once it determines that Petitioner prevails because there has been a violation of Due Process under both the Florida and the United States Constitution. Hopefully, all would agree by now, that if one Constitution is violated, then both have been violated because arguably, Florida attempts to provide more protection against race-based violations of equal protections because it expressly enumerates race as a protected class. The <u>one</u> thing that this Court should not do is send it back to Florida, after they have shown themselves unwilling to follow the law, its own rules, or to act reasonably. Also, given the state of race-based chaos and aggression against people who only want to be treated equally and included, that would be a

catastrophe, given that Florida has made it clear they oppose equality and inclusion for people of color.

Therefore, the only practical option and the best overall solution for the interests of justice and all things moral and decent is for this Court to give specific and unambiguous instructions that are so clearly that there is absolutely no room for misinterpretation or delay. Also, those instructions are best given to not only an organization but specifically to an identified person, someone that can be held in contempt for failure to follow the clear instructions of this Court.

Perhaps the remedy might come in the form of this Court ordering the trial court judge, Judge Angela Dempsey, to immediately order the Secretary of the Florida Department of Health to immediately issue the Petitioner a Medical Marijuana Treatment Center license (MMTC). In so doing, it is unambiguous, everyone knows who is accountable and this matter can be brought to a close.

Now, at the outset, Petitioner articulated that it would deal with the violation of due process claim subsequently. The trial court applied the wrong legal standard. Actually, as nearly as Petitioner can tell, it applied no legal standard by trying to land on two runways. One simply cannot take an either or position that contains a universe of only two options and those two options are separate, distinct, and incompatible. By trying to allow the Florida Department of Health to have it both ways, it

applied an absurd legal and academic position. Moreover, the trial court failed to provide any legal analysis of its own. Petitioner still cannot determine which way is up in the mind of the trial court.

Moreover, the trial court judge, Judge Angela Dempsey, refused to uphold her own promulgated rules of court by allowing the Florida Department of Health to provide an exhibit of raw data, when the parties were expressly instructed not to do so. This lack of impartiality further demonstrates the trial court's unwillingness to become and remain impartial.

With respect to the actions of the First District Court of Appeals for Florida, who knows what was going on in their minds, they have hid that from everyone. We do know that they had a front row seat to the sideshow that was the trial court proceeding, that the trial court judge, Judge Angela Dempsey, was incompetent and lacked impartiality. Every learned student of the law can recognize that this is a case that screams for a well-reasoned analysis, and this Court has even stated that when an appellate court refuses to issue a written opinion and issues a PCA instead, it invites questions. While it might be true that taking up appellate cases that issue only a PCA is a case-by-case consideration, it is also undisputed that this Court has taken up just such cases, as I will articulate with specificity *supra.,* and have already done so *infra.,* this is just such a case. The lower court has squandered an opportunity to further define equal protection in Florida, particularly race-based

discrimination during a time in this State that such a stand should have been taken by a courageous trio, so that this matter could be ensconced for generations to come. It also afforded an opportunity for the Florida Courts to add "steel and cement" to the Inherent Powers Doctrine, with a contemporary establishment of the Doctrine in an unabashed and unapologetic manner.

Because the Florida courts have failed to act, I pray this Court will act where a clear void has been left.

ARGUMENT

Florida Violated the Equal Protection Rights of Petitioner Afforded Under Both the Florida and the United States Constitutions

This is a matter involving unlawful race-based discrimination by the State of Florida in its licensing practices as they pertain to the Medical Marijuana Treatment Center Licenses (MMTCs). In 2016, the Florida voters passed a proposed constitutional amendment which would make medical marijuana legal in Florida. In 2017, this voter determination was codified into law by F.S. § 381.986(8)(a)(1). Subsequently, an exclusion and an exception was made to this law that would allow a member of the black community, in Florida, and a class member from either the *Pigford or In Re Black Farmers,* to receive an MMTC license without having to go through the requirements of F.S. § 381.986(8)(a)(1).

That language reads in relevant part, "*As soon as practical, the department shall license one Applicant that is a recognized class member of Pigford v. Glickman 185 F.R.D. 82 (D.D.C. 1999) or In Re Black Farmers Litigation, 856 F. Supp. 2d 1 (D.D.C. 2011).*"

No mention was made of and no provision was made for a Native American that was a recognized class member of *Keepseagle v. Vilsak,* 102 F. Supp. 3d 205 (D.D.C. 2015); *Keepseagle v. Purdue*, 856 F. 3d 1039 ___U.S.___*cert. Denied* (D.C. Circuit 2017).

Florida was attempting to address past injustices perpetrated upon African Americans in an attempt to achieve at least a measure of diversity, equity, and inclusion for the black man in Florida. These two cases constituted a class of African American Farmers and Ranchers in excess of 600,000 members and was the largest civil rights settlement in U.S. history, resulting in a settlement in excess of $2.2. Billion Dollars. The same year that *Pigford* filed its lawsuit, the *Keepseagle* case was filed. It ultimately reached a settlement of some $680 Million Dollars and had a class of approximately 3,507 class members who were also enrolled members of recognized tribes. The purpose of these class action lawsuits was to address racial discrimination by the United States Government, specifically the USDA in its lending practices.

It has been said, "[t]he first Americans, the Indians are the most deprived and most isolated minority group in our Nation. On virtually every

scale of measurement; employment, income, education, and health, the conditions of Indian people ranks at the bottom." Speech by President Richard M. Nixon to Congress, July 8, 1970.

Moreover, this condition is a legacy of centuries of injustice. The story of the Indian in America is a record of the white man's frequent aggression, broken agreements, intermittent remorse, and prolonged failure. It is a record also of endurance, survival, adaptation, and development in the face of overwhelming obstacles.

Economic deprivation is among the most serious of Indian problems. Unemployment among Indians is ten times the national average; the unemployment rate runs as high as 80 percent on some of the poorest reservations. Eighty percent of Indians in Indian Country have an income which falls below the poverty line. The average income for such families is less than $10,000. Petitioner does not begrudge the black man getting governmental help in the form of an exception for *Pigford*; however, Equal Protection and fundamental fairness demand that the Indian and *Keepseagle* obtain the same relief.

This is so much more than the fight or plight of one lone Indian seeking equal protection; rather, this matter affects the lives of tens of thousands of Indians across many different states. It was explained to the Florida Department of Health's general counsel that this pursuit of a *Keepseagle* exception and the awarding of a MMTC is not about

yachts, jets, and mansions; but rather it is about education, housing, and healthcare. As previously explained, Petitioner seeks to create an Inter-Tribal hedge fund to accomplish this.

Petitioner's career long goal has been the social and economic development of Indian tribes. This began as a student at the American Indian Law Center's Pre-Law Summer Institute. As the years progressed, Petitioner came to understand that he had the concept backward - it must be economic development and, only then, can there be social development. Along the way, Petitioner has sought out and obtained those skills necessary for such enterprise. These skills include top professional credentials from the best schools in the country, even the world, such as a J.D from Washington University School of Law in St. Louis; an L.L.M. from the University of Miami (Real Estate Development); Board Certification; and a residence M.B.A. from London Business School. This demonstrates that Petitioner has developed those skills, relationships, and knowledge to now accomplish those goals.

It is critical that the *Keepseagle* exception be required and an adequate remedy is ordered. Perhaps the second worst kind of discrimination is that of being ignored. Florida refuses to even acknowledge its obligation to Indians. The lead attorney for Florida perhaps stated it best when he said on the record that, "Mr. Tingle just wants to be treated like the *Pigford* people." Petitioner thinks this is precisely the point of Equal Protection under the law; that similarly situated people are entitled to

equal treatment under the law in every way. It has long been held as the rule that any law that implicated a suspect class or a fundamental right must pass a test of strict scrutiny.

"When legislation classified persons in such a way that they receive different treatment under the law, the degree of scrutiny the court applies depends on the basis for the classification. If a law treats individuals differently on the basis of race or another suspect classification, or if the law impinges on a fundamental right, it is subject to strict scrutiny." See *Leib v. Hillsborough County Public Transportation. Com'n,* 558 F.3d 1301 (11th Cir. 2009); citing, *Gary v. City of Warner Robbins, Ga.,* 311 F.3d 1334 (11th Cir. 2002) and *Eide v. Sarasota County,* 908 F.2d 716 (11th Cir. 1990); See also *Jackson v. State,* 191 So.3d 423,427 (Fla. 2016).

Florida Statute § 381.986(8)(a)2.b. creates a distinction on its face that treats members of a suspect class, race, differently in violation of constitutional principles of equal protection under the law. Along with fundamental rights to equal protection under the law afforded by the 14th Amendment to the United States' Constitution, (see *Nixon v. Herndon,* 273 U.S. 536 (1927), race is enumerated as one of the protected classes of people in the Florida Constitution: "[n]o person shall be deprived of any right because of race, religion, national origin, or physical disability." See Fla. Const. Article I. § (2).

Other than their racial identity, *Pigford* and *Keepseagle* class members are identically situated - farmers - who were historically disadvantaged through discriminatory governmental lending practices, who pursued their remedies in a court of law, and who received recognition of their injury in the form of a cash settlement.

The Statute's carve-out for licensure of a *Pigford* class member, while not providing the same opportunity to an identically situated *Keepseagle* class member is a patent violation of the equal protection principles that underpin the entirety of United States and Florida constitutional law and must be evaluated with strict scrutiny. See *Adarand Constructors, Inc. v. Pena,* 515 U.S. 200 (1995); and *City of Richmond v. J.A. Croson.,* 488 U.S. 469 (1989).

Moreover, "to withstand strict scrutiny, a law must be necessary to promote a compelling governmental interest and must be narrowly tailored to advance that interest." See *Westerheide v. State,* 831 So.2d 93, 111 (Fla. 2002). Such a two-prong test must be satisfied in order to survive a challenge to the law's constitutionality.

Such a law, even though enacted pursuant to a valid state interest, bears a heavy burden of justification, as we have said, and will be upheld only if it is necessary, and not merely rationally related, to the accomplishment of a permissible state policy. See McLaughlin v. Florida, 379 U.S. 184 (1964).

This Court in *McLaughlin* was evaluating the constitutionality of a law that made it a crime for "any negro man and white woman, or any white man and negro woman, who are not married to each other" to "habitually live in and occupy in the nighttime the same room." *McLaughlin at 196.* Here, the Court found that while the State has a compelling interest in preventing breaches of basic sexual decency, it could not justify the disparate treatment of the suspect class members and struck the law down as unconstitutional.

But we deal here with a classification based upon the race of the participants, which must be viewed in light of the historical fact that the central purpose of the Fourteenth Amendment was to eliminate racial discrimination emanating from official sources in the States. This strong policy renders racial classifications "constitutionally suspect," …and subject to the "most rigid scrutiny."...and "in more circumstances irrelevant" to any constitutionally acceptable legislative purpose. See *McLaughlin at 191-192;* citing, *Bolling v. Sharp,* 347 U.S. 497 (1954); *Korematsu v. United States,* 323 U.S. 214 (1944); *Kiyoshi Hirabayashi v. United States,* 320 U.S. 81 (1943).

Therefore, while Florida might be able to articulate a rationally related state interest in creating the *Pigford* exception, the case law shows that the Statute's failure to treat similarly situated members of the same suspect class, race in this instance, in the same manner results in an

impermissible violation of equal protection principles. Stated further, when there is a racial classification created by the government, that legislation is immediately suspect. A plaintiff does not need to allege any discriminatory intent or affect - strict scrutiny simply applies. No inquiry into intent is necessary when the classification appears on the face of the statute. When this happens, the burden shifts - strict scrutiny applies and the government bears the burden. See *Johnson v. California*, 543 U.S. 499 (2005).

In the case at bar, the trial court judge simply did not do its job. There was no analysis, no articulation that the correct standard was being applied, or that the court was placing the burden squarely upon the shoulders of the government. Rather, all that we have to go upon is the trial court saying,

"Based on everything presented in the papers and here today, I'm going to find that the rational basis test applies to this case under Jana Rock, and that even if that's wrong and the strict scrutiny test applies, either, way, the State has met its burden and, therefore, I'm going to grant the State's Motion for Summary Judgment [and] deny the Plaintiff's" See Trial Court Record, Page 353, lines 24-25.

Plaintiff replied "I would ask that the Court, if it would, be so kind to do so, provide written findings of fact to go along-or written findings to go along with its decision so I can fully understand where the

Court comes from, because I honestly do not. See Trial Court Record, Page 354, lines 1-7.

This Judge's short statement is so full of flaws it is difficult to know where to even begin. First, she applied absolutely the wrong reason, then she never articulated what evidence presented was rationally related to the state's governmental issue. Then, as if she was at the Golden Corral buffet and had the liberty of picking any items she desired, said, but if I am wrong it does not matter because strict scrutiny applies. The trial court judge was inept at best, and Petitioner does not believe she was inept.

This was an issue of Federal and State Constitutional proportions. It was clear that race was the seminal and driving issue regarding the legislation. It was so clear, based upon two constitutions, a multitude of federal and state and United States Supreme Court Case law that this was a strict scrutiny matter. Rather than focusing on volumes of legal opinions on point, ample other authority, and all mandatory or local persuasive, she chose to latch onto an irrelevant case from the state of New York in the Second Federal Circuit. See *Jana-Rock Construction, Inc. v. New York State Department of Economic Development,* 483 F.3d 195 (2d Cir. 2006).

Petitioner recognizes that we may never know the reasons the trial court departed from the clearest legal principle in American law, there is certainly no clearer legal principle. Perhaps she feared the wrath and vindictiveness of the Florida Governor. Perhaps

she, like many, find Native Americans and their issues tedious and simply wished we would go away never to be heard from again. However, perhaps Justice Thomas said it best in his concurring opinion, "racial discrimination in all forms is prohibited by the U.S. Constitution." See *Students for Fair Admissions v. Harvard,* 600 U.S,___ (2023), 20-1199 (June 29, 2023). See also, "any statute which is not equal to all, and which deprives any citizen of civil rights which are secured to other citizens is an unjust encroachment upon his liberty and a badge of servitude. *Id. at 55.*

In truth, everyone knows this. No great mystery has been revealed in this analysis. Every student and practitioner of the law recognizes strict scrutiny and equal protection under the law. It is unimaginable that these principles could ever escape anyone that manages to graduate from a law school and pass any bar examination. Rather, for reasons entirely inappropriate and so much so that those reasons must be kept in the dark, the trial court failed to do its job, failed to apply the correct legal standard, and articulated a vapid point of view, all of which was tacitly approved by the First District Court of Appeals for Florida, in such a manner that they did not have to defend the indefensible. Essentially another day at the beach for the unseemly marriage between Florida politics and jurisprudence.

Perhaps we have the almighty to thank that *Loving v. Virginia,* 388 U.S. 1 (1967) and *Brown v. Board of Education,* 347 U.S. 483 (1954) were not decided in Florida and obscured by the First DCA in a PCA!

APPLYING A REMEDY WITH THE HELP OF THE INHERENT POWERS DOCTRINE

Under the circumstances, there can perhaps only be one remedy and that is for the United States Supreme Court to order the trial court judge to order the Florida Department of Health to immediately issue a Medical Marijuana Treatment Center License (MMTC) to the Petitioner. Petitioner recognizes that this is an unusual pathway, but one borne of necessity as a result of intentional acts of Florida to prevent this *Keepseagle* class member from having a seat at the table.

The atmosphere in Florida is so toxic that this Court might be advised to craft a remedy that is so specific and completely devoid of interpretation that one must either comply or find themselves in violation of the Court's order. One needs to only look to our neighbor to the immediate north, Alabama, and that state's Republican legislature on the Voting Rights Case, only to see how toxic and non-compliant state governments down here will be if given the chance to avoid being inclusive along racial lines. See *Allen v. Milligan,* 21-1086 (June 8, 2023).

Fortunately, there is a doctrine in Florida, known as, "The Inherent Powers Doctrine" and it supplies all the authority this Court needs to provide the remedy the Applicant seeks. See *Rose v. Palm Beach County,* 361 So.2d 135 (Fla. 1978). The Inherent Powers Doctrine establishes the implied right of the judiciary to accomplish all objectives naturally within the judiciary, to accomplish all objectives naturally within its realm, thereby making it possible for courts to carry out their constitutional responsibilities as an independent branch of government. See *U.S. v. Hudson,* 11 U.S. 32 (1812). See also, "*The Inherent Power of the Florida Courts," University of Miami Law Review Vol. 39 No. 2 Article 3, 1-1-1985.*

The Doctrine helps courts respond to practical problems not contemplated in legislative acts, express provisions and when court rules have not contemplated a solution; it may be used to fill in gaps. This is just the kind of situation the Doctrine was intended to address. Every court has inherent powers to do all things that are reasonably necessary for the administration of justice within the scope of its jurisdiction. See *Univ. of Miami Law Rev. at 267.*

The current situation at bar involves the violation of equal protection under the law. It is here that the most compelling rationale for the application of the Inherent Powers Doctrine arises. See *Rose v. Palm Beach County,* 361 So.2d 135 (Fla. 1978), the Florida Supreme Court noted that the invocation of the Doctrine of inherent powers

appears most compelling when the judicial function at issue involves fundamental human rights.

When actions being reviewed are final actions, then the courts may fully apply the Inherent Powers Doctrine. See *Florida Senate v. Florida Public Employees Council,* 784 So.2d 404 (Fla. 2001), Florida courts have full authority to review the final product of the legislative process. See also *Moffit v. Willis,* 459 So.2d 1018 (Fla. 1984), it is the final product of the legislature that is subject to review by the courts.

It is clear that the courts in Florida, and by analysis, the United States Supreme Court, is empowered with the fullest, broadest, and most expansive powers necessary to correct a problem or to fulfill its judicial mandate. See *Peters v. Meeks,* 163 So.2d 753,755 (Fla. 1964). A fundamental principle of constitutional law is that each branch of government has, without any express grant, the "inherent right to accomplish all objects naturally in its orbit."

PETITIONER'S DUE PROCESS DISCUSSION

It has been said that "what separates the courts from rogues and politicians is its analysis" and here there has been no analysis. The power of a court lies in its reasoned analysis and the establishment of principled legal analysis. The First District Court of Appeals for Florida has opened a Pandora's box of nefarious speculation regarding its

motivation because it has issued a PCA under facts and circumstances that demand not only a well-reasoned analysis and an opinion, but also a reversal of the trial court that clearly applied the wrong standard of review and failed to articulate a reason for its decision. See Appendix C, Denial of Written Opinion from the Florida District Court of Appeal dated May 24, 2023, 6a-7a. As the Florida Supreme Court has explained, the "rationale and basis for the decision without opinion is always subject to speculation." See *Department of Legal Affairs v. District Court of Appeal 5th District,* 434 So.2d 310,312 (Fla. 1983).

It has long been held that "Justice must satisfy the appearance of justice." See *Offutt v. U.S.,* 348 U.S. 11,14 (1954) and *Gerali v. State,* So.3d 727 (Fla. 5th DCA 2010) In the case at bar, the trial court failed to apply the correct legal standard. Additionally, the discussion was so sparse as to constitute no discussion at all; and, if this was not enough, it failed to impartially and equally enforce its own rules pertaining to evidence and exhibits.

This Court has made clear that the 14th Amendment's due process clause imposes minimum standards of fairness on the states. See *Danforth v. MN,* 552 U.S. 264,269 (2008). Moreover, while the procedural protections for due process are flexible, they must nevertheless provide such procedural protections as the particular situation demands. See *Matthews v. Eldridge,* 424 U.S. 319, (1976). See also *Morrissey v. Brewer,* 408 U.S. 471,481 (1972). In the present case, at no point has any court provided the

barest amount of legal conclusion, analysis, or insight as to how it reached its conclusion, despite being asked by Petitioner at each level of appearance.

The decision maker's conclusion must rest solely on the legal rules and evidence adduced at the hearing. To demonstrate compliance with this elementary requirement, the decision maker should state the reasons for his determination and indicate the evidence he relied on. See *Goldberg v. Kelly,* 397 U.S. 254,271 (1970). The government must provide an explanation to the individual for the basis of any adverse finding. See *Cleveland Board of Education v. Loudermill*, 470 U.S. 532 (1985).

While there is no single, inflexible test by which our courts decide whether the requirements of procedural due process has been met, fundamentally it has been defined by the courts to mean a structure of laws and procedures that hears before it condemns and proceeds upon inquiry and renders judgment after trial See *Watson v. Pest Control Commission of Florida,* 199 So.2d 777 (4th DCA 1967). The constitutional guarantee of due process extends to every type of legal proceeding: See *Pelle v. Dinner's Club,* 287 So.2d 737 (Fla. 3d DCA 1974); *Tomayko v. Thomas*, 143 So.2d 227 (Fla. 3d DCA 1962); *State ex rel. Barancik v. Gates*, 134 So.2d 497 (Fla. 1961); *Williams v. Kelly,* 133 Fla. 244, 182 So. 881(1938).

Additionally, all proceedings are entitled to due process including hearings and the like. It cannot be simply ignored by labeling the proceeding as merely "quasi judicial" or "administrative". Nor can it be colorable or illusory. See *Ryan's Furniture Exchange v. McNair,* 120 Fla, 109, 162 So. 483 (1935). Nor can it be a mere sham or pretense as was the case at bar at the trial court level. See *Robbins v. Robbins,* 429 So.2d 424 (3d DCA 1983).

As stated previously, "Fundamental Due Process includes the duty of the individual presiding over the hearing, to apply the correct principle or rule of law." This is something Florida's First District Court of Appeals should have known very well considering they wrote the cotton pickin' opinion. See *State v. Smith,* 185 So.2d 792 (Fla. 1st DCA 1960). So then, why the PCA?

So many people want to say "liberty and justice for all" until it is time to really apply it uniformly and across the board for all. The due process protection of the Florida Constitution are no different than those afforded under the Federal Constitution. See *Keys Citizens for Responsible Government, Inc. v. Florida Keys Aquaduct Authority,* 795 So.2d 940, 948-950 (Fla. 2001). See also *Ridgewood Properties, Inc. v. Department of Community Affairs,* 562 So.2d 322, 324 (Fla. 1990), where agency failed to provide an impartial decision maker … Ridgewoods rights were violated under the due process clauses of our state and federal constitutions.

In the case at bar, the trial court refused, not merely failed, to provide the correct legal standard and it also refused to fairly, equitably, and impartially enforce its own court rules pertaining to "scientific" evidence, exhibits, and raw data. The trial court had ample time and experience to get familiar with the issues but failed or even refused to do so. Moreover, the trial court if it wanted to be fully prepared, correct, and precise, could have taken the matter under advisement the way courts usually do and enter an order, a detailed order with analysis, findings of fact, and conclusions of law, the way that state trial courts typically do when there are important legal issues to be considered. In addition, the trial court could have asked each side to prepare a proposed order and "built its own order." There are many things the court 'could have done' if it wanted to conduct its business properly, competently, and thoroughly. Instead, it made an unfounded and lawless rush to judgment. To make matters worse - much worse - the Florida First District Court of Appeals was, for all intents and purposes, an accomplice after the fact. See *Webb v. Webb*, 451 U.S. 493,501 (1981). The *Webb* test is met. The lower courts had ample opportunity to adequately address the State and Federal Equal Protection claim and failed, even refused, to do so.

Every court in Florida that has considered this issue has failed fundamentally in executing their most basic responsibilities. That would be to ensure fairness, remain impartial, apply the correct legal standard, articulate a well-reasoned opinion that is not a farce or a sham, to issue an opinion as

opposed to a three-letter rubber stamp, act with integrity, and perhaps even follow the volumes of legal authority directly on point.

This Court has a long history of reviewing decisions of state courts when the facts and the circumstances of the case can be determined by the Court as constituting a clear violation of the Due Process or Equal Protection Clauses of state constitutions or the United States Constitution. See *Kaukauna Water Power v. Green Bay & Mississippi Canal Co.,* 12 S.Ct. 173,269 (1891). See also *Wood v. Georgia,* 101 S.Ct. 1097,1100 (1981). Where a possible due process violation is apparent on the particular facts of the case, we are empowered to consider the due process issue. See also *Vachon v. New Hampshire,* 94 S.Ct. 664,665 (1974).

This Court has exercised its discretion to review the decisions of state courts when this Court finds that the errors committed below "seriously affect the fairness, integrity, or public reputation of a judicial proceeding. See *Silber v. U.S.,* 82 S.Ct. 1287,1288 (1962). These are exactly the problems in the case at bar. The proceedings are devoid of fairness, logic, analysis, the application of the correct legal principle, and the attempt by the First District Court of Appeals to keep it all under wraps with a PCA. Florida should not be allowed to get away with this grievous discrimination, violation of equal protection, and now due process and the apparent attempt to cover it up. As an American Indian, Petitioner is entitled to Equal Protection and Due Process under the law. It is perhaps the most

coveted of property rights one might have. See *Logan v. Zimmerman Brush Co.,* 455 U.S. 422 (1982). A protected property or liberty interest can be found based on any positive governmental statute or governmental practice that gave rise to a legitimate expectation.

SUMMARY OF THE ARGUMENT

During our brief time together we have been discussing: Equal Protection, Due Process, and the Inherent Powers Doctrine. Along the way, we have also discussed the application of strict scrutiny and when and why that applies. To briefly recap our intensive and detailed discussion *supra.,* I offer the following:

Equal Protection Under the Law

The Petitioner is entitled to Equal Protection under the law as afforded by the U.S. Constitution and the Florida Constitution. No one should dispute that. The Florida Constitution has expressly enumerated race as a protected class and the United States Constitutions arrives at the same place but via decades and even more than one hundred years of accumulating case law. Petitioner is an American Indian and is a member of the *Keepseagle* class of litigants.

The State of Florida passed legislation designed to address past discrimination of Black Americans based upon their race. This is as clear an example of a race-based classification as could ever

exist. Florida provides no provision for the American Indian Petitioner that is not just similarly, but identically situated to the *Pigford* Black farmers.

Because race is a suspect class and a racial classification is immediately suspect, a court, all courts, must apply *strict scrutiny* as the proper standard. In so doing the government has the burden of proving it does not discriminate based upon race or demonstrating that there is no other alternative that accomplishes its goal without being racially discriminatory.

Due Process Under The Law

Petitioner is entitled to and is afforded Due Process under the law. It has been said that Due Process can be summed up in one word: **"Fairness."** If so, Fairness certainly has been entirely absent in the proceedings up to this point. The trial court judge failed to engage in impartiality by allowing the Florida Department of Health to introduce raw data into its pleadings despite the trial court's admonition not to introduce such materials.

The trial court judge who has held herself out to be a constitutional expert in the past failed in the very simple task of applying the correct standard of review when evaluating a race-based classification that challenges the Florida or United States Constitution on Equal Protection grounds. That standard of review has only *ever been, strict scrutiny*. It is astonishing that a competent jurist could ever make such a fundamental mistake. What is even

more astonishing is that the same judge in the same breath, could then claim to apply not one, but two…even both…standards of review in a sequential fashion so as to say; "I am applying *strict scrutiny*…but…if I am wrong then I choose rational basis and either way I am right on at least one of them." If Judge Angela's competence was not such a Constitutional Catastrophe, it might be funny; but not for us Indians.

However, it is not so bad, all is not lost, because we have these extra learned jurists that sit on an even higher *dais.* Not really, but one gets Petitioner's point. Surely these three judges will set things right. But, despite the law and the facts being crystal clear and the opportunity to write a well-reasoned, wonderfully documented opinion that would establish a clear and contemporary standard for Florida and indeed the entire country to follow. An opinion that practically writes itself and an opinion that cries out to be written, the First District Court of Appeals after nine months of, err, deliberation, issues a PCA. A judicial travesty that eclipses the immediately preceding judicial travesty. The courts in Florida make it clear, through their actions and inactions, that they simply do not care about protecting American Indians from the deprivations associated with the violations of Equal Protection and Due Process under the law. As if to say, "Would you Indian guys please quit making so much noise about your rights, we have heard enough already!"

The Inherent Powers Doctrine

One might wonder, "Where does one go for relief now?" There is a doctrine tailor made to provide relief in situations just like this. When the government cannot act or simply refuses to act, the Court, this Court, can use its implied powers to craft a remedy. The legislation has been finalized so there is no encroachment upon the legislature. The executive or the administrative branch is incalcitrant or otherwise unwilling to act. Perhaps what needs to be done falls improvidently between the cracks and a proper adjudication and a remedy must be crafted that addresses the singular problem that exists.

Fortunately, the Inherent Powers of this Court and all courts have been recognized in United States Supreme Court case law, the case law of the Florida Supreme Court and also in scholarly articles, such as the University of Miami School of Law's Law Review.

In summation, there has been a violation of Equal Protection under the law and it demands the application of *strict scrutiny*. Petitioner's argument carries the day because it is "on all fours" as a violation of his constitutional rights. The Florida courts have violated the Petitioner's due process rights in an aggravated, degrading, and demeaning manner, and they have shown no remorse whatsoever nor any willingness to repair the situation. Those courts have refused Petitioner impartiality, the application of the correct legal

analysis, a well-reasoned opinion and, in the case of the Florida First District Court of Appeals, it has failed to uphold their integrity by rubber stamping with the initials PCA, a despicable miscarriage of justice, that cried out for a well-reasoned, written opinion and a reversal with instruction. *Any person, even unlearned persons, can see this.*

Based on the foregoing, Petitioner respectfully submits that this Petition for Writ of Certiorari be granted.

Respectfully submitted,

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September 12, 2023

APPENDIX

APPENDICES

APPENDIX A: Order And Final Judgment From the Circuit Court for Leon County, Florida (April 11, 2022) 1a

APPENDIX B: Decision From the Florida District Court of Appeal (April 14, 2023) 4a

APPENDIX C: Denial of Written Opinion From the Florida District Court of Appeal (May 24, 2023) 6a

APPENDIX D: Denial for Rehearing En Banc From the Florida District Court of Appeal (May 24, 2023) 8a

Appendix A

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IN THE CIRCUIT COURT FOR LEON COUNTY, FLORIDA

DONIVON CRAIG TINGLE,
Plaintiff, **Case No. 2021 CA 2155**

v.

FLORIDA DEPARTMENT OF HEALTH,
Defendant.
______________________________________/

ORDER AND FINAL JUDGMENT

THIS CAUSE came before the court on the parties' cross-motions for summary judgment and *Plaintiff's Motion for Sanctions.* After reviewing the motions, responses to the motions, and having heard argument of counsel at a hearing on March 30, 2022, and being otherwise fully advised in the premises, the Court finds as follows:

1. Based on everything presented by the parties, the Court concludes that section 381,986(8)(a)2.b., Florida Statutes, (the Pigford Provision) is not unconstitutional as alleged by Plaintiff.

2. Accordingly, and based on all the arguments made in the *Department's Motion for Summary Judgment and Supporting Memorandum of Law* and the *Department's Response Opposing Plaintiff's Motion for Summary,* the Court concludes that the Department's motion should be granted. The Court notes, without limiting its ruling, that its finds *Jana-Rock Constr., Inc. v. N.Y.State Dep't of Econ. Dev.,* 438nF.3d 195 (2d Cir. 2006) to be persuasive as to Plaintiff's equal protection claims and that the Pigford Provision survives constitutional scrutiny under the rational basis test. Additionally, and alternatively, even applying a strict scrutiny to the Pigford Provision, the Court finds that it survives strict scrutiny as well.

3. Having concluded that the Department is entitled to summary final judgment based on the arguments presented in its papers, the Court finds that the *Plaintiff's Motion for Sanctions* must be denied.

Accordingly, it is ORDERED AND ADJUDGED THAT:

1. *Plaintiff's Motion for Summary Judgment* is DENIED.

2. *Plaintiff's Motion for Sanctions* is DENIED.

3. *Department's Motion for Summary Judgment and Supporting Memorandum of Law* is GRANTED.

4. Final Judgment is hereby entered on all claims in favor of the Florida Department of Health, who shall go hence without day.

DONE AND ORDERED in Leon County, Florida on April 11, 2022.

/s/ Angela C. Dempsey
ANGELA C. DEMPSEY
Circuit Judge

Copies to:
All parties of record via the e-filing portal

Appendix B

FIRST DISTRICT COURT OF APPEAL
STATE OF FLORIDA

No. 1D22-1096

DONIVON CRAIG TINGLE,
Appellant,

v.

FLORIDA DEPARTMENT OF HEALTH,
Appellee.

On appeal from the Circuit Court for Leon County.
Angela C. Dempsey, Judge.

April 14, 2023

PER CURIAM.

AFFIRMED.

ROWE, C.J., and RAY and TANENBAUM, JJ., concur.

Not final until disposition of any timely and authorized motion under Fla. R. App. P. 9.330 or 9.331.

D. Craig Tingle, pro se, Appellant.

Eduardo S. Lombard and Angela D. Miles of Radey Law Firm, Tallahassee, for Appellee.

Appendix C

DISTRICT COURT OF APPEAL
2000 Drayton Drive,
Tallahassee, Florida 32399-0950
Telephone No. (850) 488-6151

May 24, 2023

DONIVON CRAIG TINGLE, **Case# 1D22-1096**
Appellant(s) **Case# 2021CA2155**

v.

FLORIDA DEPARTMENT OF HEALTH,
Appellee(s).

BY ORDER OF THE COURT:

The Court denies the motion for written opinion docketed April 18,2023.

I HEREBY CERTIFY that the foregoing is a true copy of the original court order.

Served:
Hon. Angela C. Dempsey
Eduardo S. Lombard
Angela D. Miles
D. Craig Tingle
John Wilson

TH

/s/ Kristina Samuels
Kristina Samuels, Clerk
1D2022-1096 May 24, 2023

Appendix D

DISTRICT COURT OF APPEAL
2000 Drayton Drive,
Tallahassee, Florida 32399-0950
Telephone No. (850) 488-6151

May 24, 2023

DONIVON CRAIG TINGLE, Case# 1D22-1096
Appellant(s) Case# 2021CA2155

v.

FLORIDA DEPARTMENT OF HEALTH,
Appellee(s).

BY ORDER OF THE COURT:

The Court denies the motion for rehearing en banc docketed April 18,2023.

I HEREBY CERTIFY that the foregoing is a true copy of the original court order.

Served:
Hon. Angela C. Dempsey
Eduardo S. Lombard
Angela D. Miles
D. Craig Tingle
John Wilson

TH

/s/ Kristina Samuels
Kristina Samuels, Clerk
1D2022-1096 May 24, 2023