

24-5816
NO.

ORIGINAL

IN THE
SUPREME COURT OF THE UNITED STATES

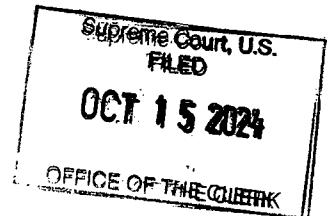
TERRANCE A. BURLISON,

Petitioner,

v.

JEFFREY W. BENEFIELD d/b/a
GREEN OAKS MANOR MOBILE
HOME PARK,

Respondent.



On Petition for Writ of Certiorari to the
Supreme Court of Florida

PETITION FOR WRIT OF CERTIORARI

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QUESTION PRESENTED

**WHETHER THE FLORIDA SUPREME COURT ERRED WHEN IT
VIOLATED THE FOURTEENTH AMENDMENT'S DUE PROCESS
CLAUSE WHEN IT ENTERED AN ORDER OF DISMISSAL BEFORE
THE TIME PRESCRIBED BY FLORIDA RULES OF APPELLATE
PROCEDURE 9.350?**

(i)

LIST OF PARTIES

Terrance A. Burlison, Petitioner

Jeffery W. Benefield, Respondent

**Steven G. Rogers, Judge
for Florida Fifth Judicial Circuit, Respondent**

RELATED CASES

There are no “directly related” cases in other courts.

CORPORATE DISCLUSURE STATEMENT

There is no such corporation.

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APPENDIX A **Florida Supreme Court Order of Dismissal**

TABLE OF AUTHORITIES CITED

CASES	PAGE NUMBER
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<u>Dimick v. Schiedt</u> , 293 U.S. 474 293 U.S. 486.....	3

STATUTES AND RULES

Florida Rules of Appellate Procedure, Rule 9.030(3)

Florida Rules of Appellate Procedure, Rule 9.350

Florida Rules of Appellate Procedure Rule 9.120

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

The opinion of the highest state court to review the merits appears at Appendix A to the petition and is unpublished.

JURISDICTION

The date on which the highest state court decided my case was July 16th, 2024. A copy of that decision appears at Appendix A.

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

CONSTITUTIONAL AND STATUTORY PROVISIONS INVOLVED

Constitution of the United States Seventh Amendment

In Suits at common law, where the value in controversy shall exceed twenty dollars, the right of trial by jury shall be preserved, and no fact tried by a jury, shall be otherwise re-examined in any Court of the United States, than according to the rules of the common la

**Constitution of the United States Fourteenth
Amendment**

Section 1.

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.

STATEMENT OF THE CASE

The Petitioner sought review in the Florida Supreme Court of the Fifth District Court of Appeal denying his petitions for Writ of Mandamus. The petitions were filed in the District Court as original actions (i.e., the writs invoked the original jurisdiction of the District Court. See Fla.R.App.P. 9.030(3). The Petitioner requested the District Court to issue the Writ of Mandamus directing a Circuit judge to set a date for jury trial.

The Petitioner timely filed Notice of Appeal from the District Court's denial of the Writ of Mandamus on July 15th, 2024.

On July 16, 2024, the Supreme Court's Clerk's Office entered an order of dismissal in the case.

REASONS FOR GRANTING THE PETITION

This Court should grant certiorari because "maintenance of the jury as a fact finding body is such importance and occupies so firm a place in our history and jurisprudence that any seeming curtailment of the right to jury trial should be scrutinized with utmost care." Dimick v. Schiedt, 293 U.S. 474 293 U.S. 486; Beacon Theatre, Inc. v. Westover, 359 U.S. 502

WHETHER THE FLORIDA SUPREME COURT ERRED WHEN IT VIOLATED THE FOURTEENTH AMENDMENT'S DUE PROCESS CLAUSE WHEN IT ENTERED AN ORDER OF DISMISSAL BEFORE THE TIME PRESCRIBED BY FLORIDA RULES OF APPELLATE PROCEDURE 9.350?

Florida Rules of Appellate Procedure 9.350©

As amended though February 8, 2024

© ORDER OF DISMISSAL. When a party files a stipulation for dismissal or notice under subdivision (a) or (b) of this rule, the cause may be dismissed only by court order. The court shall not enter an order of dismissal of an appeal until 15 days after the time prescribed by rule 9.110(b), whichever is later. In a proceeding commenced

**under rule 9.120, the court shall not enter an order of
dismissal until 15 days after the serving of the notice to invoke
discretionary jurisdiction or until 15 days after the time
prescribed by rule 9.120(b) whichever is later.**

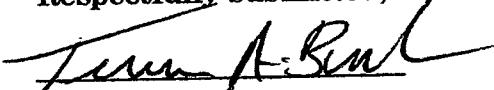
The Clerk's Office disregarding the 15 days time prescribed by the rule is a departure of the essential requirements of law and that that departure will cause material injury which there is no adequate remedy by appeal.

The Notice of Appeal was timely filed and the Supreme Court's appellate mandatory jurisdiction was properly invoked, this court should quash the order of dismissal and remand with direction to hear the petitioner's appeal.

CONCLUSION

The petition for certiorari should be granted.

Respectfully submitted,


Dated: October 13, 2024