

THE TINGLE LAW FIRM, P.A.
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August 9, 2023

Hon. Scott S. Harris
Clerk of the Court
Supreme Court of the United States
1 First Street North East
Washington, DC 20543

RE: Request for Extension of Time to File a Writ of Certiorari in *Tingle v. Florida Department of Health*, on Appeal from the Florida, First District Court of Appeals, as a PCA Opinion, in Case No. 1D22-1096

Dear Mr. Harris:

In early July of this year I filed an Emergency Application to this Court. That Emergency Application has been returned to me twice now with the explanation that this Court lacks jurisdiction to hear the case. There have been some misunderstandings on this issue that have taken some time to resolve. I now think that we have worked through those misunderstandings and my Emergency Application should be filed in the next few days. However, I have lost over thirty days of crucially valuable time.

By the time you receive this request for an extension of time, I will have provided my Emergency Application for a third time, despite, perhaps, there being nothing wrong with the first two. Therefore, I am asking that my time for filing my Writ of Certiorari be extended from August 22, 2023, until September 29, 2023.

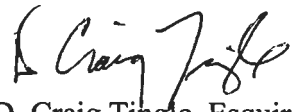
I have been practicing for over twenty-five years and I manage my calendar very well, always giving myself plenty of time. I have not been indolent, but time has become a critical factor that I cannot overcome without an extension of time to file my Writ of Certiorari. The problem should be close to a resolution that demonstrates by irrefutable evidence that this Court can and has heard cases on appeal from a Florida, District Court of Appeals, when an PCA Opinion has been issued, because the Florida Supreme Court does not have jurisdiction under the Florida Constitution.

Hon. Scott S. Harris
Page 2.

To help clarify my request, I am providing copies of the lower court order(s) and opinions, as well as pages that include my Jurisdictional Statement so that everything is clear to all concerned.

Thank you.

Sincerely,

A handwritten signature in black ink, appearing to read "D. Craig Tingle". The signature is written in a cursive, slightly slanted style.

D. Craig Tingle, Esquire

Attachments:

1. Lower Court Orders
2. Jurisdictional Statement

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.*

App. 001a

D. Craig Tingle, pro se, Appellant.

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

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

May 24, 2023

Donivon Craig Tingle,
Appellant(s)

Case No. - 1D22-1096
L.T. No.: 2021-CA-002155

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

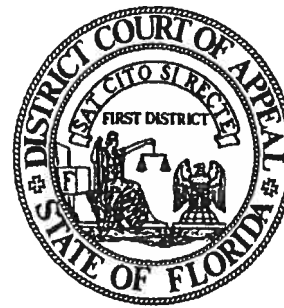
Case No. - 1D22-1096

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1D2022-1096 May 24, 2023

Kristina Samuels
Kristina Samuels, Clerk

1D2022-1096 May 24, 2023



**DISTRICT COURT OF APPEAL, FIRST DISTRICT
2000 Drayton Drive,
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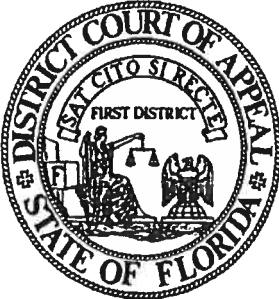
The Court denies the motion for rehearing en banc docketed April 18, 2023.

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

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



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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 Judgment*, the Court concludes that the Department's motion should be granted. The Court notes, without limiting its ruling, that it finds *Jana-Rock Constr., Inc. v. N.Y. State Dep't of Econ. Dev.*, 438 F.3d 195 (2d Cir. 2006) to be persuasive as to Plaintiff's equal protection claims and that the Pigford Provision survives

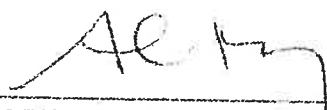
constitutional scrutiny under the rational basis test. Additionally, and alternatively, even applying a strict scrutiny analysis to the Pigford Provision, the Court finds that it survives strict scrutiny as well.

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.



ANGELA C. DEMPSEY
Circuit Judge

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

JURISDICTIONAL STATEMENT

The First District Court of Appeals for the State of Florida entered judgment against Applicant on April 14, 2023, and denied Applicant'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 Applicant's petition for rehearing, Applicant filed this application.

Applicant submits its application 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 Emergency Application is for this Court to order the immediate issuance of a Florida Medical Marijuana Treatment Center License (MMTC) to the Applicant. This is the same relief that has been sought four times from the Florida Courts. The Applicant 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 A, App. 001a-App. 002a. The Applicant, 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 B, App. 003a-App. 004a. The Applicant, herein, asked the First District Court of Appeals for Florida to immediately grant a MMTC license by way of an *En Banc* hearing and written opinion and was denied for a third time by the First District Court of Appeals for Florida. See Appendix C, App. 005a-App. 006a. Each time, the requested relief was the exact same relief that is being sought in this Application. This is the same relief that was also sought from the trial court before the Second Circuit for the State of Florida. See Appendix D, App. 007a-App. 008a. Furthermore, a copy of the Appellant's, Donivon Craig Tingle's, Initial Brief on the Merits to the First District Court of Appeals for Florida has been provided herein in

order to demonstrate that the relief being sought from this Court is the same relief that has been consistently sought. See Appendix E, App. 009a-App. 029a.

Applicant submits this Application because the First District Court of Appeals for the State of Florida decided an important state and federal equal protection claim in a manner that conflicts with the relevant decisions of this Court, and the First Circuit decision so far departs from the accepted and usual course of judicial proceedings as to call for an exercise of the United States Supreme Court's supervisory power.