

ORIGINAL

CA. NO.
23-6852

IN THE US SUPREME COURT

FILED
JAN 06 2024
OFFICE OF THE CLERK
SUPREME COURT, U.S.

ELISHA L. GRESHAM,

Petitioner,

vs.

COMMISSIONER OF SOCIAL SECURITY,

Respondent.

On Petition for Writ of Certiorari to the
United States Court of Appeals for the Eleventh Circuit

PETITION FOR WRIT OF CERTIORARI

ELISHA L. GRESHAM

(PRO SE)

1612 Pine Ridge Drive, Davenport, Florida 33896

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5) **Questions Presented:**

(A) Did the Eleventh Circuit Court have **legal jurisdiction** to hear and rule on my case since this case **did not** originate in Florida? *{Established by Congress in 1981, the United States Court of Appeals for the **Eleventh Judicial Circuit** has jurisdiction over cases originating in the states of Alabama, Florida and Georgia. The circuit includes nine district courts with each state divided into Northern, Middle and Southern Districts} (<https://www.ca11.uscourts.gov/about-court>).*

(B) Currently, should my case be heard by the Florida Supreme Court since I am **now** a citizen of Florida?

(C) If people can't speak English, do they meet all requirements to be disabled?

(D) Why didn't the Circuit Court Clerks allow for the Judges to review the appeal for a Rehearing?

(E) Are the federal laws, rules and requirements for disability including ADA, recognized and adhered to in the US and the State of Florida?

(F) Are the ALJ's and Courts allowed to intentionally misrepresent, misquote and misapply laws?

(G) Are the ALJ's and courts allowed to intentionally **disregard/omit** relevant and pertinent evidence submitted by the appellant?

(H) Why aren't the lower Courts lawfully and correctly applying the federal disability laws/rules stated above (# 4) to the case for the appellant?

(I) Are the appellees intentionally legally allowed to alter a Judge's decision?

(J) Are the Appellant's treating medical professionals considered Medical Experts?

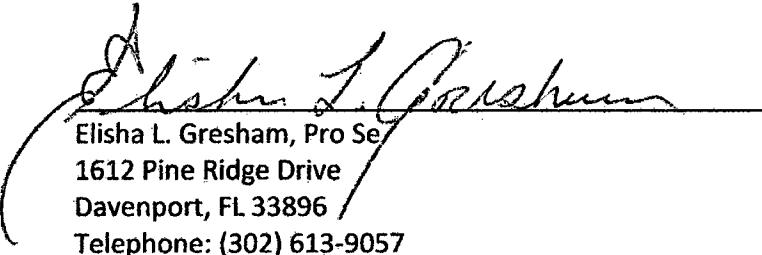
(K) Can the US Supreme Court apply the federal laws and rules for disabled persons and for person under the ADA (**Americans With Disability Act of 2008, As Amended**) in accordance to, and as they are federally described and amended?

(L) Will the US Supreme Court overturn any prior rulings regarding this case, should they find, in accordance to federal disability laws for persons with combined disabilities, the

appellant should be legally and rightfully granted/entitled to have received her social security disability benefits retro May 20, 2015 through December 31, 2020?

(M) Is it required by law for the ALJ and the lower courts to disclose their claims of proof of "preponderance evidence" as opposed to it just being stated within their written decisions?

RESPECTFULLY SUBMITTED January 5, 2024



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LIST OF PARTIES

Commissioner of Social Security – Respondent Party

RELATED CASES

Delaware Department of Labor

Social Security Appeals Counsel & Administration

Middle District Court Of Florida, Tampa Division

US Court Of Appeals For The Eleventh Circuit Court

INTERESTED PARTIES

There are no parties to this proceeding other than those named in the caption of this case.

TABLE OF CONTENTS

Motion For Leave To Proceed In Forma Pauperis/Affidavit By Petitioner/Appellant.....	Pages iv - ix
Petition For Writ Of Certiorari.....	Page 1
Introduction.....	Page 2
Notice of Appeal For Review	Page 4
Questions Presented.....	Page 6
Interested Parties.....	Page 8
Table of Authorities Cited.....	Page ii
Index of Appendices A – H.....	Page iii
OPINIONS BELOW.....	Page 9
Jurisdiction, Decisions Below & Petition for A Writ of Certiorari.....	Page 10
Constitutional And Statutory Provisions & Federal Rules Involved.....	Page 11
Statement of Case.....	Page 16
List of Parties & Related Cases.....	Page 17
Reasons for Granting The Petition.....	Page 18
Conclusion.....	Page 19
Proof Of Services.....	Page 20

TABLE OF AUTHORITIES CITED

CASES	PAGE NUMBER
<u>Neil J. Gillespie, Pro Se Appellant v. Reverse Mortgage Solutions, Inc., Appellees.</u> 2015, (Appeal No. 5D15-0340 to the Florida Supreme Court; from the 5 th District of Appeals, Florida).....	18
<u>Elisha L. Gresham, Pro Se, Appellant v. Commissioner of Social Security, Appellees.</u> 2023, (Appeal No. 22-13807 to the US Court of Appeals for the Eleventh Circuit).....	Apdx. E, F
<u>Elisha L. Gresham, Plaintiff v. Commissioner of Social Security, Defendant.</u> 2022, (Appeal No. 8:21-cv-00601-MRM to the US District Court, Middle District of Florida, Tampa Division).....	Apdx. D

STATUTES AND RULES

Code of Federal Regulations 20 CFR 404.1571 *et seq*; 1 E/3; 2F/2; 13E/1; 14D-17D; 20 CF 'R 404.1520(c); SSR 85-28; Section 216(i); Section 223 of the Act, as amended; Section 303(f)(i) of Public Law 89-97; Section 216(i)(2)(E) of the Act, amended in 1965; Americans Disability Act of 2008, as Amended – (sec. 4)

Doc. 2; USM-285

Doc. 1; Doc. 22; 205(g) SS Act; 42 U.S.C. 405(g);

DIB under 42 U.S.C.; 405(g)

PER CURIAM

62 U.S. 506; 515-16 (1858)

Page iii

INDEX OF APPENDICES

Table Of Contents – Page i

Table Of Authorities Cited – Page ii

Appendix A - Delaware Department of Labor, decision filed February 12, 2016 (Terry Combs – Claims Deputy/Agency Representative)

Appendix B - The decision of Social Security Appeals Office of Virginia, Ruled on April 23, 2019 (Karen Patterson – Hearing Officer Director)

Appendix C - The Grant To Proceed Without Prepaying Fees, Ruled by the US District Court, Middle District Of Florida, Tampa Division on March 16, 2021 (Judge Anthony E. Porcelli)

Appendix D - The decision of the US District Court, Middle District Of Florida, Tampa Division, filed September 6, 2022 (Judge Mac R. McCoy)

Appendix E - The decisions of the United States Court of Appeals for the Eleventh Circuit, was filed on November 7, 2023 (Judges, Wilson, Jordan & Branch)

Appendix F - The decisions of the United States Court of Appeals for the Eleventh Circuit, were filed December 6, 2023 (Clerk Of The Court Ruling on Behalf of Judges, Wilson, Jordan & Branch)

Appendix G - Judgement, US State Court of Appeals for the Eleventh Circuit, filed December 14, 2023 (Clerk Of Court – David J. Smith)

Appendix H - Withdrawn From The Record - E/S

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 judgments below

OPINIONS BELOW

(In chronological order; oldest date first)

Delaware Department of Labor, denied unemployment benefits due to disability, limitations & restrictions (February 12, 2016 - Appendix A)

Appeals Counsel Of Virginia, Returned Case To Dover, Delaware Social Security For Further Action & Reconsideration (April 23, 2019 - Appendix B)

Proof Of In Forma Pauperis Granted In Florida Middle District Court, Tampa Division (March 16, 2021 - Appendix C)

Case Ruling Affirmed Middle District, FL, Tampa Division, Affirmed (September 6, 2022 - Appendix D)

Case Ruling Affirmed US Appeals Court For The 11th Circuit, Affirmed (November 7, 2023 - Appendix E)

Motion For Rehearing, US Appeals Court For The 11th Circuit, Denied (December 6, 2023 - Appendix F)

US State Court of Appeals for the Eleventh Circuit, Published Judgement (December 14, 2023 - Appendix G)

Appendix H) -- Withdrawn From The Record ELL

JURISDICTION

The Eleventh Circuit entered judgment on November 7, 2023, December 6, 2023 & December 14, 2023. Jurisdiction (TBD)

DECISIONS BELOW

Judgement, US State Court of Appeals For the Eleventh Circuit, filed December 14, 2023

The decisions of the United States Court of Appeals for the Eleventh Circuit, were filed November 7, 2023, December 6, 2023 & December 14, 2023.

The decision of the US District Court, Middle District Of Florida, Tampa Division, filed September 6, 2022

The Grant To Proceed Without Prepaying Fees, Ruled by the US District Court, Middle District Of Florida, Tampa Division on March 16, 2021

The decision of Social Security Appeals Office of Virginia, Ruled on April 23, 2019

Decision of the Delaware State Department Of Labor, Filed on February 12, 2016

PETITION FOR A WRIT OF CERTIORARI

Petitioner Elisha L. Gresham respectfully requests the issuance of a Writ of Certiorari to review the judgments of the United States Court of Appeals for the Eleventh Circuit, US Middle District of Florida & the Florida State Supreme Court.

CONSTITUTIONAL AND STATUTORY PROVISIONS INVOLVED

Due Process Clause, Fifth Amendment, and Fourteenth Amendment, U.S. Constitution Title 18 of the United States Code (U.S.C.), including but not limited to 18 U.S.C. § 371. 18 U.S. Code § 371 - Conspiracy to commit offense or to defraud United States If two or more persons conspire either to commit any offense against the United States, or to defraud the United States, or any agency thereof in any manner or for any purpose, and one or more of such persons do any act to effect the object of the conspiracy, each shall be fined under this title or imprisoned not more than five years, or both....

18 U.S. Code § 242 - Deprivation of rights under color of law 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; and if bodily injury results from the acts committed in violation of this section or if such acts include the use, attempted use, or threatened use of a dangerous weapon, explosives, or fire, shall be fined under this title or imprisoned not more than ten years, or both;...

FLORIDA STATUTES, CHAPTER 837, PERJURY 837.06 False official statements.—Whoever knowingly makes a false statement in writing with the intent to mislead a public servant in the performance of his or her official duty shall be guilty of a misdemeanor of the second degree, punishable as provided in s. 775.082 or s. 775.083.

FLORIDA STATUTES, CHAPTER 838, BRIBERY; MISUSE OF PUBLIC OFFICE 838.022 Official misconduct.— (1) It is unlawful for a public servant or public contractor, to knowingly and intentionally obtain a benefit for any person or to cause unlawful harm to another, by: (a) Falsifying, or causing another person to falsify, any official record or official document;

Chapter 825, Florida Statutes, ABUSE, NEGLECT, AND EXPLOITATION OF ELDERLY PERSONS AND DISABLED ADULTS.

FEDERAL RULES INVOLVED

Under the disability federal laws:

20 CFR 404.1571 et seq.; (§ 404.1571 et seq. - ALJ, Anthony Reeves:
The claimant has not engaged in any substantial gainful activity since 5/20/2015, the alleged onset date (20 CFR 404.1571 et seq.) - ALJ Anthony Reeves (3/30/2020).

Some payments shown after the alleged onset date are the receipt of disability payments (1 E/3; 2F/2; 13E/1). The claimant worked after the alleged disability onset date but this work activity did not rise to the level of substantial gainful activity (14D-17D) – ALJ Anthony Reeves (3/30/2020).

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20 CFR 404.1520(c); SSR 85-28; (Confirmed in favor of appellant – ALJ, Anthony Reeves):
The claimant has the following severe impairments: obesity, degenerative disc disease of the lumbar spine, and left DeQuervain's tenosynovitis {20 CFR 404.1520(c)}. – ALJ Anthony Reeves (3/30/2020).

SSR 85-28; (Confirmed in favor of appellant – ALJ, Anthony Reeves):
The above medically determinable impairments significantly limit the claimant's ability to perform basic work activities as required by SSR 85-28. – ALJ Anthony Reeves (3/30/2020).

Section 216(i) & Section 223 of the Social Security Act and Amendments laws of disability:
Section 216(i) of the Social Security Act provides for the establishment of a period of disability, and **section 223** provides for the payments of disability insurance benefits under conditions therein specified. As herein pertinent, both sections prior to the enactment of the Social Security Amendments of 1965 on July 30, 1965, defined "disability" as an **inability** to engage in any substantial gainful activity by reason of any medically determinable physical or mental impairment which can be expected to result in death or to be of long-continued and indefinite duration.

In pertinent part, **sections 216(i) and 223 of the Act, as amended**, now **define "disability"** as an inability to engage in any substantial gainful activity by reason of any medically determinable physical or mental impairment which can be expected to result in death **or which has lasted or can be expected to last for a continuous period of not less than 12 months**.

When a claimant's entitlement is dependent on the amended definition of "disability," disability insurance benefits are not payable for any month prior to September 1965 [section 303(f)(1) of Public Law 89-97]. Entitlement to a period of disability may not be established under an application, if the period would have **ended more than 12**

months before the date such application was filed [section 216(i)(2)(E) of the Act as amended in 1965].

The Amendments of 1965 eliminated the provision of the Act which specifically limited the prospective life of disability applications. The Act now provides that if a claimant meets all the requirements for entitlement at any time before the Secretary issues a final decision on an application, such application shall be deemed to have been filed in the first month in which all requirements were met.

The general issues before the Appeals Council are whether the claimant is entitled to a period of disability and to disability insurance benefits under **sections 216(i) and 223**, respectively, of the Social Security Act, **as amended**. The specific issues are whether the claimant was under a "disability," as defined in the Act either prior to or **after the Amendments of 1965**, and if so, when such disability commenced and the duration thereof; and whether the special earnings requirements of the Act are met for the purpose of entitlement.

The American Disabilities Act of 2008, as Amended:

Passed House amended (06/25/2008)

ADA Amendments Act of 2008 - (Sec. 4) Amends the Americans with Disabilities Act of 1990 (ADA) to redefine the term "disability," including by defining "major life activities" and "being regarded as having such an impairment."

Sets forth rules of construction regarding the definition of "disability," including that: (1) such term shall be construed in favor of broad coverage of individuals under the Act; (2) an impairment that substantially limits one major life activity need not limit other major life activities in order to be a disability; (3) an impairment that is episodic or in remission is a disability if it would substantially limit a major life activity when active; and (4) the determination of whether an impairment substantially limits a major life activity shall be made without regard to the ameliorative effects of specified mitigating measures

(<https://www.congress.gov/bill/110th-congress/house-bill/3195>).

(d)(1) The term "disability" means—

(2) For purposes of paragraph (1)(A)—

(A) An individual shall be determined to be under a disability only if his physical or mental impairment or impairments are of such severity that he is not only unable to do his previous work but cannot, considering his age, education, and work experience, engage in any other kind of substantial gainful work which exists in the national economy, regardless of whether

such work exists in the immediate area in which he lives, or whether a specific job vacancy exists for him, or whether he would be hired if he applied for work. For purposes of the preceding sentence (with respect to any individual), "work which exists in the national economy" means work which exists in significant numbers either in the region where such individual lives or in several regions of the country.

(B) In determining whether an individual's physical or mental impairment or impairments are of a sufficient medical severity that such impairment or impairments could be the basis of eligibility under this section, the Commissioner of Social Security shall consider the **combined effect** of all of the individual's impairments without regard to whether any such impairment, if considered separately, would be of such severity. If the Commissioner of Social Security does **find a medically severe combination of impairments, the combined impact of the impairments shall be considered throughout the disability determination process.** In determining whether an individual is able to engage in substantial gainful activity by reason of his earnings, **where his disability is sufficiently severe to result in a functional limitation requiring assistance in order for him to work**, there shall be excluded from such earnings an amount equal to the cost (to such individual) of any attendant care services, **medical devices, equipment**, prostheses, and similar items and services (not including routine drugs or routine medical services **unless** such drugs or services are **necessary for the control of the disabling conditions**) which are necessary (as determined by the Commissioner of Social Security in regulations) for that purpose, whether or not such assistance is also needed to enable him to carry out his normal daily functions; except that the amount to be excluded shall be subject to such reasonable limits as the Commissioner of Social Security may prescribe.

(5)(A) An individual shall not be considered to be under a disability **unless** he furnishes such medical and other evidence of the existence thereof as the Commissioner of Social Security may require. An individual's statement as to pain or other symptoms shall not alone be conclusive evidence of disability as defined in this section; there **must be medical signs and findings, established by medically acceptable clinical or laboratory diagnostic techniques, which show the existence of a medical impairment that results from anatomical, physiological, or psychological abnormalities which could reasonably be expected to produce the**

pain or other symptoms alleged and which, when considered with all evidence required to be furnished under this paragraph (including statements of the individual or his physician as to the intensity and persistence of such pain or other symptoms which may reasonably be accepted as consistent with the medical signs and findings), **would lead to a conclusion that the individual *is* under a disability.** *Objective medical evidence of pain or other symptoms established by medically acceptable clinical or laboratory techniques (for example, deteriorating nerve or muscle tissue) must be considered in reaching a conclusion as to whether the individual *is* under a disability.*

(https://www.ssa.gov/OP_Home/ssact/title02/0223.htm)

(A) inability to engage in any substantial gainful activity by reason of any medically determinable physical or mental impairment which can be expected to result in

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(A) inability to engage in any substantial gainful activity by reason of any medically determinable physical or mental impairment which can be expected to result in

death or which has lasted or can be expected to last for a continuous period of not less than 12 months.

INTRODUCTION

Since May 20, 2015 through December 31, 2020 and current, I have been suffering debilitating disabling, life limiting conditions for which, I have wrongfully and continuously been being denied my disability benefits for my multiple declining, combined debilitating, mental and physically restrictive permanent disabilities which, are not properly being applied to the federal laws regarding persons with disabilities as stated **despite**, the medical advice of **multiple independent medical expert's written reports and findings**; and despite the **Virginia Appeals Counsel** sending the case back to Dover, Delaware for **further action and reconsideration**. It is **obvious my disability benefits are intentionally being illegally withheld from me because, the laws aren't properly being applied to my disability case**. **FURTHER**, the appellees and the courts continue to base their rulings on 2 doctors; one who has **never** examined nor spoke with me, and the other is another doctor **for the appellees** whom I've only met once for 15 minutes who **never** ordered any sort of lab work to back up his own opinion(s). **ADDITIONALLY**, the appellees and the courts continue to **intentionally ignore** the fact that I have **never** been **medically released** to return to work, as it is **not only required** but, it's also indirectly shown by the **Delaware Department of Labor** which, was also presented as evidence to the appellees, ALJ and lower courts.

In addition, the appellees continue **withholding evidence** from the courts, intentionally misrepresenting and misinterpreting the written medical notes and reports from the appellant's medical experts and maliciously not applying the federal disability laws, which would prove the appellant **does meet** the federal requirements of being a disabled person thereby, successfully altering the courts rulings/decisions in their (appellees) favor.

I personally **do not see** what is so confusing for the lower courts and ALJ; the **federal disability laws appear to be very clear** and shows, **within its own descriptions and many definitions**, that I have met the requirements and that I am a disabled person **who should** be entitled to **justifiably and rightfully receive** my disability benefits for which, I have legally earned from working wages since 1981 to 2015 (**34 consecutive years of employment**).

Further, the courts granting the Certiorari will also help clarify if this case was heard in the proper circuit court (**11th Circuit**) of jurisdiction since this case **did not originate** in Alabama, Florida nor in Georgia, **in accordance to the 1981 established Rules/Laws by Congress for the 11th Circuit Court**.

As a natural born citizen of the US, I will continue to push for my rights to receive my disability benefits. It is unfortunate that someone who has given so much of themselves for and to this country and its citizens, becomes disabled before their retirement age and have to fight this hard & this long for this country to recognize and respect their rights as an American Citizen who is entitled to their disability benefits.

With the above being state, I am respectfully pleading to the US Supreme Court to please hear or review my case issues and properly explain and apply the disability laws to my case so that, I may finally, after 8+ hard long years of appeals, receive my benefits and proceed to live out the rest of my life to the best of my ability...in peace.

The US Supreme Court's decision to grant this petition and review the disability federal laws for my case, would be more than welcoming.

Statement of Case

Since May 20, 2015 through December 31, 2020 and current, the appellees have continued intentionally engaging in federal misconduct of misrepresenting and withholding pertinent evidence from the courts to successfully sway the courts rulings in their favor, and abusing their power of authority over me and my federal Rights as a disabled person. I have wrongfully and continuously been being denied my disability benefits for my multiple declining, combined debilitating, mental and physically restrictive permanent disabilities which, are not properly being applied to the federal laws regarding persons with disabilities as stated despite, the medical findings and advice of multiple independent medical experts written reports, and despite the Virginia Appeals Counsel sending the case back to Dover, Delaware for further action and reconsideration. It is obvious my disability benefits are intentionally being illegally withheld from me because, the laws aren't properly being applied to my disability case in addition to, the federal laws being manipulated via misrepresentation and interpretation. FURTHER, the appellees and the courts continue to base their rulings on 2 doctors; one who has never examined nor spoke with me and the other is a doctor whom I've only met once for 15 minutes who never ordered any sort of lab work to back up his own opinion. ADDITIONALLY, the appellees and the courts continue to intentionally ignore the fact that I have never been medically released to return to work, as it is not only required but, is also indirectly described by the Delaware Department of Labor (Apdx. A), the State in which, this case originated. Additionally, a Washington Post reporter wrote a detailed ad about the many errors and misinterpretations on federal disability laws by some lower courts and ALI's (**Judges rebuke Social Security for errors as disability denials stack up by Lisa Rein**

May 25, 2023 at 6:00 a.m. EDT -

<https://www.washingtonpost.com/politics/2023/05/25/social-security-disability-denials-court-remands/>

This brief Statement of Case summary written above helps to explain some of my challenges and why, in accordance with Supreme Rule 39, I have filed this **Petition for WRIT OF CERTIORARI**.

REASONS FOR GRANTING THE PETITION

The court should grant Certiorari to clarify the proper scope of the Federal Disability Laws. This court should grant review in this case to provide guidance on how to apply the Federal Disability Laws; federal disability law issues/arguments that has continued to confuse the lower courts and prevent them from achieving a proper understanding of these federal laws thus, wrongfully and unjustly continue causing me to be denied my disability benefits.

I personally do not see what's so confusing; the **federal disability laws appear to be very clear and shows, within its own descriptions and many definitions**, that I have met the requirements and that I **am** a disabled person who should be entitled to and rightfully receiving my disability benefits.

Further, the courts granting the Certiorari will also help clarify if this case was heard in the proper circuit court of jurisdiction since the case **did not** originate in Alabama, Florida nor Georgia (**1981 Congressional Law for the Eleventh US Circuit Court**).

Another reason the Certiorari should be granted is because, my ability to function in real-time is severely limited and impaired which, makes court appearances of any sort without counsel impossible which, is why the judges will not be able to see for themselves how I have to maneuver with combined disabilities, in order to try to get around the best I can. It seems past courts, judges, ALJ for social security, the appellee's attorneys, and some court employees have abused their position of power and dominance over me for advantage, knowing I am especially vulnerable because I am disabled, have to proceed Pro Se because, I don't have the money to hire a lawyer who can properly present, fight, legally and correctly make sure the federal disability laws are applied to this case on my behalf and in the best interest of me.

I had been working since I was 14 years old consistently through 2015, and all I respectfully ask of the US Supreme Court is to acknowledge the federal disability laws as they are written and for those case related laws to be **correctly interpreted and correctly applied to my combined disabilities case** in addition to, overturning prior decisions that were poorly interpreted and "picked apart" to favor the **appellees** and award me my Just due of disability benefits retro May 20, 2015 through December 31, 2020.

Similar Cases Related To ADA and Multiple Combined Disabilities FL Supreme Court Appeals:

Neil J. Gillespie, etc., Pro Se Appellant vs. Reverse Mortgage Solutions, Inc., Appellees. 2015, (Appeal No. 5D15-0340 To The Florida Supreme Court; from the 5th District of Appeals, Florida)

CONCLUSION

Mrs. Elisha L. Gresham respectfully requests that this court issue a writ of certiorari.

Respectfully Submitted,



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January 5, 2024