

IN THE SUPREME COURT,
OF THE UNITED STATES

Pro Se Petitioner,)
Curtis M. Gorham) Case Number. 23-6923
VS)
Respondent,)
Dr. Gary H. Lavine, et al.) Date: 6/25/2024
)
)
)
)
)

Petitioner's Certiorari Rehearing En Banc Request

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INTRODUCTION:

The grounds are intervening circumstances of a substantial or controlling effect or to other substantial grounds not previously presented as Rule 44.1 and 44.2 outline, I attempt to present the issues briefly and directly. Things overlap here I was supposed to be appointed counsel which affects defenses and process that happened, what “time” really exists for filing, presuit experts factors and litigation procedure with acts of others, the court ignored all I filed. A format issue exists with my original Petition. I sent a reformatted Petition with an additional 6 pages of questions and asked to file an extended rehearing request, but all was denied. Its available and I can submit Exhibits if wanted.

CASE HISTORY:

> (1.) After this Petition was docketed the Florida Supreme Court Petition

was dismissed by the clerk for formatting. This Court's decision is final which is now 42 providers and 21 incidents since 2018. There's a 42 USC 1983 conspiracy against my rights taking place and a "state actor" needs to be involved because Section 1983 doesn't apply to private citizens. I sued the State of Florida who hasn't responded and there is a cognizable conspiracy against my rights on going by the providers and law enforcement if not for 1983. Parties are preserved named as "Others" in this lawsuits caption. Problem now being under f.s. 95.11 limitations making it so all 42 are here and still others up to just 3 months ago but how to properly handle it all. Making dismissal a problem and I allege in error herein.

> (2.) I allege the Florida case was dismissed due to medical providers wasting my time recently and all along (766 bad faith), I had no time to properly format a Jurisdictional Brief 3 months ago when the Petition was dismissed for formatting reasons, I was fired by another doctors office at that time, a specialist which caused me medical troubles still on going all taking my time and needing to find new doctors given I have medical requirements. The pool of providers is smaller now and filled with conflict. The specialist sent me a letter stating "poor patient performance" as the reason which is a surprise. They then refused to fill a prescription I paid them to refill, I always have the same prescriptions its required, so more on going conspiracy and opposite game with the letter sent causing liability advantages still all these years later. Caused a case dismissal.

REHEARING MATTERS:

> (3.) The Courts should have lawfully appointed me civil counsel or "private

counsel" due to indigency and incompetency making this is an "irregular" and "illegal" litigation (terms used in f.s. 48.042(2) Process of Service). The case needs to be remanded for a new trial, striking defense claims and court decisions as not cognizable, not proper jurisdiction or also covered under Absurd Results doctrine, or otherwise see law included below. The law of incompetency outlines the Constitution and laws of Florida. See, f.s. 29.007.(2),(4); f.s. 744.3215.(1),(d),(e),(k), (l); f.s. 57.081.(1); Fed.R.Civ.P. Rule 17.

> f.s. 29.007. Court-appointed counsel.—For purposes of implementing s. 14, Art. V of the State Constitution, the elements of court-appointed counsel to be provided from state revenues appropriated by general law are as follows:

(2) private attorneys appointed by the court to represent indigents or other classes of litigants in civil proceedings requiring court-appointed counsel in accordance with state and federal constitutional guarantees and federal and state statutes.

(3) Reasonable court reporting and transcription services necessary to meet constitutional or statutory requirements, including the cost of transcribing and copying depositions of witnesses...

(4) Witnesses, including expert witnesses, summoned to appear for an investigation, preliminary hearing, or trial in a case when the witnesses are summoned on behalf of an indigent, and any other expert witnesses approved by the court.

> f.s. 744.3215 Rights of persons determined incapacitated.—

(1) A person who has been determined to be incapacitated retains the right: (d) To be treated humanely, with dignity and respect, to be protected against abuse, neglect, and exploitation. (e) To have a qualified guardian. (k) To have access to the courts.

(l) To counsel...

> Title VI., Civil Practice And Procedure., Court Costs.,

f.s. 57.081 Costs; right to proceed where prepayment of costs and payment of filing fees waived.— (1) Any indigent person,.. who initiates such proceeding shall receive the services of the courts, sheriffs, and clerks, with respect to such proceedings, despite his present inability to pay for these services. Such services are limited to.. examining fees; private court-appointed counsel fees; and any other cost or service arising out of pending litigation...

> The Federal Rules of Civil Procedure, Title IV., Parties.,

Rule 17. Plaintiff and Defendant; Capacity; Public Officers - (c) Incompetent person:

(2) Without a Representative. A incompetent person who does not have a duly appointed representative may sue by a guardian ad litem. The court must appoint

a guardian ad litem - or issue another appropriate order - to protect a incompetent person who is unrepresented in an action.

> Constitution Of Florida., Article V., Judiciary., Section 14. Funding.

(a) ..court-appointed counsel... (b) ..Where the requirements of either the United States Constitution or the Constitution of the State of Florida preclude... costs for performing court-related functions sufficient to fund the court-related functions of the offices of the clerks of the circuit and county courts, the state shall provide, as determined by the legislature, adequate and appropriate supplemental funding from state revenues appropriated by general law. .. (c) ..court-appointed counsel...

Under f.s. 29.007(3) says "reasonable court reporting" so my "1/25/2023

Motion To Request Appointment Of Court Reporter" should not have been denied.

Also seems Fla.R.Civ.P. Rule 1.140 Defenses: (b)(6) "failure to state a cause of action." (b)(1) "lack of jurisdiction over the subject matter." (b)(2) "lack of jurisdiction over the person." This all is made possible by various factors like "inadherence" or "excusable neglect" and not being told the truth about counsel.

The defense counsels, court and experts knew I had mental illness and was indigent. Under these laws I shouldn't be held to have a burden or wasn't personally required to do a 766 presuit it is a counsel who would. I seek a writ of mandamus or a writ of prohibition otherwise in regards to this and experts. I requested a "guardian ad litem" and court reporter, the reporter was denied by court order, all hearings cancelled and then all cases 1 by 1 got dismissed but no guardian ad litem order denial is on the docket so it was ignored. This is not proper as the law provides a court reporter can be granted, see f.s. 29.007(3) and I should have had counsel appointed. The Judge can request experts for investigation and law calls a Judge and Jury "trier of fact" able to seek opinion to make a decision.

> (4.) The Judge dismissed the similar Dr. Jenkins case with 45 days to get an

expert and Dr. Jenkins is alleged to be a part of the same conspiracy. I was intent to amended all as 1 but was dismissed however just yesterday I got an email from an expert, seems now I can infer the dismissal was to get an attorney not an expert myself since I can't literally retain 1 according to this email response;

“Monday June 17th 2024. MDConsult Services. Richard Auerbach. Working directly with a patient or physician presents obvious conflicts of interest and the appearance of bias. Expert witnesses can not and do not contract directly with the client. Should you be interested in pursuing this matter, you can have your attorney consider contacting us.”

My expert in radiology Defendant Dr. Cousin also refused to participate without an attorney making DCA affirming on the merits not correct there is a way I win I outlined it but he refused to participate and DCA isn't considering what I filed as fact and law, his findings and all that happened really matter but haven't been considered like amending the complaint prior to dismissal of his case and others. Doing so I would need more information anyways to update all the “elements” in his case and others so a denial has denied discovery of such material facts applicable to him and others like what is the expert opinion based on. Granting of an amended pleading is always proper before a dismissal according to prevailing law I included a case law in my filings. All together paradox issues exist that I need experts but can't find or afford them, (see, 766.202.(5) Definitions - “Investigation” means that an attorney has reviewed the case... and has consulted with a medical expert...) and they can't represent me, which according to that email response and my expert explains why they “can not” work for pro se clients. There is a functional unavailability of counsel and experts during a covid pandemic and given I have so many cases I am prejudiced and denied access to court, can't be

more denied access than being told to get experts who say they won't work with me and now "can not" work with me. The complex litigation factors and suppression of truth is causing major problems. Nobody would risk it during a pandemic. I did risk going to Dr. Jenkins a local provider and he did harm me.

> (5.) These matters are likely not filed untimely. It requires proper court review of the matters under the f.s. 766 statutes and 95.11 limitations to determine all the repose and "disability" involved concerning the conspiracy and all such factors and any further rights provided in the Constitution for due process access to court. Given I was never legally required to do a 766 presuit I had take the claims to court first as I did here. So it isn't untimely only lacking court considerations.

> (6.) There is no "prejudice" against the defendants as the Florida Supreme Court in a case law said "there needs to be a hearing and a showing has to be made that the defendants are prejudiced before a dismissal." Reading the rules and statutes the court is supposed to or able to do a variety of things but here everthing is so complicated it makes it all rather difficult when the court isn't doing anything and the defense counsels are constantly violating the intended process. Making for long appeal filings. Actual deviations away from the Defendants is whats taken place when so many others harmed me and I have to tell that, and then the defense counsel antics all adds up. They all knew the case was coming and investigations happened so they knew, but then covid happened. They aren't prejudiced their counsel and experts failed to investigate which prejudiced me.

> (7.) In my lawsuit I also alleged intentional personal injury in addition to

medical malpractice claims and conspiracy so not only medical malpractice negligence as in “eugencis” on page 1 of my lawsuit and there is no in depth court process in regards to determination of the “personal injury” aspects instead dismissal on medical malpractice grounds; defense said medical providers can only be sued for malpractice which isn't true I included a case law that showed a Judgement that it was personal injury by medical providers.

> (8.) The Courts lack of consideration for my claims, challenges of Constitutionality, the invoked exceptions, doctrines, the Statutes and Rules, need for Experts, Appointment of Counsel, applicability of the 766 Statutes given the circumstances. Sent no certified questions, no Stay to determine facts, proper court process nor held evidence hearings or allowed formal discovery the Judge even said in a hearing that I couldn't ask questions, all matters have just been dismissed, denied my motions including filing extended briefs with the 1ST DCA and Florida Supreme Court. Making the Constitutionality ignored, Statutes and Rules remain in full effect and therefore all my grounds and challenges ignored.

> (9.) Remanding for new trial potentially needs to be removed to Federal Court where counsel is appointed because the hospital CEO is a diverse named party. Its a proper venue question that is was venue improper all along and when is proper service going to take place. If so then Federal Rules of Civil Procedure, Rule 17(c)(2) would apply, “protect a incompetent person who is unrepresented in an action.” Federal court appoints counsel anyways.

> (10.) Dr. Lloyd G. Logue is a named defendant but in a hearing it was said

he is not the Unknown Radiology Assistant, I still don't know who is, Dr. Logue is registered agent for Defendant Bay Radiology who has not appeared. The Hospital failed to name the Orderly, and so under Fla.R.Civ.P. 1.140 Defenses: (b)(7) "failure to join indispensable parties." All lower court process has taken place "ex parte" without all parties that are named in the caption, even "Others" making it up to 42 providers the Judge never did question who all the "Others" are, which would be now up to 21 incidents. Seems like corruption. Early on I sent the LT a letter asking the Presiding Judge to review the matter. Nothing happened.

> (11.) See page 2 of this filing it outlines the incompetent law involved also, "1/19/2023 Motion To Appoint Guardian Ad Litem For Plaintiffs Litigation";
a.) 10/21/2022 Case 22001076ca - Gorham, Curtis M Vs. Lavine, Dr Gary H
1/19/2023 Motion To Appoint Guardian Ad Litem For Plaintiffs Litigation
1/25/2023 Motion To Request Appointment Of Court Reporter
1/26/2023 Order Denying Motion To Appoint Court Reporter
3/12/2023 Plaintiffs Notice Of Similar Complaint Vs Dr Jenkins

Dr. Jenkins conspiracy case needs the same appointed counsel & remanding.

b.) 5/20/2022 Case 22000496ca - Gorham, Curtis M Vs. Jenkins, Michael Alan

> (12.) A new theory about the medical experts consultation report. It named the wrong exam and doctors and when sent to me the expert said he would fix any errors, but refused. The x-ray exam from the mental health hospital that he based his review included the x-ray details report which included "mental health information," so he purposefully for liability avoidance reasons has intentionally refused and named the wrong things, so that it couldn't be said that he was aware of my mental condition, as if he had known the law had he ever represent before a

incompetent person knowing that I would be appointed counsel, since his entire avoidance is based on I need an attorney. Enabling me to say in a lawsuit that he twice reviewed the matters and so should have known having fixed his errors and the law involved instead he refused and locked it at 1 erroneous review.

> (13.) The actually crazy and unlawful and in violation of policy of the hospital terms is that the medical expert standards here are that providers do not need consent that they have to do incorrect exams, this standard is a “crimes against humanity.” A violation under 766.102(2)(b) and 766.111 and is medical battery and potentially personal injury. DCA decisions to affirm is entirely incorrect based on facts and also the defense experts opinions are not based on facts. My expert sent me emails saying they had to do the exam knowing it to be the wrong exam, June 7 2020 email. Also June 4th 2020 outlines in a fraudulent way why I have no case but he otherwise says I do have a case so it is all crazy. A standard can't be lacking in material facts of the matter under 766.102 it says “in light of all relevant circumstances” and so he is doing fraud upon the court that is perjury. The 2 entire missing series of images is enough to grant merit along with under 766.102(2)(a). And my efforts under 766.104(1) apply as a “reasonable investigation.” Its a paradox to be required to get experts then a fraud happens and the expert case is dismissed which fraud caused other cases to be dismissed.

> (14.) I requested doing depositions with Florida Supreme Court in the course of the appeal and was denied also by the lower court which is unlawful under the Rules of Civil Procedure, Rule 1.290 - Depositions Before Action Or Pending

Appeal. This court should require their standards proved with supporting documentation. The experts are in violation of the hospital terms to use the ALARA principle so its material evidence to determine if fraud and violations of the hospital terms then also if DCA incorrect decisions to affirm “on the merits” is proper. In expert emails he said it was good to have the wrong exam, the staff had to knowinlgly do the wrong exam, his opinion has value. Making a moment in time for defense to say “I learned of the injury.” Court doesn't care about expert fraud, or eugenics which it should a attorney has to certify their experts. I suspect it can be all “mental or behavior” experiment by the hospital staff also who did the eugenics experiment, then the risk manager, my expert, all counsel, now the courts. There should have been formal discovery and evidence hearings. All experts involved would have to agree a conspiracy is happening and that is perfectly suited for a Judge to determine on the merits and all that is actually lawful herein but me doing it is prejudicial. Me having to do it is only happening by saying look at what happened as that is all I can do, I would need to do depositions to prove things. Therefore, under “f.s. 744.3215 Rights of persons determined incapacitated. (1) ..the right: (d)..to be protected against abuse, neglect, and exploitation.” There are various other similar laws.

> (15.) I'm a type 1 diabetic 100 years ago dead because the medication I take daily didn't exist. As such a “class of citizen” it effects the ability to maintain years long litigation and requires consideration. It costs money to live, it takes up time, and when I'm fired by doctors it creates problems. Creates a factor under 95.11

discovery of harm “with due diligence.” For every harm the defense will point at diabetes, so my medical providers acts, omissions, diagnostics all becomes material evidence and me being harmed by many and fired all along matters, I allege I'm injured and my expert is a fraud for saying I'm not, its also the provider's fault beyond that, making the most recent letter 3 months ago “poor patient performance” needing to be based on something and it isn't, so harmed me actually and is similar to the on going conspiracy providers write some nonsense. Defense counsel would ask about 42 providers and 21 incidents and my disease. The DCA Dr. Cousin and Dr. Billingsley decision to affirm on the merits, hasn't considered the facts. The Bay County Health System LLC (Hospital) decision doesn't make sense either which would also be asked about, they motioned for dismissal and got it now DCA says no final language in the order. I don't know what happens back in the lower court now. f.s. 766 “bad faith” isn't considered by everyone involved. All of its “psychotic” meaning an experience of things others are not experiencing.

FURTHER QUESTION(S) PRESENTED:

Question 1: Implied covenant of good faith and fair dealing (good faith) is a rule used by most courts in the United States that requires every party in a contract to implement the agreement as intended, not using means to undercut the purpose of the transaction. (a) PayPal is able to deny use of its discretion because it can make more money if it does. Offering no protection while charging the same, it is a unfair contract and currently they have a new refund policy. (b) USAA also refused to refund me. (c) Bay Medical Hospital terms say they are responsible for “Medical

Malpractice" but refused me records, demanded I seek an attorney for release of information, the risk manager denied my complaints and never made an adverse incident report. (d) My experts outrageous standard and demand more money and an attorney. Appearance of Fairness Doctrine: The doctrine attempts to make sure that all parties to an argument receive equal treatment, conducted by impartial decision-makers.

Question 2: Is f.s. 766.104(1) a controlling statute that renders other presuit experts statutes none applicable? Says "good faith may be shown to exist if the claimant received a written opinion" it doesn't say varified opinion. Should f.s. 120.52 be applied for expanding the statutes of 766 herein I can't afford 30 opinions.

Question 3: The experts dismissal is not supported in the law Fla.R.Civ.P. Rule 1.110.(b)(2). "a short and plain statement of the ultimate facts showing that the pleader is entitled to relief." Also pro se and amendment of filings factor. I have so many claims that depend on discovery to happen it isn't actually possible to make out elements without needing to later change the filing again.

Question 4: Should the 1ST DCA have sent the matter as a certified question to the Supreme Court? Is the Florida 1ST DCA "warning" to me a violation of my rights? Should I have been denied extended filings? The docket still retains my personal sensitive information which took up a lot of time and alone should award a new trial.

Question 5: f.s. 766 says a incident is all 1 incident no matter how many providers. If there is a conspiracy that continues to occur for years what is it and

how does f.s. 95.11 use of “discovered” work is it the same as being a conspiracy each new incident adds another discovered, ultimately like a whistleblower case.

Question 6: The hospital refused to provide all medical records its possible the ER Doctors “order” was for no “sacrum” CT scanning with ionizing radiation. My expert would have been forced to give merit to the radiology case.

Question 7: Florida law f.s. 766.102.(2)(a) & (2)(b) I would have won with exception my expert didn't give merit or affidavit which he should have. The 2 entire missing deleted CT exams is a (2)(a) matter. I could have then sought informal discovery. It was improper to fail to give an affidavit because 766.102(1) says review has to be “in light of all relevant circumstances” so requires merit for the breach & “injury” a staff can't delete patient medical records. I'd have discovery and could make other 766 claims. Such as the 500 images of my pelvis unnecessary diagnostic testing under 766.111 as over exposure. This is why he was retained.

Question 8: Is the “Legislative Intent in f.s. 252.311 which includes “pandemic” & “Covid-19” as a public health crisis relative to the filing date of this lawsuit? Also I am a victim to a conspiracy by medical providers, and have pending litigation against all 3 local hospitals. Further, does 95.11(4)(b) “with due diligence” factor for repose or tolling of the statutes of limitations as a “disability.”

Question 9: Losing here means the “Others” would have ability to own “evidence” I have over years what happened all collected by debt collectors.

Question 10: Given the circumstances the court can “sit in equity.” I found case law that said a filing isn't capable of being dismissed for format.

Question 11: Given 3 defense counsels filed my personal sensitive information in violation of rules at the onset of the litigation should a new trial occur, it prevented proper filing and preparation for hearings. The experts counsel still has my information on the docket never removed making her response filing moot.

GOOD FAITH CERTIFICATION:

This filing is proper and made in good faith not intended for delay. It is 15 pages as the clerk designated to file even if it is 3,000 words clerk said it can be.

/s/ Curtis Gorham

CERTIFICATION OF FONT:

This filing uses 12 point Century double spaced.

PROOF OF SERVICE:

I certify that on 6/25/2024 a copy of this filing has been provided to the United States Supreme Court, via mail and also to the defendants via email, and their names and address are included below.

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[USPS Letter] Attorney for Dr. Gary Levine and Junco Emergency Physicians., (in 2020), Junco now has has counsel but Dr. Levine has not responded and doesn't seem to be represented by the hospitals counsel.
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