

No. _____

IN THE

SUPREME COURT OF THE UNITED STATES

JOSE LATORRE

— PETITIONER

(Your Name)

vs.

BRENT ADRIAN, REXX FISCHER

— RESPONDENT(S)

ON PETITION FOR A WRIT OF CERTIORARI TO

THE FLORIDA SUPREME COURT, denied petition

NO COURT HAS RULED ON THE MERITS OF MY CASE.

(NAME OF COURT THAT LAST RULED ON MERITS OF YOUR CASE)

PETITION FOR WRIT OF CERTIORARI

JOSE LATORRE

(Your Name)

P.O. Box 343269

(Address)

Florida City, FL 33034

(City, State, Zip Code)

305-499-0234

305-783-7159 Friend's phone

(Phone Number)

QUESTION PRESENTED

Could a court enter judgment against a person without there being any service of any kind upon that person; without that person filing any document before that court; without that person appearing before that court; and by such order deny that person both a right to title in real estate and a right to possession of said real estate?

LIST OF PARTIES

- ☒ All parties appear in the caption of the case on the cover page.
- ☐ All parties **do not** appear in the caption of the case on the cover page. A list of all parties to the proceeding in the court whose judgment is the subject of this petition is as follows:

TABLE OF CONTENTS

OPINIONS BELOW	1
JURISDICTION.....	2
CONSTITUTIONAL AND STATUTORY PROVISIONS INVOLVED	3
STATEMENT OF THE CASE	4
REASONS FOR GRANTING THE WRIT	8
CONCLUSION.....	11

INDEX TO APPENDICES

APPENDIX A	Decision of the Florida Supreme Court in response to Petition
APPENDIX B	Decision of the Third District Court against William Seefeldt only
APPENDIX C	Amended Final Judgment of the Circuit Court
APPENDIX D	Agreement between Brent and Bill reserving Life Estate
APPENDIX E	<NONE>
APPENDIX F	<NONE>

TABLE OF AUTHORITIES CITED

CASES	PAGE NUMBER
<i>Anemaet v. Martin-Senour Co.</i> , 114 So. 2d 23 (Fla. 2d DCA 1959)	9
<i>Bd. of Trs. of Int. Imp. Trust Fund v. Lost Tree Vill. Corp.</i> , 805 So. 2d 22 (Fla. 4th DCA 2001)	9
<i>Landis v. Mears</i> , 329 So. 2d 323 (Fla. 2d DCA 1976)	9
<i>MacIntyre v. Green's Pool Service, Inc.</i> , 347 So. 2d 1081 (Fla. 3d DCA 1977)	9

STATUTES AND RULES

<i>Florida Rules of Appellate Procedure, Rule 9.100(h)</i>	6
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OTHER

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

☐ For cases from **federal courts**:

The opinion of the United States court of appeals appears at Appendix _____ to the petition and is

- ☐ reported at _____ N/A _____; or,
☐ has been designated for publication but is not yet reported; or,
☐ is unpublished.

The opinion of the United States district court appears at Appendix _____ to the petition and is

- ☐ reported at _____ N/A _____; or,
☐ has been designated for publication but is not yet reported; or,
☐ is unpublished.

☒ For cases from **state courts**:

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

- ☐ reported at _____; or,
☐ has been designated for publication but is not yet reported; or,
☒ is unpublished.

NO COURT HAS ACTUALLY REVIEWED THE MERITS OF THE JUDGMENT AGAINST ME, ALTHOUGH I FILED A PETITION BEFORE BOTH FLORIDA'S THIRD DISTRICT COURT OF APPEAL AND THE FLORIDA SUPREME COURT.

The opinion of the Third District Appellate court appears at Appendix N/A to the petition and is

- ☐ reported at _____; or,
☐ has been designated for publication but is not yet reported; or,
☒ is unpublished.

THE THIRD DISTRICT COURT NEVER ADDRESSED MY PETITION IN THEIR FINAL ORDER.

JURISDICTION

☐ For cases from **federal courts**:

The date on which the United States Court of Appeals decided my case was _____.

☐ No petition for rehearing was timely filed in my case.

☐ A timely petition for rehearing was denied by the United States Court of Appeals on the following date: _____, and a copy of the order denying rehearing appears at Appendix _____.

☐ An extension of time to file the petition for a writ of certiorari was granted to and including _____ (date) on _____ (date) in Application No. ____.

The jurisdiction of this Court is invoked under 28 U. S. C. § 1254(1).

☒ For cases from **state courts**:

The date on which the highest state court decided my case was December 20, 2017.
A copy of that decision appears at Appendix A.

☐ A timely petition for rehearing was thereafter denied on the following date: _____, and a copy of the order denying rehearing appears at Appendix _____.

☐ An extension of time to file the petition for a writ of certiorari was granted to and including _____ (date) on _____ (date) in Application No. ____.

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

CONSTITUTIONAL AND STATUTORY PROVISIONS INVOLVED

UNITED STATES CONSTITUTION

Amendment V

No person shall be held to answer for a capital, or otherwise infamous crime, unless on a presentment or indictment of a grand jury, except in cases arising in the land or naval forces, or in the militia, when in actual service in time of war or public danger; nor shall any person be subject for the same offense to be twice put in jeopardy of life or limb; nor shall be compelled in any criminal case to be a witness against himself, nor be deprived of life, liberty, or property, without due process of law; nor shall private property be taken for public use, without just compensation.

Amendment XIV

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.

CONSTITUTION OF THE STATE OF FLORIDA

Section 9:

Due Process

No person shall be deprived of life, liberty or property without due process of law, or be twice put in jeopardy for the same offense, or be compelled in any criminal matter to be a witness against oneself.

STATEMENT OF THE CASE

My friend, William (Bill) Seefeldt, let me stay on his fish farm in exchange for room and board. However, Bill got behind on the property taxes for the property and had to come up with a solution. Bill's so called friend Brent Adrian (Brent) led Bill to believe that he would give Bill a loan, and Bill understood he would be giving Brent protection in the form of a mortgage. The day before the tax deed sale for the fish farm, Brent had us go to his farm to get the loan. However, Brent then led us to his title agent. I really did not understand what was happening at the time we were at the title agent's office. Rexx Fischer (Rexx) and I were busy talking while Bill and Brent discussed the papers that were being signed. Eventually, we all made our way to the county tax office and paid the taxes, but Bill was not happy.

Sometime later Bill got into some heated discussions with Brent, but I really did not understand what was going on. I have been diagnosed as having medical conditions that limit my ability to easily comprehend, so I would often rely on Bill for explanations. Because of my condition, I never finished high school. However, Bill has a harder time reading than I do, and a hard time understanding papers he reads. So, I was not sure at the time if Bill was coming to the wrong conclusion, or if he was correct, but he was concerned that some document saying we had to leave the property. Bill went and obtained a free attorney to represent him from Miami Legal Aid. I was told not to worry about it. Bill knows that because of my medical condition, I get worse when I get very upset over matters.

Everything was peaceful for a while, until Bill said that he had to go to court. Bill does not drive, so I drove him. I found out later that this first time really was not court, but what is called a deposition. I mostly wandered about while Bill sat in a room and answered questions.

Bill told me not to worry about it. Bill takes care of me when I need it, and I take care him, but Bill is not my keeper. Bill has no court order or other paper stating that he can make decisions for me.

Everything was peaceful again for a while, until Bill said that he had to go to court again. I drove Bill to court. Being in court made me nervous, so I wandered in and out of the court room while the judge, Brent, Bill, their lawyers, and some witnesses spoke. After two days of all the talking, court was over. Bill was upset. The judge decided that Bill had to give the fish farm to Brent (Appendix C), although I know that is not what Bill ever wanted to do, especially for less than \$9,000. The fish farm is about 10 acres. Bill and I were then both upset. The judge treated the agreement like a regular lease, although rent is never mentioned. Monthly payments under the agreement were to reimburse Brent and Rexx for some future years taxes they agreed to pay, and ended when they were paid. The sheriff then came and told Bill and me that we had to get off the farm.

A friend of Bill's then told Bill he needed to find an attorney to take an appeal. The friend found Bill an attorney who was willing to help. A few times I drove Bill to the attorney who was doing the appeal. One of those times, after the attorney said that he had reviewed the typed up conversation of what happened in court, he was very upset. The attorney asked me if I had spoken with Bill's trial attorney about the case. I did not, although I had spoken with her about some things on the farm and small talk. The appellate attorney told me that I was not represented; that I filed no paper; that I was not served any paper; and, that I did not speak during the court proceedings. I did not understand why he would say that and asked why that was important. The appellate attorney then told me it was because in the agreement that Brent had

Bill sign, Bill was leaving the fish farm to me if Bill died first (Appendix D). I am much younger than Bill so it is most likely that I will live longer. However, the attorney then told me that the court's judgment took my right away from me and that I should have had an opportunity to defend my future property interest. I was told that my name was on the judgment. That is the first time that I was told, or at least I am certain it is the first time that I understood, that Bill was leaving me the fish farm when he died. It was also the first time that I was told, or at least it was the first time that I understood, that the judgment was also against me.

I received no copy of a complaint against me. I had no attorney. I filed no paper with the court. I never spoke to the judge or to the other attorney. No one asked me any questions. No one served papers on someone else saying they were for me. I was treated like a nobody.

The appellate attorney explained that he would also help me when he filed the appeal for Bill. I understood that the appellate attorney thought that Bill alone could have won the case if his attorney had made the right argument to the court, and that if he were representing me separately during the trial, he certainly would have raised the argument to protect my interest. As I understand it, the document Brent had Bill sign provided that Bill and then me, during my lifetime, would own the farm (Appendix D). Brent was to own the farm only after we both died. I was told that even the title agent that prepared some of the documents said to the court that is what Bill signed. I was told that even Brent's attorney while in court referred to the document as meaning just that.

Unfortunately, the Third District Court of Appeal said nothing about my petition which sought to have the judgment as against me declared wrong and of no use to Brent. They did not grant my petition, nor did they deny my petition. See, *Rule 9.100(h), Fla. R. App. P.* They

treated me like a nobody just like the trial court. However, the appellate court denied Bill the relief he wanted (Appendix B).

My attorney then filed a Petition with the Florida Supreme Court asking them to declare the judgment against me to be wrong and of no use to Brent. I asked the court to give me the right to defend my property interest. After all, I was not involved with the trial in any way, but I should have been. The Florida Supreme Court denied my petition (Appendix A). As I understand it, the Florida Supreme Court thought that I was Bill asking them to determine if the Third District Court was right to deny Bill his relief. That is not what my attorney filed. As I understand it, Bill could not ask the Florida Supreme Court to look at what happened, but I could because I was never given any chance to defend my right to the fish farm.

I have been told by a few people that I am the only person they ever heard of who had a judgment against them but was never handed papers stating what the other party wanted; who never had papers handed to someone else on their behalf stating what the person who filed wanted; who never filed papers with the court; who never had anyone file papers for them; who never spoke to the court; who never had anyone speak to the court for them.

REASONS FOR GRANTING THE PETITION

The court should grant the petition because I was deprived my Constitutional rights, under both the United States Constitution and the Florida Constitution, to due process under the law. I understand that "due process" means that I had a right, separate and apart from Bill's right, even though they are similar under the agreement that Brent had Bill sign. I understand that right allowed me to have my own attorney argue before the court. My attorney would have stated why I could not be made to leave the fish farm during my life time.

There is no reason why any court should assume that Bill's attorney was also speaking for me. Bill never said he was speaking for me, nor did his attorney. The attorney for the other side never said that Bill was speaking for me. The trial judge never said Bill was speaking for me. I never said Bill was speaking for me. At that time, I did not have any reason to think anyone should be speaking for me. My attorney would have made a much different argument to the court and showed the court that the agreement (Appendix D) reserved a life estate in the fish farm for Bill and me, and that Brent and Rexx only got the fish farm after we died.

At the very least, it must have been clear to Brent that I had a right to possession of the fish farm. If Brent did not name me in the action because he realized that I had a life estate, then he must have done so because he understood that I had a right to possession of the fish farm. Yet, Brent made sure that I was not involved in the trial by withdrawing any attempt to serve papers on me, and treating Bill as though he were the only defendant. I believe that Brent made sure that I was not involved in the trial because once Bill's attorney went in the wrong direction with a defense, Brent was concerned that my attorney would take the correct interpretation of the agreement (Appendix D).

I understand that Bill gave Brent a deed to the fish farm that same day he signed the agreement in the office of the title agent. However, I also understand that the deed was suppose to follow the agreement. I also understand that is likely the reason the agreement was labeled as "Exhibit A" by Brent. It was "Exhibit A" to the deed. "No certain formula of words need be used in order to create a life estate so long as the language employed, from a consideration of the whole instrument of conveyance, clearly manifests the intention so to do." *Animate v. Martin-Senor Co.*, 114 So. 2d 23, 25-26 (Fla. 2d DCA 1959). If a contract is ambiguous in any of its terms, the interpretation thereof will be drawn less favorably against the party that drafted the document. *Macintyre v. Green's Pool Service, Inc.*, 347 So. 2d 1081 (Fla. 3d DCA 1977). That is especially so if the drafter stands in a position of trust, as did Bill's so-called-friend Brent -- the one who drafted the agreement.

My attorney would have argued that it does not matter how facially apparent the deed Brent received was. Florida courts have recognized that "[w]henver a party presents an arguable claim that a document contains a latent ambiguity, the court is obliged to consider the extrinsic evidence, at least to the extent necessary to determine whether the claimed latent ambiguity actually exists." *Bd. of Trs. of Internal Improvement Trust Fund v. Lost Tree Vill. Corp.*, 805 So. 2d 22, 26 (Fla. 4th DCA 2001); *Landis v. Mears*, 329 So. 2d 323, 325-26 (Fla. 2d DCA 1976). "A latent ambiguity in a deed description is said to exist when the deed, clear on its face, is shown by some extraneous fact to present an equivocation by being susceptible to two or more possible meanings." *Lost Tree Vill. Corp.* at 25. I believe that my attorney's argument would have saved my life estate. As I understood it, the Third District Court of Appeal likely ignored that argument when Bill's attorney made it because Bill's trial attorney did not make that argument at trial.

Because the trial court judge also ignored the fact that I was a person affected by the judgment, although not served, and entered a judgment that stated Brent received a deed to the fish farm, without saying what kind of deed, and without ever considering my life estate, I also lost my life estate and my right to possession on the fish farm. My attorney would have argued that the trial judge should have recognized the agreement for what it was, a life estate for me and Bill. My attorney would have argued that Brent only had a right to possession after Bill and I died.

Under the constitution, the trial judge could only take away Bill's rights under the life estate, not my rights under the life estate, unless I was made a proper party. Since I was excluded as a proper party, I should have also been excluded entirely from the judgement or the affect of the judgment.

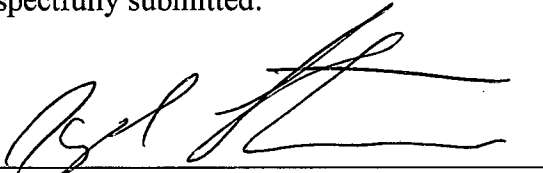
I want it declared that: (1) I should not have been removed from the fish farm; (2) I was not made a proper party to the action; (3) I should not have been named a party defendant on the face of the final judgment; (4) my name be stricken from the face of the final judgment; (5) the judgment is in no way enforceable against me; (6) the judgment has no affect on my rights to assert my life estate interest and to have title thereto quieted against Brent and REXX; (7) the judgment has no affect on the law of the case should I pursue an action to quiet title to my life estate. I simply want my day in court.

CONCLUSION

I deserve a right to defend a property interest that was given to me just like anyone else has that right. My mental condition or the similarity of Bill's rights and my rights under the signed agreement ought to make no difference to the court.

The petition for writ of certiorari should be granted.

Respectfully submitted:

A handwritten signature in dark ink, appearing to read 'Jose Latorre', written over a horizontal line.

Jose Latorre

(Prepared with assistance of Counsel who is not of record.)

Date: March 14, 2018