

(1)  
ORIGINAL

No. 23-6456

FILED

DEC 18 2023

OFFICE OF THE CLERK  
SUPREME COURT, U.S.

IN THE

SUPREME COURT OF THE UNITED STATES

TYREE FORD — PETITIONER  
(Your Name)

vs.

CARMINE MARCENO et al. — RESPONDENT(S)

ON PETITION FOR A WRIT OF CERTIORARI TO

UNITED STATES COURT OF APPEALS ELEVENTH CIRCUIT  
(NAME OF COURT THAT LAST RULED ON MERITS OF YOUR CASE)

PETITION FOR WRIT OF CERTIORARI

TYREE FORD #128493  
(Your Name)  
LEE County Jail / Cora facility DORM(3)  
2501 ORTIZ AVE FORT MYERS, FLORIDA 33905  
(Address)

FORT MYERS, FL 33905  
(City, State, Zip Code)

N/A  
(Phone Number)

RECEIVED  
DEC 28 2023  
OFFICE OF THE CLERK  
SUPREME COURT, U.S.

(a)

## QUESTION(S) PRESENTED

- (1) Why hasn't the District court followed their own laws [according to the federal rules of civil procedure 12(a)(2-3) and ordered a summary default judgement for non-compliance of the 21 day requirement for a respondent to serve the plaintiff with an answer to the suit filed?]
- (2) Am I being misled by the middle district judges? when they state it IS DONE and ORDERED in fort myers, florida, instead of stating by court order? or by order of the court?
- (3) Are the middle district court documents official without, the courts official seal and Clerk signature? [see exhibits 15]

## LIST OF PARTIES

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

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

CARMINE MARCENO,  
SMART COMMUNICATIONS HOLDINGS, INC.,  
VINCENT AMOROSO;  
J. CAZENBY,  
SGT. WATSON, et al;

## RELATED CASES

IN THE COUNTY CIRCUIT OF THE TWENTIETH JUDICIAL CIRCUIT IN AND  
FOR LEE COUNTY, FLORIDA. CASE (S) NO: 22000921CF and 2214474CF  
IN THE LOWER TRIBUNAL

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## TABLE OF AUTHORITIES CITED

### CASES

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### STATUTES AND RULES

Within 21 days after service of this summons on you [not counting the day you received it] — or 60 days if you are the United States or a United States agency, or an officer or employee of the United States described in Fed. R. Civ. P. 12 (a) (2) or (3) — you must serve on the plaintiff an answer to the attached complaint or a motion under Rule 12 of the Federal Rules of Civil Procedure. The answer or motion must be served on the plaintiff or plaintiff's attorney,

### OTHER

(4)

IN THE  
SUPREME COURT OF THE UNITED STATES  
PETITION FOR WRIT OF CERTIORARI

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

**OPINIONS BELOW**

For cases from **federal courts**:

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

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

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

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

For cases from **state courts**:

The opinion of the highest state court to review the merits appears at Appendix \_\_\_\_\_ to the petition and is

[ ] reported at \_\_\_\_\_; or,  
[ ] has been designated for publication but is not yet reported; or,  
[ ] is unpublished.

The opinion of the \_\_\_\_\_ court appears at Appendix \_\_\_\_\_ to the petition and is

[ ] reported at \_\_\_\_\_; or,  
[ ] has been designated for publication but is not yet reported; or,  
[ ] is unpublished.

(13)

## JURISDICTION

For cases from **federal courts**:

The date on which the United States Court of Appeals decided my case was October 31, 2023.

No petition for rehearing was timely filed in my case.

A timely petition for rehearing was denied by the United States Court of Appeals on the following date: \_\_\_\_\_, and a copy of the order denying rehearing appears at Appendix \_\_\_\_\_.

An extension of time to file the petition for a writ of certiorari was granted to and including \_\_\_\_\_ (date) on \_\_\_\_\_ (date) in Application No. A \_\_\_\_\_.

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

For cases from **state courts**:

The date on which the highest state court decided my case was \_\_\_\_\_. A copy of that decision appears at Appendix \_\_\_\_\_.

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

An extension of time to file the petition for a writ of certiorari was granted to and including \_\_\_\_\_ (date) on \_\_\_\_\_ (date) in Application No. A \_\_\_\_\_.

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

## CONSTITUTIONAL AND STATUTORY PROVISIONS INVOLVED

(D) 42 U.S.C. § 1983 [against state, county, or municipal defendants]

(151)

## STATEMENT OF THE CASE

### PETITION FOR MANDAMUS RELIEF

WHEREAS: Petitioner, Tyree Ford, has filed a civil action in the United States Middle District Court, Case No# 2:22-cv-479-SPC-NPM against a defendant(s) in which no response was served on the Plaintiff (Petitioner), or to wit, filed with the Court. According to the Federal Rules of Civil Procedure 12 (a)(2-3) the defendant(s) answers or motion must be served on the Plaintiff within 21 days after service of summons. Since no response has been served onto the Plaintiff (Petitioner), and no summary default judgement has been ordered (despite petition being filed requesting such judgement [in accordance with the Federal Rules of Civil Procedure]), Petitioner hereby request relief in the form of a Writ of Mandamus compelling the United States District Court for the Middle District of Florida to order a default judgement for the Plaintiff [Petitioner] [See Exhibit A] Petition for default judgement.

## REASONS FOR GRANTING THE PETITION

The question is a matter of a Statute not being enforced. The respondent has not complied with the 21 day rule to serve Plaintiff with an answer, nor filed it. The Court must enforce its own laws or be compelled to do by a higher court [as it is the only remedy since Petitioner has already petitioned lower court to order a summary default judgement based on non-compliance of respondent to file and serve an answer within 21 days].

## **CONCLUSION**

The petition for a writ of certiorari should be granted.

Respectfully submitted,

Tyree Ford

Date: 12/11/23

IN THE UNITED STATES COURT OF APPEALS  
FOR THE ELEVENTH CIRCUIT

---

No. 23-12604-G

---

TYREE EARL FORD,

Plaintiff - Appellant,

versus

CARMINE MARCENO,  
SMART COMMUNICATIONS HOLDINGS, INC.,  
VINCENT AMOROSO,  
J. LAZENBY,  
SGT. WATSON, et al.,

Defendants - Appellees.

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Appeal from the United States District Court  
for the Middle District of Florida

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ORDER: Pursuant to the 11th Cir. R. 42-1(b), this appeal is DISMISSED for want of prosecution because the Appellant Tyree Ford failed to pay the filing and docketing fees to the district court, or file a consent form within the time fixed by the rules.

Effective October 31, 2023.

DAVID J. SMITH  
Clerk of Court of the United States Court  
of Appeals for the Eleventh Circuit

FOR THE COURT - BY DIRECTION

K 2 of 3

**UNITED STATES COURT OF APPEALS  
FOR THE ELEVENTH CIRCUIT**

ELBERT PARR TUTTLE COURT OF APPEALS BUILDING  
56 Forsyth Street, N.W.  
Atlanta, Georgia 30303

David J. Smith  
Clerk of Court

For rules and forms visit  
[www.ca11.uscourts.gov](http://www.ca11.uscourts.gov)

October 31, 2023

Clerk - Middle District of Florida  
U.S. District Court  
U.S. Courthouse and Federal Building  
2110 1ST ST  
FORT MYERS, FL 33901

Appeal Number: 23-12604-G  
Case Style: Tyree Ford v. Carmine Marceno, et al  
District Court Docket No: 2:22-cv-00479-SPC-NPM

**\*\*\* CORRECTED\*\*\***

The enclosed copy of the Clerk's Order of Dismissal for failure to prosecute in the above referenced appeal is issued as the mandate of this court. See 11th Cir. R. 41-4.

Clerk's Office Phone Numbers

General Information: 404-335-6100	Attorney Admissions: 404-335-6122
Case Administration: 404-335-6135	Capital Cases: 404-335-6200
CM/ECF Help Desk: 404-335-6125	Cases Set for Oral Argument: 404-335-6141

Enclosure(s)

PLRADSM Clerks entry dismissal PLRA

P-3083

**UNITED STATES COURT OF APPEALS  
FOR THE ELEVENTH CIRCUIT**

ELBERT PARR TUTTLE COURT OF APPEALS BUILDING  
56 Forsyth Street, N.W.  
Atlanta, Georgia 30303

David J. Smith  
Clerk of Court

For rules and forms visit  
[www.ca11.uscourts.gov](http://www.ca11.uscourts.gov)

October 31, 2023

Tyree Ford  
Lee County Jail  
2115 DR MARTIN LUTHER KING BLVD  
FORT MYERS, FL 33901-3603

Appeal Number: 23-12604-G  
Case Style: Tyree Ford v. Carmine Marceno, et al  
District Court Docket No: 2:22-cv-00479-SPC-NPM

MOTION MOOT: Motion for leave to proceed is MOOT due to this Court's order filed 10/31/2023. Motion filed by Appellant Tyree Ford.

Clerk's Office Phone Numbers

General Information:	404-335-6100	Attorney Admissions:	404-335-6122
Case Administration:	404-335-6135	Capital Cases:	404-335-6200
CM/ECF Help Desk:	404-335-6125	Cases Set for Oral Argument:	404-335-6141

MOT-11 Motion or Document Returned

APPENDIX  
(B)

UNITED STATES DISTRICT COURT  
MIDDLE DISTRICT OF FLORIDA  
FORT MYERS DIVISION

TYREE EARL FORD,

Plaintiff,

v.

Case No.: 2:22-cv-479-SPC-NPM

CARMINE MARCENO, SMART  
COMMUNICATIONS HOLDING,  
INC., VINCENT AMOROSO, J.  
LAZENBY, SGT. WATSON, M.  
HISSAM and LEE COUNTY  
SHERIFF'S OFFICE,

Defendants.

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**OPINION AND ORDER**

Before the Court is the LCSO Defendants' Motion to Dismiss ([Doc. 35](#)). Plaintiff filed a response, but it does not address the substance of Defendants' motion. ([Doc. 36](#)).

Ford is an inmate at Lee County Jail. He filed this civil rights action against defendants to assert eight grounds, each of which is a broad objection to jail policies. Ford's original complaint did not comply with Federal Rule of Civil Procedure 10, so United States Magistrate Judge Nicholas Mizell ordered Ford to file an amended complaint that gave Defendants fair notice of the allegations against them. ([Doc. 11](#)). Ford's amended complaint was not much of an improvement.

On May 22, 2023, the Court dismissed Ford's first amended complaint because it was a shotgun pleading and gave Ford leave to file a second amended complaint. ([Doc. 32](#)). The Court identified the deficiencies of the amended complaint and provided Ford specific instructions for avoiding dismissal:

The complaint consists almost entirely of conclusory statements. It broadly argues that jail policies—mostly relating to mail and legal services—are unlawful. Ford does not allege that any particular defendant harmed him in any specific way. In fact, he hardly mentions the individual defendants at all. Nor does Ford allege he suffered any particular harm. It is thus virtually impossible for each particular defendant to know why Ford sued him, much less answer the complaint in any meaningful way.

The Court will give Ford one final chance to file a complaint that states a plausible claim for relief. To avoid dismissal, Ford's second amended complaint must be a **short and plain** statement of his claims, it must make specific factual allegations, and it must give each defendant fair notice of the claims and factual allegations asserted against him. Ford's factual allegations must not be buried in pages and pages of conclusory statements.

([Doc. 32 at 3](#)). Ford did not correct the deficiencies or follow the Court's instructions. Rather, his second amended complaint is a copy of his first amended complaint, with a few ineffectual additions—Ford wrote the name(s) of one or more defendants at the top of each ground, added page numbers, and added a page to his prayer for relief.

Ford's second amended complaint—being a copy of a shotgun pleading—is of course a shotgun pleading. It is replete with confusing conclusory statements and contains almost no specific factual allegations. Shotgun

pleadings are not just unfair to defendants. Resolving claims asserted in shotgun pleadings is “an undue tax on the Court’s resources.” *Jackson v. Bank of Am., N.A.*, 898 F.3d 1348, 1357 (11th Cir. 2018). “Tolerating such behavior constitutes toleration of obstruction of justice.” *Id.*

Like the plaintiffs in *Jackson*, Ford—after being put on notice of the specific defects in his complaint—“filed an amended complaint afflicted with the same defects, attempting halfheartedly to cure only one of the pleading’s many ailments by naming which counts pertained to each Defendant.” *Jackson*, 898 F.3d at 1358-59. The Court gave Ford two opportunities to file a comprehensible and legally sufficient complaint, but he squandered them. Ford’s failure to file an improved amended complaint after the Court ordered him to do so is grounds for dismissal with prejudice. *Id.* (“The District Court should have dismissed the amended complaint with prejudice because...the amended complaint was incomprehensible.”).

Accordingly, it is now

**ORDERED:**

LCSO Defendants’ Motion to Dismiss (Doc. 35) is **GRANTED**. Tyree Earl Ford’s Second Amended Complaint (Doc. 34) is **DISMISSED with prejudice**. The Clerk is **DIRECTED** to terminate all pending motions and deadlines, enter judgment for Defendants and against Plaintiff, and close this case.

**DONE and ORDERED** in Fort Myers, Florida on July 18, 2023.

Sheri Polster Chappell  
SHERI POLSTER CHAPPELL  
UNITED STATES DISTRICT JUDGE

SA: FTMP-1

Copies: All Parties of Record

UNITED STATES DISTRICT COURT  
MIDDLE DISTRICT OF FLORIDA  
FORT MYERS, DIVISION

EXHIBIT A  
1 of 2

TYREE FORD

V

CASE NO. 2:22-CV-000479-SPE-NPM

CARMINE MARCENO et.al,

Plaintiff RESPONSE MOTION TO MINE, THE DEFENDANT (CCSO)  
MOTION TO DISMISS, AND PETITION FOR FEE REIMB. 12(b) OR (13)  
DEFENDANT JUDGEMENT failure to respond timely, AND  
REQUEST for a summary JUDGEMENT to dismiss

comes now, tyree of the aboriginal People of the land, Air and water National of the  
Republic of THE UNITED STATES of AMERICA Grantor, Grantee, Special deposit, Private Priority.  
to move this Honorable Court in the above style on the following grounds:

Petitioner asserts that the defendant (CCSO) interfered with his official Plaintiff of summons  
process thru the implication of the most audacious pose imaginable to cloak the unnatural  
activity of an insidious plot to conceal unlawful depravation and unconstitutional violation  
of rights, And the theft of private / privilege communication in both the petitioners  
criminal and civil court case(s) using a portable Scanner mail device called the  
mail guard system provided by Smart Communication holding inc. to data mine, Scan,  
copy, alter and reproduce without consent a legal or constitutionly protected  
vehicle the middle district court non-response non-performance and dishonor to  
the allegation is ~~an~~ acquiescence the defendant (CCSO) attorney bravo do Vigor  
legal Choligraphy to my bewilderment his incomprehensible no prevasive  
sense of wrongnes and the court non-awareness of the connection is probable  
Cause and Prima Facie evidence, as well as the obvious notice to  
appearance.

## Conclusion:

The defendant's (CCSO) actions has impaled the reputation and efficiency of the agency that employs them their dishonest and immoral conduct is not immune under the first, fourth and fourteenth Amendment the government has interest in regulating the conduct and action of its employee's. Petitioner asserts a grievance loss and alleges defendant's (CCSO) didn't fulfill their oaths or ministerial duties therefore Petitioner state an adequate and sufficient argument on which motion to dismiss relief maybe sought and granted.

## CERTIFICATE OF SERVICE

I HEREBY CERTIFY that on this 27<sup>th</sup> day of ~~2021~~ June 2023 a true and correct copy of the above and foregoing has been furnished via U.S. mail to the following:

TO: UNITED STATES DISTRICT COURT  
MIDDLE DISTRICT OF FLORIDA  
OFFICE OF THE CLERK  
ROOM 2-184 UNITED STATES COURTHOUSE  
AND FEDERAL BUILDING  
2110 FIRST STREET  
FORT MYERS, FL 33901

TO: THE TOOMEY LAW FIRM LLC.  
ATTORNEY'S FOR DEFENDANTS  
MARCIANO, LEE COUNTY SHERIFF OFFICE,  
AMOROSO, CAZENBY, WATSON AND HISSAM  
THE OLD ROBB & STOCKY BUILDING  
1625 HENRY STREET SUIT 203  
FORT MYERS, FL 33901

FROM: TYREE FORD  
LEE COUNTY JAIL / CORR FACILITY  
2691 0272 AVENUE  
FORT MYERS, FL 33905

BY: Suborjee Tyree of the aboriginal people  
6/27<sup>th</sup>/23

[ EXHIBIT ]  
TS 1081

UNITED STATES DISTRICT COURT  
MIDDLE DISTRICT OF FLORIDA  
FORT MYERS DIVISION

**TYREE EARL FORD,**

**Plaintiff,**

**v.**

**Case No: 2:22-cv-479-SPC-NPM**

**CARMINE MARCENO, SMART  
COMMUNICATIONS HOLDING,  
INC., VINCENT AMOROSO, J.  
LAZENBY, SGT. WATSON, M.  
HISSAM and LEE COUNTY  
SHERIFF'S OFFICE,**

**Defendants.**

---

**JUDGMENT IN A CIVIL CASE**

**Decision by Court.** This action came before the Court and a decision has been rendered.

**IT IS ORDERED AND ADJUDGED**

Judgment for the Defendant's, against the Plaintiff.

Date: July 18, 2023

ELIZABETH M. WARREN,  
CLERK

s/BCB, Deputy Clerk