

UNITED STATES SUPREME COURT

Samuel Lee Smith, Jr.,
Petitioner,

Case:

v.

Michael Valdez,
Respondent,

_____ /

**APPENDIX TO PETITION FOR WRIT OF CERTIORARI
From October 23, 2024 Order of Florida District
Court of Appeal, Third District, Case Number
3D2024-0052**

SAMUEL LEE SMITH, JR.
Petitioner Pro se
16614 SW 99 Court
Miami, Florida 33157
Telephone Number 305-975-1964
Email gymssam7@gmail.com

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Smith v. Valdez, --- So.3d ---- (2024)

49 Fla. L. Weekly D2134

2024 WL 4547474

NOTICE: THIS OPINION HAS NOT BEEN RELEASED
FOR PUBLICATION IN THE PERMANENT LAW
REPORTS. UNTIL RELEASED, IT IS SUBJECT TO
REVISION OR WITHDRAWAL.

District Court of Appeal of Florida, Third District.

Samuel Lee **SMITH**, Jr., Appellant,
v.

Michael **VALDEZ**, Appellee.

No. 3D24-0052

Opinion Filed October 23, 2024

An Appeal from the Circuit Court for Miami-Dade County,
Javier Enriquez, Judge. Lower Tribunal No. 23-25061

End of Document

Attorneys and Law Firms

Samuel Lee **Smith**, Jr., in proper person.

No appearance for appellee.

Before LOGUE, C.J., and EMAS and LINDSEY, JJ.

Opinion

PER CURIAM.

***1** Affirmed. See Pickett v. Copeland, 236 So. 3d 1142
(Fla. 1st DCA 2018).

All Citations

--- So.3d ----, 2024 WL 4547474 (Mem), 49 Fla. L. Weekly
D2134

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IN THE DISTRICT COURT OF APPEAL OF FLORIDA
THIRD DISTRICT

Samuel Lee Smith, Jr.,
Appellant,

Case: 3D2024-0052

v.

Michael Valdez, Appellee.

_____/

MOTION FOR REHEARING

Appellant Pro se, SAMUEL LEE SMITH, JR, moves this Honorable Court pursuant to Fla.R.App.P. 9.330, for the entry of an order granting rehearing concerning the October 23, 2024 Opinion affirming the lower Court's Final Judgment dismissing petition for injunction against stalking, and in support thereof states the following:

1. The Court should grant rehearing because this Honorable Court overlooked that the petition alleged a course of inappropriate conduct which is stalking without a legitimate purpose.
2. Appellant's petition specifically asserted that Appellee engaged in several acts, which was a course of conduct, that was articulated with specificity, and that those acts and conduct were specifically directed to the Appellant for the sole purpose to harass the Appellant.

3. Appellant alleged in the petition that on June 29, 2020, while he was driving, was pulled over by the Appellee for no reason whatsoever, other than because he has was a black male .[ROA 7.] After finding no legal reason to detain Appellant, Appellee attempted to justify the stop citing him for not wearing a seatbelt (which Appellant was wearing). Thereafter, Appellee, on May 12, 2021, stopped the undersigned while he was driving without any legal justification, probable cause of reasonable suspicion. Appellee commanded the undersigned to step out of his car, and then . arrested the undersigned based upon his false accusation that I had disobeyed him.

4. The pattern continued on June 25, 2021, when Appellee stopped the undersigned again, this time while the undersigned was jogging. Appellee recognized the undersigned and then promptly made a U-turn and drove up to and cut off the undersigned almost hitting him with his vehicle. Again, Appellee caused the undersigned to be arrested without any legal cause whatsoever. The petition also alleged another incident where Appellee stopped the undersigned after walking out of a store in the South Dade Plaza. Significantly, all of the traffic stops occurred in different parts of Miami Dade

County.

5. The incidents described in the petition and recited in the initial brief constitute the course of inappropriate conduct by Appellee. There was no answer to the petition and there was no answer brief filed which disputes the allegations contained in the petition.

6. Here, Appellant met all of the pleadings requirements contained in Florida Statute §784.0485(1)-(5). The petition specifically alleged that Appellee engaged in several acts which was articulated with specificity, and that those acts were specifically directed at Appellant for the sole purpose to harass the Appellant. 7. Moreover, Appellee's inappropriate conduct served no legitimate purpose. As mentioned in the Court's opinion the inappropriate conduct must serve no legitimate purpose. (citing

Pickett v. Copeland, 236 So.3d 1142 (Fla. 1st DCA 2018)).

8. The term "legitimate" lacks a precise definition and must be evaluated on a case-by-case basis. *O'Neill v. Goodwin*, 195 So. 3d 411, 413 (Fla. 4th DCA 2016). "However, courts have generally held that contact is legitimate when there is a reason for the contact other than to harass the victim." *Id*; *Johnstone v. State*, 298 So. 3d 660,

664–65 (Fla. 4th DCA 2020).

9. Here, the Appellant has described both in the petition and the brief that there was no legitimate purpose for the Appellee to stop and harass Appellant. There was no reasonable suspicion to do anything to the Appellant, no less stop him, follow him and harass him. Perhaps the best evidence and what is indicative of the lack of a legitimate basis is that Appellee has never described what his basis was for stopping, following and harassing Appellant. Not in an answer to the petition or in the answer brief.

10. Notably, the Order dismissing the petition and denying the undersigned hearing contained no basis for the ruling.

11. Respectfully, this Court should not presume that just because Appellee is a police officer he is always justified in his conduct, or that his conduct is presumed to serve a legitimate purpose just because he is a police officer, and therefore he is immune from injunctive relief (even when his conduct is inappropriate).

12. In fact, whether Appellee's conduct served a legitimate purpose, as mentioned above, should be determined on a fact by fact basis- and therefore such an issue is a question of fact for the trier

of fact. However, here, the Appellant was denied the opportunity to present

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facts at a hearing because he was never afforded the opportunity to have a hearing.

13. This is why Florida Statute § 784.0485(5)(b) states that if only ground for denial is no appearance of an immediate and present danger of stalking, the court shall set a full hearing on the petition with notice at the earliest possible time. *Fla.Stat. § 784.0485(5)(b); Doe v. Days*, 365 So.3d 1274, 1275 (Fla. 1st DCA 2023)(The Legislature has directed trial courts to set a hearing when a petition for injunction for protection against stalking is filed. *See Also* Fla. Fam. L. R. P. 12.610(b)(3)(A).

14. Since the Appellant alleged a pattern of inappropriate conduct, and there was no assertion or defense ever raised that denied the conduct or legitimize the conduct, at the very least, the Appellant should be afforded a hearing on those factual issues.

CONCLUSION

This Court should grant rehearing, reverse the lower court's order denying a temporary petition for protection against stalking,

mandate that the lower court set the Appellant's petition for hearing and for such other further relief as this Honorable Court deems just

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and proper.

CERTIFICATE OF SERVICE

I HEREBY CERTIFY that a correct and true copy of the forgoing was sent via E-Mail also hand delivered to Micheal Valdez to the address of 9105 NW 21s Street, Doral Florida 33172 on November 7, 2024.

Respectfully submitted,

/s/ Samuel L. Smith

SAMUEL LEE SMITH, JR.

Appellant Pro se

16614 SW 99 Court

Miami, Florida 33157

Telephone Number 305-975-1964

Email gysam7@gmail.com

IN THE DISTRICT COURT OF
APPEAL

OF FLORIDA

THIRD DISTRICT

December 11, 2024

3D2024-0052

Samuel Lee Smith, Jr.,

Appellant(s),

Trial Court Case No. 23-25061

v.

Michael Valdez,

Appellee(s).

Upon consideration, pro se Appellant's Motion for Rehearing is hereby denied.

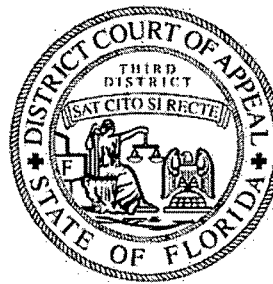
LOGUE, C.J., and EMAS and LINDSEY, JJ., concur.

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ATTEST

Mercedes M. Prieto
3D2024-0052-12711/24]

Mercedes M. Prieto, Clerk
District Court of Appeal
Third District



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CC: Samuel Lee Smith, Jr.

Michael Valdez

LA

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IN THE SUPREME COURT OF FLORIDA

SAMUEL LEE SMITH, JR.

Appellant,

Michael Valdez,

Appellee,

NOTICE OF APPEAL

Notice is hereby given that the given that the appellant listed below hereby appeal(s) the below noted case to the Supreme Court of Florida. Third District Court Appeal No: 3D2024-0052

Trial Court Case No:23-25061

Date of final order being appealed: December 11, 2024

Appellant filing Appeal: SAMUEL LEE SMITH, JR.

Respectfully submitted,

/s/ Samuel L. Smith
SAMUEL LEE SMITH, JR.
Appellant Pro se
16614 SW 99 Court
Miami, Florida 33157
Email:Gymsam7@gmail.com

IN THE DISTRICT COURT OF
APPEAL
OF FLORIDA
THIRD DISTRICT

December 11, 2024

Samuel Lee Smith, Jr.,

3D2024-0052

Appellant(s),

Trial Court Case No. 23-25061

v.

Michael Valdez,

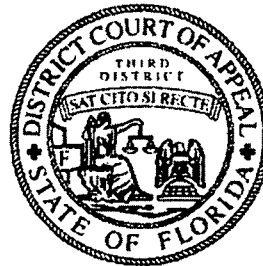
Appellee(s).

Upon consideration, pro se Appellant's Motion for Rehearing is
hereby denied.

LOGUE, C.J., and EMAS and LINDSEY, JJ., concur.

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ATTEST

~~3D2024-0052~~ 12/11/24
Mercedes M. Prieto, Clerk
District Court of Appeal
Third District



In the Supreme Court of Florida

SAMUEL LEE SMITH JR

Petitioner/Appellant

v. Michael Valdez

Respondent/Appellee

CASE NO. 3024-0052

**MOTION FOR LEAVE TO PROCEED IN FORMA
PAUPERIS/AFFIDAVIT OF INDIGENCY BY PETITIONER/APPELLANT**

1. I have 0 dependents. (Include only those persons you list on your U.S. Income tax return.)

Are you Married?...Yes....No Does your Spouse Work?...Yes....No

Annual Spouse Income? \$

2. I have a net income of \$ paid () weekly () every two weeks () semi-monthly () monthly () yearly () other .

(Net income is your total income including salary, wages, bonuses, commissions, allowances, overtime, tips and similar payments, minus deductions required by law and other court-ordered payments such as child support.)

3. I have other income paid () weekly () every two weeks () semi-monthly () monthly () yearly () other .
(Circle "Yes" and fill in the amount if you have this kind of income, otherwise circle "No")

Second job Yes \$ No

Social Security benefits

For you Yes \$ No

For child(ren)..... Yes \$ No

Unemployment compensation Yes \$ No

Union payments..... Yes \$ No

Retirement/pensions Yes \$ No

Trusts Yes \$ No

Veterans' benefits..... Yes \$ No

Workers compensation Yes \$ No

Income from absent family members Yes \$ No

Stocks/bonds..... Yes \$ No

Rental income..... Yes \$ No

Dividends or interest..... Yes \$ No

Other kinds of income not on the list..... Yes \$ No

Gifts Yes \$ No

4. I have other assets: (Circle "yes" and fill in the value of the property, otherwise circle "No")

Cash..... Yes \$ No

Bank account(s) Yes \$ No

Certificates of deposit or

money market accounts Yes \$ No

Boats* Yes \$ No

Savings account..... Yes \$ No

Stocks/bonds..... Yes \$ No

Homestead Real Property* Yes \$ No

Motor Vehicle* Yes \$ No

Non-homestead real property/real estate* Yes \$ No

*Show loans on these assets in paragraph 5.

Check one: I () DO (☒) DO NOT expect to receive more assets in the near future. The asset is .

5. I have total liabilities and debts of \$ as follows: motor vehicle \$; home \$; other real property \$; child support paid direct \$; credit cards \$; medical bills \$; cost of medicines (monthly) \$; and other \$.

6. If you have been convicted of a crime and are incarcerated, you must complete the questions in this paragraph and attach the required copy of your inmate trust account.

My inmate number is:

Amount currently held in inmate trust account: \$

Attach photocopy of your trust account records for the preceding six (6) months or for whole time of incarceration, whichever period is shorter.

I certify that I have _____ have not _____ been adjudicated indigent under section 57.081, 57.085 or 28 U.S.C. § 1915. If your answer is "YES" and it occurred twice in the preceding three (3) years, you are required to list each suit, action, claim, proceeding, or appeal which you have intervened in any court or other adjudicatory forum in the proceeding five years. (LIST ONLY REQUIRED IF PARTY FILING MOTION HAS BEEN ADJUDICATED INDIGENT TWICE IN THE PROCEEDING 3 YEARS.)

1. _____
2. _____
3. _____
4. _____
5. _____

Attach extra sheet(s) if necessary.

I _____ (insert name) assert that I am presently unable to pay court costs and fees, and under penalty of perjury, I swear or affirm that all statements in this affidavit are true and complete.

7. I understand that I may be required to make payments for fees and costs to the clerk in accordance with § 57.082(5) or § 57.085, Florida Statutes, as provided by law, although I may agree to pay more if I choose to do so.

8. A person who knowingly provides false information to the clerk or the court in seeking a determination of indigent status under § 57.082, Florida Statutes, commits a misdemeanor of the first degree, punishable as provided in § 775.082 or § 775.083, Florida Statutes. I attest that the information I have provided on this application is true and accurate to the best of my knowledge.

Signed this 12th day of December, 20 24.


Signature of Applicant for Indigent Status

SAMUEL LEE SMITH JR
Print Name

16614 SW 99 ct

Miami, FL 33157

Address

CERTIFICATE OF SERVICE

I certify that a copy hereof has been furnished to officer michael valdez
miami dade police department, 9105 NW 25th street
miami, FL 33172

(insert name(s) and address(es) of attorney(s) and any unrepresented party(ies) in the case) by
email this 12 day of December, 20 24.


Signature of Applicant for Indigent Status

Third District Court of Appeal

State of Florida

Opinion filed October 23, 2024.
Not final until disposition of timely filed motion for rehearing.

No. 3D24-0052
Lower Tribunal No. 23-25061

Samuel Lee Smith, Jr.,
Appellant,

vs.

Michael Valdez,
Appellee.

An Appeal from the Circuit Court for Miami-Dade County, Javier Enriquez, Judge.

Samuel Lee Smith, Jr., in proper person.

No appearance for appellee.

Before LOGUE, C.J., and EMAS and LINDSEY, JJ.

PER CURIAM.

Affirmed. See Pickett v. Copeland, 236 So. 3d 1142 (Fla. 1st DCA 2018).

Supreme Court of Florida

MONDAY, DECEMBER 16, 2024

Samuel Lee Smith, Jr.,
Petitioner(s)

v.

Michael Valdez,
Respondent(s)

SC2024-1792

Lower Tribunal No(s).:

3D2024-0052;

132023DR025061A00104

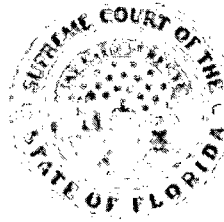
Petitioner's Notice to Invoke Discretionary Jurisdiction, seeking review of the order or opinion issued by the 3rd District Court of Appeal on October 23, 2024, is hereby dismissed. This Court lacks jurisdiction to review an unelaborated decision from a district court of appeal that is issued without opinion or explanation or that merely cites to an authority that is not a case pending review in, or reversed or quashed by, this Court. *See Wheeler v. State*, 296 So. 3d 895 (Fla. 2020); *Wells v. State*, 132 So. 3d 1110 (Fla. 2014); *Jackson v. State*, 926 So. 2d 1262 (Fla. 2006); *Gandy v. State*, 846 So. 2d 1141 (Fla. 2003); *Stallworth v. Moore*, 827 So. 2d 974 (Fla. 2002); *Harrison v. Hyster Co.*, 515 So. 2d 1279 (Fla. 1987); *Dodi Publ'g Co. v. Editorial Am. S.A.*, 385 So. 2d 1369 (Fla. 1980); *Jenkins v. State*, 385 So. 2d 1356 (Fla. 1980). No motion for rehearing or reinstatement will be entertained by the Court.

Petitioner's motion for leave to proceed in forma pauperis is hereby denied as moot.

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SC2024-1792 12/16/2024

John A. Tomasino
Clerk, Supreme Court



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CASE NO.: SC2024-1792

Page Two

SC2024-1792 12/16/2024

TD

Served:

3DCA CLERK
MIAMI-DADE CLERK HON.
JAVIER ENRIQUEZ
SAMUEL LEE SMITH, JR.
MICHAEL VALDEZ

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**Additional material
from this filing is
available in the
Clerk's Office.**