

Docket No. 17A561; 17-9064

IN THE SUPREME COURT OF THE UNITED STATES

RENEE D. BELL,

Petitioner,

V

PLM LIMITED PARTNERSHIP D/B/A MANOR CARE WPK,
SOVEREIGN HEALTHCARE D/B/A METROWEST NURSING
AND REHAB.; TANYA HABER, M.D.; CENTRAL FLORIDA
HOSPITALIST PARTNERS; AND ORLANDO HEALTH D/B/A ORMC,

Respondents.

On Petition for a Writ of Certiorari to
The Florida Fifth District Court of Appeal

BRIEF IN OPPOSITION TO PETITION FOR WRIT OF CERTIORARI

Francis E. Pierce, III
Florida Bar No. 270921
Mateer & Harbert, P.A.
225 East Robinson Street
Suite 600
Orlando, FL 32801
(407)425-9044
(407)423-2016
fpierce@mateerharbert.com

Counsel for Respondent
Orlando Health, Inc.

CORPORATE DISCLOSURE STATEMENT

There is no corporation that owns 10% or more of the stock of Orlando Health, Inc.

RESPONDENT'S STATEMENT OF JURISDICTION

Respondent Orlando Health, Inc. argues that there is no jurisdiction for this Court to entertain this Petition for Writ of Certiorari pursuant to Sup. Ct. Rule 10. There are no compelling reasons to support a writ of certiorari presented by the appellate orders of Florida's Fifth District Court of Appeal or Florida's Supreme Court. There is no decision by Florida's Fifth District Court of Appeal or Florida's Supreme Court that decided an important federal question in a way that conflicts with another state court of last resort or a United States Court of appeals. Sup. Ct. Rule 10(b). There is no decision by Florida's Fifth District Court of Appeal or Florida's Supreme Court that decided an important question of federal law that has not been, but should be, settled by the United States Supreme Court or decided an important federal question in a way that conflicts with relevant decisions of the United States Supreme Court. Sup. Ct. Rule 10(c). There is no decision of Florida's Fifth District Court of Appeal or Florida's Supreme Court that consists of erroneous factual findings or the misapplication of a properly stated rule of law. Sup. Ct. Rule 10.

RESPONDENT'S RESTATEMENT OF THE CASE

The narrow issue presented by Petitioner's Writ of Certiorari is whether a state appellate court may issue a final appellate order without issuing a written opinion.

Petitioner filed a notice of appeal to Florida's Fifth District Court of Appeal of a trial court order from Florida's Ninth Judicial Circuit Court dated April 11, 2017 which denied Plaintiff's Motion for Clarification. (App. 1 – 3). On May 15, 2017, Florida's Fifth District Court of Appeal issued an Order requiring Petitioner to show cause why her appeal should not be dismissed for lack of jurisdiction "...inasmuch as it appears that the order denying Appellant's motion seeking clarification of the order denying Appellant's motion for extension of time to file an amended complaint is a non-final, non-appealable order". (App. 4). Thereafter, on June 28, 2017, Florida's Fifth District Court of Appeal issued an Order dismissing Petitioner's appeal for lack of jurisdiction. (App. 5).

On August 1, 2017, Florida's Supreme Court dismissed Petitioner's appeal for lack of jurisdiction as well, holding that it lacked jurisdiction to review unelaborated decisions from a district court of appeal. (App. 6).

This appeal ensued.

ARGUMENT

State and federal law clearly holds that appellate courts may issue appellate orders without issuing a written opinion. As such, there is no certiorari jurisdiction

presented by Petitioner's Writ. Therefore, Petitioner's Writ of Certiorari should be denied.

Both state and federal authorities hold that appellate courts may review and decide appeals without issuing a written opinion in each case. In *R. J. Reynolds Tobacco Co. v Kenyon*, 882 So.2d 986, 988 – 989 (Fla. 2004), the Florida Supreme Court notes that while Florida Rule of Appellate Procedure 9.330(a) permits a party to an appeal to request a written opinion as part of a motion for rehearing, nothing in that rule mandates that a Florida district court of appeal must issue a written opinion. The Florida Supreme Court in *R. J. Reynolds Tobacco, Co.* goes on in that opinion to further state that Florida's District Courts have the inherent discretion to determine whether it will issue a written opinion.

Various Federal Circuit Courts have specific rules for those circuits which permit the affirmance or enforcement of judgments without opinions after review by appellate courts. U. S. Ct. of App. 5th Cir. Rule 47.6; Fed. Cir. R. Rule 36; U. S. Ct. 8th Cir. Rule 47B. In *Furman v U.S.*, 720 F.2d 263, 264, (2^d Cir. 1983), the Second Circuit Court of Appeals states that there is no requirement in law that a federal appellate court's decision be accompanied by a written opinion.

CONCLUSION

Petitioner's Petition for Writ of Certiorari does not invoke this Court's jurisdiction. The Petition does not raise any issue identified in Sup. Ct. Rule 10 which would conform to the Rules of this Court for jurisdiction over this writ.

Respondent Orlando Health, Inc. therefore respectfully requests this Court deny
Petitioner's Writ of Certiorari.

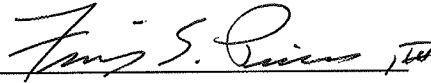
Respectfully submitted:


Francis E. Pierce, III
Florida Bar No. 270921
Mateer & Harbert, P.A.
225 East Robinson Street
Suite 600
Orlando, FL 32801
(407)425-9044
(407)423-2016
fpierce@mateerharbert.com

Counsel for Respondent
Orlando Health, Inc.

CERTIFICATE OF SERVICE

I HEREBY CERTIFY that a copy hereof has been served by United States Mail, postage prepaid and by electronic mail to: Ms. Renee Bell, P. O. Box 91, Winter Park, FL, 32790, rbclear.rb@gmail.com ; Kevin O'Hara, 1063 Maitland Center Commons Blvd., Maitland, FL, 32751, jrh@law-fla.com, sa@law-fla.com; Lars O. Bodnieks, 9300 S. Dadeland Blvd., 4th Floor, Miami, FL, 33156, lbodnieks@qpwbllaw.com; and Michael G. Stofer, 100 Second Avenue S, # 902, St. Petersburg, FL, 33701, gmoulds@deaconandmoulds.com; mstofer@deaconandmoulds.com, this 25th day of June, 2018.



Francis E. Pierce, III
Florida Bar No. 270921
Mateer & Harbert, P.A.
225 East Robinson Street
Suite 600
Orlando, FL 32801
(407)425-9044
(407)423-2016
fpierce@mateerharbert.com
Attorney for Respondent
Orlando Health, Inc.