

Supreme Court, U.S.
FILED
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No: 20-929

IN THE
SUPREME COURT OF THE UNITED STATES

NEIL JOSEPH GILLESPIE
Petitioner,

vs.

STATE OF FLORIDA, ET AL
Respondents.

ON PETITION FOR A WRIT OF CERTIORARI TO
The Supreme Court of Florida, Case No.: SC20-1255

PETITION FOR A WRIT OF CERTIORARI

November 23, 2020

by

Neil Joseph Gillespie, nonlawyer *pro se*
8092 SW 115th Loop
Ocala, Florida 34481
Tel: 352-854-7807
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ORIGINAL

QUESTIONS PRESENTED

1. Can a writ of habeas corpus free a criminal defendant in state criminal proceedings from being restrained by forced appointment of counsel prohibited by Faretta v. California, 422 U.S. 806 (1975), where the Supreme Court of the United States held that criminal defendants have a constitutional right to refuse counsel and represent themselves in state criminal proceedings?
2. Can a writ of habeas corpus free a criminal defendant in state criminal proceedings from being restrained under threat of incarceration or submission to a competency evaluation?
3. Can a writ of habeas corpus free a criminal defendant in state criminal proceedings from being restrained by a judge who failed to recuse on a meritorious motion to disqualify?
4. Can a writ of habeas corpus free a criminal defendant in state criminal proceedings from being restrained by excessive bail?

LIST OF PARTIES

NEIL JOSEPH GILLESPIE
Petitioner (nonlawyer *pro se*)
8092 SW 115th Loop
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Tel: 352-854-7807
Email: neilgillespie@mfi.net

vs.

STATE OF FLORIDA
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CASES

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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

APPENDIX A FLORIDA SUPREME COURT
 CASE NO. SC20-1255
 Dismissed August 25, 2020

APPENDIX B DISTRICT COURT OF APPEAL, FIFTH DISTRICT, FLORIDA
 CASE NO. 5D20-1632
 Denied August 21, 2020

JURISDICTION

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

APPENDIX A FLORIDA SUPREME COURT
CASE NO. SC20-1255
Dismissed August 25, 2020

APPENDIX B DISTRICT COURT OF APPEAL, FIFTH DISTRICT, FLORIDA
CASE NO. 5D20-1632
Denied August 21, 2020

CONSTITUTIONAL AND STATUTORY PROVISIONS INVOLVED

“The writ of habeas corpus shall be grantable of right, freely and without cost.” Art. I, § 13, Fla. Const. The writ is an original proceeding in this Court, Art. V, § 4(b)(3), Fla. Const.; Fla. R. App. P. 9.030(b)(3), and is governed by Fla. R. App. P. 9.100, and Chapter 79 of the Florida Statutes.

This Court's Order dated July 29, 2020, states:

Upon consideration that the Notice of Appeal transferred from the Florida Supreme Court should be properly treated as a Petition for Writ of Habeas Corpus in this Court, it is

ORDERED that Petitioner shall file, within ten days of the date hereof, an Amended Petition.

On August 7, 2020 I moved to enlarge time to file to August 17, 2020.

The writ of habeas corpus addresses the legality of the restraint. In *Jones v. Florida Parole Comm'n*, 48 So. 3d 704 (Fla. 2010), the Florida Supreme Court found that habeas corpus was the proper remedy to determine the validity of a restraint under which a person is held. For this reason, the petitioner must actually demonstrate that he or she is in custody or that the petitioner is being restrained in some manner by the respondent. In other words, habeas corpus is only an appropriate remedy if the petitioner is actually being detained. See *Floyd v. Parole and Probation Comm'n*, 509 So. 2d 919 (Fla. 1987) and *Allen v. Cochran*, 128 So. 2d 608 (Fla. 1961).

STATEMENT OF THE CASE

My name is Neil Joseph Gillespie, a nonlawyer appearing *pro se*, a person with disabilities, henceforth in the first person. I am age 64, with no prior criminal record. Before moving to Florida in 1993 I owned and operated several businesses in Pennsylvania. I am educated with degrees in business (Wharton/UPenn) and psychology (The Evergreen State College). I am single, never married, and do not have children.

In 2005 moved to Ocala Florida and cared for my Mother who later died of Alzheimer's disease in 2009. I have lived at the same address since 2005, my Florida residential homestead, 8092 SW 115th Loop, Ocala, Marion County, Florida 34481. (My home is in foreclosure).

In 2006 I contacted the Marion County Sheriff's Office (MCSO) to no avail about financial fraud by Bank of America and my sister and a scheme that wrongly encumbered Mom's home with a \$40,000 mortgage.

In 2008 I replaced that loan and consolidated other debts with a Home Equity Conversion Mortgage, also called a HECM reverse mortgage, currently in litigation. During this time I have become a target of the MCSO, the Marion County Bar Association, The Florida Bar, the Courts, and State Attorney Brad King, and have been denied rights under color of law.

I was arrested on November 10, 2019 in STATE OF FLORIDA VS NEIL JOSEPH GILLESPIE, Marion County Circuit Criminal Court, Case No. 2019-CF-004193-A-Z, and charged with two crimes:

Fla. Stat. § 934.03.1a Interception of Oral Communication;
Fla. Stat. § 934.03.1c Disclosure of Communication

My arrest was politically motivated by Marion Co. Sheriff Billy Woods, see,

AFFIDAVIT OF NEIL J. GILLESPIE Re: Marion Senior Services, Inc.
Filing # 109909167 E-Filed 07/07/2020 06:50:44 PM

Sheriff Woods was vice president of Marion Senior Services, Inc.

The complainant, Chonnie Phillips, is a temp employee of Marion Senior Services, Inc. where Sheriff Billy Woods is vice president.

I did not intercept oral communication with Ms. Phillips while she was employed by Marion Senior Services, Inc. Instead, I was a party to the telephone call with Phillips who answered the phone when I called.

Attorney Samantha Shealy Rauba, FL Bar #59503, serves on the Board of Directors of Marion Senior Services, Inc. A web page for Attorney Shealy Rauba states:

Mrs. Shealy Rauba is highly active in the Marion County legal and professional community. She serves on the board of Marion Senior Services...She has been married to her husband, Erik, since 2010 and they have two daughters.
<https://www.smrmlaw.com/samantha-shealy-rauba/>

Mrs. Shealy Rauba was president and registered agent for the Marion County Bar Association, Inc. when she refused to provide me the charter as required by F.S. § 617.1623. The Florida Bar responded to my complaint October 22, 2019 and determined this is a civil dispute best resolved through the civil system, see Samantha Shealy Rauba, RFA No. 20-5317.

The Marion County Bar Association, Inc. is housed in the State Attorney's Office, 110 NW 1st Ave. Ste 5000, Ocala, FL 34475-6614.

Mrs. Shealy Rauba is married to Erik John Rauba, FL Bar # 59429. Mr. Rauba is employed by the State Attorney for the Fifth Judicial Circuit, 110 NW 1st Ave. Ste 5000, Ocala, FL 34475-6614, Email: erauba@sao5.org

The Petitioner was arrested on June 7, 2020 in STATE OF FLORIDA VS NEIL JOSEPH GILLESPIE, Marion County Circuit Criminal Court, Case No. 2020-CF-2417, and charged with two crimes:

Fla. Stat. sec. 784.03.1A1 Battery
Fla. Stat. sec. 812.131.2b Robbery by Sudden Snatching Without
Deadly Weapon

The alleged victim, Sarah May Thompson, is a convicted felon who served time in Florida prison, who is also addicted to heroin and other drugs.

Ms. Thompson is a 35 year-old unremarried widow, a homeless thief and commercial sex worker, who trolls CR 484 from Summerfield Florida to Dunellon Florida in search of drugs, money for drugs, and sex.

The State's Discovery Exhibit in Case No. 2020-CF-002417-A-Z, Filing # 110167557 E-Filed 07/13/2020 05:00:59 PM, provided Brady Evidence, the Victim's Criminal History, which includes:

Pasco County, Case No. 2018-CF-5131, LARC-PETIT THEFT 2ND DEGREE 1ST OFFENSE, 2X FRAUD IMPERSON W/O CONSENT 11/21/2018 Court: Adjudicated Guilty

817.568.2a / FRAUD-IMPERSON USE POSS ID OF ANOTHER PERSON WO CONSENT : F1

817.568.2a / FRAUD-IMPERSON USE POSS ID OF ANOTHER PERSON WO CONSENT : F1

812.014.3a / LARC-PETIT THEFT 2ND DEGREE 1ST OFFENSE

Pasco County, Case No. 2018-MM-0025, LARC-PETIT THEFT 2ND DEGREE 1ST OFFENSE 06/20/2018 Court: Adjudicated Guilty
812.014.3a / LARC-PETIT THEFT 2ND DEGREE 1ST OFFENSE

Marion County, Case 42-2014-CF-2361, RETAIL PETIT THEFT, EVIDENCE TAMPERING, RWOV, DEALING IN STOLEN PROPERTY 08/13/2014 Court: Adjudicated Guilty

918.13 / EVIDENCE TAMPERING (Adjudicated Guilty)

812.014 / RETAIL PETIT THEFT (Adjudicated Guilty)

843.02 / RESIST OR OBSTRUCT OFFICER WITHOUT VIOLENCE (Adjudicated Guilty)

812.019.1 / DEALING IN STOLEN PROPERTY (dropped)

A Violation Report in Case 42-2014-CF-2361, DOC-131, March 6, 2015, DC NO: U51563, shows Ms. Thompson tested positive for

drugs, and she signed an admission statement for use of marijuana, opiates, and benzodiazepines; while pregnant with her daughter.

Ms. Thompson relinquished her daughter at birth in 2015.

On February 6, 2020 Ms. Thompson was arrested in Marion County,

Case 42-2020-CF-0516, and charged but later dropped:

893.13.6A / POSSESSION OF METHAMPHETAMINE
893.13.6A / POSSESSION OF CONTROLLED SUBSTANCE
893.13.6B / POSSESSION OF CANNABIS LESS THAN 20 GRAMS
893.147.1 / POSSESSION OF DRUG PARAPHERNALIA

On March 3, 2020 the state filed ANNOUNCEMENT OF NO INFORMATION, presumably to use Ms. Thompson as a way to get to me.

NOTE 1: Ms. Thompson has a criminal record in the state of Maine:

DOMESTIC VIOLENCE

Arrest/Charge Date	2007-02-08
Arresting/Charging Agency	STATE POLICE SKOWHEGAN;
Subject Name(s)	THOMPSON, SARAH MAE
Charge Description	ASSAULT (Charge Class D)
Charge Comment	Domestic Violence Involved
Statute	17-A MRSA SUBSECTION 207(1)(A)
Disposition	2007-04-25; DEFERRED DISPOSITION 2008-06-25; GUILTY
Sentence	2008-06-25: FINED \$300.00 2008-06-25: INCARCERATED 180 days ALL SUSPENDED 2008-06-25: PROBATION 1 years

DRUGS

Charge Number	650687A 001
Charge Tracking Number	650687A
Agency	7TH DISTRICT COURT AUGUSTA; ME006045J
Charge Description	UNLAWFUL POSSESSION OF SCHEDULED DRUG (Charge Class D)
Statute	17-A MRSA SUBSECTION 1107-A(1)(C)
State Sequence Code	8571
Severity	Misdemeanor
Disposition 2008-10-14;	GUILTY
Sentencing Agency	7TH DISTRICT COURT AUGUSTA; ME006045J
Court Case Number	AUGDCCR200802004

Charge Number 650687A 002
Charge Sequence Number 2
Charge Tracking Number 650687A
Sentence 2008-10-14: FINED \$400.00

NOTE 2: Ms. Thompson was arrested August 31, 2020 in Sumter County Florida:

893.13.6a / POSSESSION OF CONTROLLED SUBSTANCE
893.147.1 / POSSESSION OF PARAPHERNALIA
499.03.1 / POSSESSION OF NEW DRUG WITHOUT PRESCRIPTION

On July 14, 2020 I emailed ASA Jared Gainey about the State's Discovery Exhibit:

Mr. Gainey:

Thank you for the State's Discovery Exhibit. Regarding the Brady Evidence for Ms. Thompson, I believe Thompson was convicted of domestic violence against Carlton Robert Norwood (died Dec-31-2011), her former common law husband. This information was provided to me in January 2020 by her mother, Patricia Thompson. The crime was committed in the state of Maine, either in Augusta Maine or Vassalboro Maine, which I believe are located in Kennebec County, Maine

https://www.courts.maine.gov/maine_courts/findacourt/kennebec_superior.shtml

I believe Thompson's crime/conviction involving Mr. Norwood occurred about 15 years ago, and apparently resulted in Thompson losing her student aid and ending her college enrollment. This is what Thompson's mother told me while I was visiting her brother Andrew Coutu after his drug overdose while he was in intensive care at AdventHealth Ocala, 1500 Southwest 1st Avenue, Ocala, FL 34471.

Unfortunately court records in Maine are not provided online. Earlier today I called the number for Michele Lumbert, (207) 213-2800, Clerk of the Maine District Court - Augusta, and was referred to the records center at 207-753-2901. Searching and obtaining records is laborious and costly, see attached the attached form with pricing.
https://www.courts.maine.gov/maine_courts/findacourt/waterville_district.shtml

I also believe Brady Evidence should include her arrest February 6, 2020 (felony drugs) where your office failed to file an information; theft and vandalism shown in MCSO19OFF028747; theft of my new HP laptop computer recovered by Dunnellon Police Officer E.J. Raines (an example of police I love); and Thompson's damage and theft during her home invasion (812.135) June 7, 2020.

Separately, Ms. Thompson is a self-employed Ocala prostitute, f.k.a.

Dolly Style, n.k.a. Roxy, who advertises "i love fetishes bdsm" and "S&M" which I believe accounts for the bruising of her legs a week after the incident shown in the arrest warrant. Personally I know Thompson enjoys physical fighting with men from our conversations. <https://www.ericmonkey.ch/roxy-escort-ocala-608178> , <https://www.ericmonkey.ch/dolly-style-escort-ocala-608178> Thompson also advertises as "Sadie" in Dunnellon, Services: Escort, S & M <https://www.ericmonkey.ch/sadie-escort-dunnellon-868163> and Thompson advertises as "Dolly Stylz" in Dunnellon, Services: Escort, S & M <https://www.ericmonkey.ch/dolly-stylz-escortedunnellon-852990>

Regarding NICHOLAS AUSTIN (B), Marion County Sheriff Dept., on January 30, 2020 I made a Federal Civil Rights Complaint against him, see attached. Tellingly, rather than defend my right to know the pharmacist working at the Walmart Pharmacy, Austin and then Lt. Welch collaborated to have me trespassed from Walmart. Welch also had me trespassed from his office for leaving Sarah's perishables outside the SW Substation in an ice cooler for her to get, see attached. I was compelled to make an ethics complaint against Welsh for his refusal to accept US mail from me. Seriously, what is wrong with Deputy Austin, Lt. Welch and certain other MCSO people?

Mr. Gainey, in my view this prosecution (and the wiretapping case) is an example of vengeance by a bad law enforcement agency, the MCSO, against a senior citizen who speaks truth to power.
Sincerely,
Neil J. Gillespie

From time to time I gave Ms. Thompsom occasional safe harbor when she had no where to go, before I realized the extent of her problems.

On July 17, 2020, where I appear *pro se* in 2020-CF-2417 I filed:

MOTION TO DROP ALL CHARGES AND RELEASE DEFENDANT
Filing # 110432892 E-Filed 07/17/2020 05:00:03 PM

My motion states at paragraph 4:

4. The ARREST AFFIDAVIT in this case is a work of fiction. First, Sarah May Thompson was not a lawful resident of 8092 SW 115th Loop Ocala on June 7, 2020. Ms. Thompson vacated the property on May 16, 2020 because I refused to drive her to buy drugs. Second, I did not take Ms. Thompson's smart phone from her by *sudden snatching*. The phone was unattended and charging at an electrical

outlet under the fuse box in the garage. Thompson was 8 feet away when I confiscated the phone for theft of electricity and violation of house rules. Thompson was armed with a metal T-ball bat she earlier took from my vehicle. Thompson screamed for her phone when I unplugged it from the electrical outlet, not taken from her person as claimed.

On June 18, 2020 in Case No. 2020-CF-2417, I filed,

**DEFENDANT'S NOTICE OF CLAIM OF IMMUNITY UNDER
SECTION 776.032 FLORIDA STATUTES**

Filing # 109043203 E-Filed 06/18/2020 10:37:13 AM

GROUND FOR HABEAS CORPUS RELIEF

**I. THE PETITIONER IS WRONGLY BEING RESTRAINED
BY APPOINTED COUNSEL IN CASE 2019-CF-4193**

Petitioner did not request appointed counsel in 2019-CF-4193
Petitioner does not want appointed counsel in 2019-CF-4193
Petitioner is not entitled to appointed counsel in 2019-CF-4193

Appointed Counsel was ineffective in representing the Petitioner in 2019-CF-4193 on July 9, 2020 during a hearing on the State's motion to revoke bond; as a result the Petitioner's bond was revoked and he was remanded to jail until further order of the court.

In Florida court-appointed counsel is governed by Chapter 27, Florida Statutes, Part III, Public Defenders and Other Court-Appointed Counsel (ss. 27.40 - 27.61) and consists of:

- A. The Public Defender (Fla. Stat. sec. 27.51)
- B. Office of Criminal Counsel and Civil Regional Counsel (27.511)
- C. Private court-appointed counsel (Fla. Stat. sec. 27.40(2)(a))

On November 10, 2019 I refused to sign an application for criminal indigent status presented to me at the Marion County Jail because it wrongly stated I was homeless, and it wrongly stated "I am seeking the appointment of the public defender". I am not homeless. I have lived at the same address in Marion Co. since 2005. Also, I knew I had a conflict with the Public Defender. I did not want the Public Defender to represent me.

I was released on bond prior to the First Appearance (Rule 3.130), and in any event I was not timely informed of it, so I did not attend First Appearance. The so-called First Appearance Findings and Orders by Judge McCune does not bear my signature.

On December 10, 2019 I attended an Arraignment (Rule 3.160) where Judge Herndon provisionally appointed the Public Defender/private Conflict Counsel to represent me because my affidavit of indigent status was incomplete. (Exhibit 3). I knew I had a conflict with the Public Defender (PD). I knew I had a conflict with the OCCRC. But the Court discouraged Defendants from speaking during Arraignment, so I did not say anything.

On December 16, 2019 the Public Defender filed a Notice of Appearance by and through Kristina Belanger, FL Bar #1012137, Asst. Public Defender. On January 7, 2020 the Public Defender/Ms. Belanger moved to withdrawal as counsel citing conflict.

On Wednesday, June 19, 2019, I had emailed Susan D. Bailey, Assistant Public Defender, about her former client, Sarah May Thompson:

Last week Ms. Thompson moved into my home as a live-in home health provider, see attached. On June 16, 2019 Sarah admitted to taking prescription medication from my room. Sarah apologized and promised not to take my pills again.

I don't know what to do. I have no faith in the Marion County Sheriff's Office, over issues related to my home foreclosure (2013-CA-00115). I have no faith in the UDEST or DCF. I do not want to report Sarah to L.E. (I support legalizing drugs). But I may not be the best person to help Sarah. I am aware she placed a newborn for adoption in 2015. She arrived at my door the result of mistaken identity through a website.

Initially Sarah seemed nice, and she needed a place to stay. I felt compassion for a homeless, unremarried widow. And it is difficult for a single man age 63 with health issues and limited income to find competent help. Previously two other providers did not work out, one age 40 (drugs) and one age 43 (drinking/smoking).

Currently Sarah has a broken tooth that needs extraction, but she refuses medical treatment I found, see <https://www.truecaredentistocala.com/emergency-dentist.html>

I don't want to throw Sarah out into the street. I believe she needs stability, but the people in her life may not be stable. I would appreciate any suggestions you may have. Thank you.

Ms. Bailey did not respond then, or to subsequent contacts related to this case. A week or so later Ms. Thompson met a man online, Matthew Smith, and soon moved into his home in Dunnellon Florida. Ms. Thompson was seldom here after that, and was completely gone from my home by July 15, 2019. I next saw her again on January 1, 2020 when she claimed domestic violence by Mr. Smith and needed a temporary place to stay.

On January 13, 2020 Judge Tatti entered ORDER SUBSTITUTING COUNSEL (CONFLICT), that appointed the Office of Criminal Counsel and Civil Regional Counsel for the 5th D.C.A. ("OCCRC") to represent me, without following the safeguards established by 27.5303(1)(a).

On January 16, 2020 Zachary Glenn Phipps of the OCCRC for 5th D.C.A. filed a notice of appearance to represent me in this case, and other such. I still had not completed and executed an application for criminal indigent status under § 27.52 required for appointment of counsel. I was not found indigent under § 27.52. The appointment of the Public Defender and the OCCRC is without legal basis. The representation by Zachary Glenn Phipps and the OCCRC has been a complete and utter abomination.

I fired Mr. Phipps on March 27, 2020, but he failed to recuse himself.

On July 2, 2020 in Case No. 2019-CF-4193 I filed

DEFENDANT'S WAIVER OF RIGHT TO A LAWYER WITH TWO ATTESTING WITNESSES, RULE 3.111(d)(4),
see Filing # 109766038 E-Filed 07/02/2020 11:48:43 PM.

On July 7, 2020 in Case No. 2019-CF-4193 I filed

DEFENDANT'S MOTION TO DISQUALIFY AND REMOVE COUNSEL ZACHARY GLENN PHIPPS AND THE OCCRC FOR 5th D.C.A.,

see Filing # 109909167 E-Filed 07/07/2020 06:50:44 PM.

On July 15, 2020 in Case No. 2019-CF-4193 I filed

DEFENDANT'S MOTION FOR HEARING ON DEFENDANT'S MOTION TO DISQUALIFY AND REMOVE COUNSEL ZACHARY GLENN PHIPPS AND THE OCCRC FOR 5th D.C.A., see Filing # 110282277 E-Filed 07/15/2020 02:00:57 PM.

On July 22, 2020 in Case No. 2019-CF-4193 I filed notice with the Court,

DEFENDANT NOT INDIGENT PER F.S. § 27.52 FOR APPOINTED COUNSEL, COURT MUST REVOKE APPOINTMENT OF MR PHIPPS AND OCCRC Filing # 110659309 E-Filed 07/22/2020 10:32:54 PM.

On July 31, 2020 in Case No. 2019-CF-4193 Judge Tatti struck 9 of my pro se motions,

see,

ORDER STRIKING DEFENDANT'S PRO SE MOTIONS
Filing # 111102506 E-Filed 07/31/2020 12:55:49 PM

Judge Tatti wrote,

Because the Defendant is represented by counsel, his *pro se* motions are unauthorized. *Logan v. State*, 846 So.2d 472 (Fla. 2003) (holding a Defendant is not entitled to represent himself and have the assistance of counsel); *Salser v. State*, 582 So.2d 12 (Fla. 5th DCA 1991) (Defendant does not have the right to a "hybrid" representation).

Judge Tatti's reliance on the above caselaw is misplaced. To reiterate:

I did not request appointed counsel in 2019-CF-4193
I do not want appointed counsel in 2019-CF-4193
I am not entitled to appointed counsel in 2019-CF-4193

Judge Tatti's Order struck the following in Case No. 2019-CF-4193:

1. Defendant's Pro Se Motion for a hearing on State's Motion to Revoke Bond filed on June 19, 2020;
2. Defendant's Pro Se Verified Motion to Disqualify Circuit Judge Anthony Tatti filed on June 22, 2020;
3. Defendant's Pro Se Request for Disability Accommodation filed on July 2, 2020
4. Defendant's Pro Se Motion to Dismiss all Charges in Case No.: 2019-CF-4193 filed on July 7, 2020;
5. Defendant's Pro Se Motion for Recognizance Bond filed on July 7, 2020;

6. Defendant's Request for Disability Accommodation filed on July 9, 2020;
7. Defendant's Motion for Transcript and Video of Zoom Hearing July 9, 2020 filed on July 22, 2020.
8. Defendant's Motion for Rule 3.133 Pretrial Probable Cause Determinations and Adversary Preliminary Hearings filed on July 24, 2020; and
9. Defendant's Pro Se Motion for Order to Reassign Case Motion for Rehearing Order to Revoke Bond filed on July 27,2020

On August 6, 2020 Case No. 2019-CF-4193 Mr. Phipps filed

MOTION TO WITHDRAW (as counsel)
Filing # 111365309 E-Filed 08/06/2020 09:07:28 AM.

Phipps' motion was accompanied by a

*Certification of Conflict By Office Of Regional Criminal and Civil Counsel
Conflict 5th District* Filing # 111365309 E-Filed 08/06/2020 09:07:28 AM.

In response, on Aug-06-2020 Judge Tatti entered *Order Allowing The Office of Criminal Conflict and Civil Regional Counsel To Withdrawal*. The Order also appointed Brenda H. Smith, Esquire, to represent me. Judge Tatti's appointment of counsel is misplaced. To reiterate:

I did not request appointed counsel in 2019-CF-4193
I do not want appointed counsel in 2019-CF-4193
I am not entitled to appointed counsel in 2019-CF-4193

On August 7, 2020, I filed in Case No. 2019-CF-4193.

DEFENDANT'S MOTION TO REFUSE COUNSEL AND APPEAR PRO SE
Motion to Strike Order Appointing Expert for Competency Evaluation
Filing # 111470516 E-Filed 08/07/2020 03:14:33 PM

My motion contained the following 7 paragraphs,

1. This Court granted a motion by attorney Zachary Phipps and the Office Of Criminal Conflict and Civil Regional Counsel (OCCCRC) to withdraw as counsel in this case on August 6, 2020. The Order appoints BRENDA H. SMITH, ESQUIRE to represent the Defendant in this cause.
2. I hereby assert my right to refuse counsel, and appear pro se, as provided by *Faretta v. California*, 422 U.S. 806 (1975), and Fla. R. of Crim. P. 3.111(d)(3).

3. I reject representation by Brenda H. Smith at this time. Rule 3.111(d)(5).

4. In *Faretta v. California*, 422 U.S. 806 (1975), the Supreme Court of the United States held that criminal defendants have a constitutional right to refuse counsel and represent themselves in state criminal proceedings.

5. Fla. R. of Crim. P. 3.111(d)(3) states:

(3) Regardless of the defendant's legal skills or the complexity of the case, the court shall not deny a defendant's unequivocal request to represent himself or herself, if the court makes a determination of record that the defendant has made a knowing and intelligent waiver of the right to counsel, and does not suffer from severe mental illness to the point where the defendant is not competent to conduct trial proceedings by himself or herself.

6. The Defendant in this case was found competent to waive the right to a lawyer and represent himself during two (2) *Faretta* hearings in 2020-CF-2417, by Judge Tatti on July 28, 2020 (arraignment) and by Judge Craggs on June 14, 2020 (first appearance).

7. I also move to strike Order Appointing Expert for Competency Evaluation. On March 13, 2020 attorney Zachary Phipps filed a groundless *Motion To Determine Defendant's Competency To Stand Trial*. During a telephone call with me last week Phipps agreed to withdrawal the motion; Mr. Phipps agreed I am competent to stand trial. However before he filed the motion, Mr. Phipps moved to withdrawal from the case. During our conversation Mr. Phipps also said the prosecution in 2020-CF-2417 was an "abuse of discretion"

Ineffective Assistance of Counsel
Strickland v. Washington, 466 U.S. 668 (1984).

Appointed Counsel Mr. Phipps / OCCRC was ineffective in representing me in 2019-CF-4193 on July 9, 2020 during a hearing on the State's motion to revoke bond. Due to COVID-19 the hearing was conducted remotely with "Zoom". I was not able to log into the Zoom hearing, or testify on my behalf, because, *inter alia*, the hearing was over by the time I got Mr. Phipps' email with the login password.

HEARING RESULTS: Bond revoked, the Sheriff shall take the Defendant into custody and detain said Defendant at the County Jail, pending further order of this Court.

NOTE: I did not surrender or go to jail. On the advice of other counsel I went to a bunker to continue working on my case, to fix the damage done by my ineffective "lawyer".

On July 28, 2020 I appeared pro se for an arraignment in Case No. 2020-CF-2417. I prepared for the hearing by filing a request for disability accommodation, with Appendix A, COVID-19 complaint to the Florida Surgeon General and Florida Department of Health.

HEARING RESULTS: COURT SETS ASIDE ORDER REVOKING BOND; Bond Revocation Recalled Unserved.

In Strickland v. Washington, 466 U.S. 668 (1984), the appropriate standard for ineffective assistance of counsel requires both that the defense attorney was objectively deficient and that there was a reasonable probability that a competent attorney would have led to a different outcome.

Mr. Phipps was objectively deficient during the hearing, which lacked preparation by Phipps, and where he failed to zealously represent me with a compelling argument. Also, the Zoom hearing was over by the time I got Mr. Phipps' email with the login password.

HEARING RESULTS: Bond revoked, the Sheriff shall take the Defendant into custody and detain said Defendant at the County Jail, pending further order of this Court.

Compare my competent representation which led to a different outcome:

HEARING RESULTS: COURT SETS ASIDE ORDER REVOKING BOND; Bond Revocation Recalled Unserved.

GROUNDS FOR HABEAS CORPUS RELIEF

II. THE PETITINER IS WRONGLY BEING RESTRAINED UNDER THREAT OF A PSYCHOLOGICAL EXAM OR JAIL IN CASE 2019-CF-4193 AND CASE 2020-CF-2417.

Appointed Counsel was ineffective in representing the Petitioner in 2019-CF-4193 on March 13, 2020 when counsel lied to the Petitioner about a review of disability, and then filed *Motion To Determine Defendant's Competency To Stand Trial*.

On March 13, 2020 attorney Zachary Phipps filed a groundless *Motion To Determine Defendant's Competency To Stand Trial*. Phipps lied to me during the arraignment in 2019-CF-4193 when he asked me, at the last moment, to agree to a review of disability. Phipps did not get my informed consent. Phipps did not seek a review of disability; instead, he sought to determine my competency to stand trial.

During a telephone call with me on July 30, 2020 at 12:26 PM, Mr. Phipps agreed to withdrawal his *Motion To Determine Defendant's Competency To Stand Trial*. Mr. Phipps said I am competent to stand trial. However before he filed the motion to withdrawal his *Motion To Determine Defendant's Competency To Stand Trial*, Mr. Phipps moved to withdrawal from the case. During our conversation Mr. Phipps also said the prosecution in 2020-CF-2417 was an "abuse of discretion".

Mr. Phipps said he refers all clients with prior traumatic brain injury for a competency hearing. Mr. Phipps said he was initially concerned that I was not focused enough, but he changed his mind when he saw the prosecution in 2020-CF-2417 was an "abuse of discretion".

I was found competent to waive the right to a lawyer twice in 2020-CF-2417, by Judge Tatti on July 28, 2020 (arraignment) and by Judge Craggs on June 14, 2020 (first appearance)

I have never been adjudicated incompetent or mentally deficient.

I am presumed by law to be competent. I have the inalienable right to freedom and liberty. Amendments IV, V and XIV, Constitution of the United States; Article I, Sections 2, 9 and 12, Constitution of the State of Florida.

I am a person age 64 with disabilities, including type 2 diabetes, diabetic neuropathy, hearing loss, and obstructive breathing/sleep apnea. I am at increased risk of being infected with COVID-19. If I get infected, I am at an increased risk of death. My hearing loss is due to congenital defects including eustachian tube defect (L), and retracted eardrum (L).

A person with disabilities does not mean they are incompetent. A vulnerable adult under 415.102(28) does not mean the person is incompetent. By way of example, former President Franklin D. Roosevelt was disabled with paralytic illness, and a vulnerable adult paralyzed from the waist down, but not incompetent.

On March 17, 2020 Judge Tatti entered Order Appointing Expert For Competency Evaluation. I voiced concern with Dr. Krop over his public discipline by the Medical Board; Krop withdrew from consideration by letter to Judge Tatti.

On July 31, 2020 Judge Tatti entered Order Appointing Expert For Competency Evaluation. The Order appoints TONIA WERNER, MD, Meridian Behavioral Healthcare, 4300 SW 13th Street, Gainesville, FL 32608.

On July 28, 2020 during an arraignment in Case No. 2020-CF-2417, Judge Tatti suggested I “cooperate” in the Competency Evaluation in Case No. 2019-CF-4173, suggesting my liberty was at risk.

Mr. Phipps agreed to withdrawal his *Motion To Determine Defendant’s Competency To Stand Trial*. Mr. Phipps said I am competent to stand trial. But before he filed the motion to

withdrawal his *Motion To Determine Defendant's Competency To Stand Trial*, Mr. Phipps withdrew from the case.

The writ of habeas corpus is so important in connection with constitutional liberty that a motion to dismiss it or quash it is not permitted. See *Crooms v. Schad*, 51 Fla. 168, 40 So. 497 (1906). As Trawick states:

. . . The respondent cannot move to quash the order or to dismiss the petition. . . . This is the only civil proceeding in which the legal sufficiency of a pleading cannot be directly attacked or in which the parties are not limited to the issues raised in the pleadings.

Trawick, Fla. Prac. & Proc., Sect. 36-6 (2003).

No one in the case has suggested I am not competent to stand trial. Therefore A writ of habeas corpus is sought discharging me from a competency evaluation.

GROUND FOR HABEAS CORPUS RELIEF

III. THE PETITIONER IS WRONGLY BEING RESTAINED BY CIRCUIT JUDGE ANTHONY TATTI PRESIDING IN CASE 2019-CF-4193 AND IN CASE 2020-CF-2417 WHEN JUDGE TATTI FAILED TO RECUSE AS REQUIRED BY LAW

The Petitioner filed two meritorious pro se motions to disqualify Circuit Judge Anthony Tatti on June 22, 2020, one in case 2019-CF-4193, and one on June 22, 2020 in case 2020-CF-2417. Thirty (30) days passed without a ruling on the motions by Judge Tatti. Therefore the motions are deemed granted under Fla. R. Jud. Admin. 2.330(j).

The Petitioner filed two motions for an order to reassign the cases, as required by Fla. R. Jud. Admin. 2.330(j), directing the clerk to reassign the cases, whereupon Judge Tatti belatedly denied the pro se motion to disqualify him in Case No. 2020-CF-2417. Judge Tatti then denied the Petitioner's motion for an order to reassign the case.

Judge Tatti belatedly struck my pro se motion to disqualify him in Case No. 2019-CF-4193. Judge Tatti then struck my pro se motion for an order to reassign the case.

On July 27, 2020 I filed in Case No. 2020-CF-2417 DEFENDANT'S

MOTION FOR ORDER TO REASSIGN CASE... Filing # 110867275 EFiled

07/27/2020 05:58:22 PM

1. VERIFIED MOTION TO DISQUALIFY CIRCUIT JUDGE ANTHONY TATTI was served on the Portal in case 2020-CF-2417 on June 22, 2020 at 3:28 PM, see, VERIFIED MOTION TO DISQUALIFY CIRCUIT JUDGE ANTHONY TATTI Filing # 109217029 E-Filed 06/22/2020 03:28:46 PM

Disqualification and Disclosure, Florida Judicial College, pages 6-7. "If the Judge fails to rule on the motion to disqualify within 30 days after service of the motion, the motion is deemed granted..."

Thirty (30) days have passed without a ruling; the motion is deemed granted, see Fla. R. Jud. Admin. 2.330(j), time for determination:

(j) Time for Determination. The judge shall rule on a motion to disqualify immediately, but no later than 30 days after the service of the motion as set forth in subdivision (c). If not ruled on within 30 days of service, the motion shall be deemed granted and the moving party may seek an order from the court directing the clerk to reassign the case.

On July 31, 2020 in Case No. 2020-CF-2417, Judge Tatti entered Order Denying Defendant's Motion To Disqualify. Because more than 30 days have passed, attempts to refute the motion by Judge Tatti are moot, so there is no need to address those misplaced responses.

The only thing that matters, was the motion served pursuant to Rule 2.330(c)?

The relevant part of Fla. R. Jud. Admin. 2.330(c) states,

In addition to filing with the clerk, the movant shall immediately serve a copy of the motion on the subject judge as set forth in Florida Rule of Civil Procedure 1.080.

My Certificate of Service states, I HEREBY CERTIFY the foregoing was served June 22, 2020 on the portal to Judge Tatti and to the names on the Notice of Service of Court

Documents. Judge Tatti was automatically served in 2020-CF-2417 on the Portal. I served the Clerk on the Portal. Thus, the motion was served to the Judge and the Clerk on June 22, 2020. Service was made according to Florida Rule of Civil Procedure 1.080. Judge Tatti's email address shown by The Florida Bar is: atatti@circuit5.org

Rule 1.080 SERVICE AND FILING OF PLEADINGS, ORDERS, AND DOCUMENTS (relevant portion)

(a) Service. Every pleading subsequent to the initial pleading, all orders, and every other document filed in the action must be served in conformity with the requirements of Florida Rule of Judicial Administration 2.516.

(b) Filing. All documents shall be filed in conformity with the requirements of Florida Rule of Judicial Administration 2.525.

RULE 2.516. SERVICE OF PLEADINGS AND DOCUMENTS

(b) Service; How Made. When service is required or permitted to be made upon a party represented by an attorney, service must be made upon the attorney unless service upon the party is ordered by the court.

(1) Service by Electronic Mail ("e-mail"). All documents required or permitted to be served on another party must be served by e-mail, unless the parties otherwise stipulate or this rule otherwise provides. A filer of an electronic document has complied with this subdivision if the Florida Courts e-filing Portal ("Portal") or other authorized electronic filing system with a supreme court approved electronic service system ("e-Service system") served the document by e-mail or provided a link by e-mail to the document on a website maintained by a clerk ("e-Service").

RULE 2.525. ELECTRONIC FILING

(a) Definition. "Electronic transmission of documents" means the sending of information by electronic signals to, by or from a court or clerk, which when received can be transformed and stored or transmitted on paper, microfilm, magnetic storage device, optical imaging system, CD-ROM, flash drive, other electronic data storage system, server, case maintenance system ("CM"), electronic court filing ("ECF") system, statewide or local electronic portal ("eportal"), or other electronic record keeping system authorized by the supreme court in a format sufficient to communicate the information on the original document in a readable format. Electronic transmission

of documents includes electronic mail ("e-mail") and any internetbased transmission procedure, and may include procedures allowing for documents to be signed or verified by electronic means.

(c) Documents Affected.

(1) All documents that are court records, as defined in rule 2.430(a)(1), must be filed by electronic transmission...

On July 27, 2020 I filed in Case No. 2019-CF-4193 DEFENDANT'S MOTION FOR ORDER TO REASSIGN CASE... Filing # 110871408 EFiled 07/27/2020 10:01:40 PM.

1. VERIFIED MOTION TO DISQUALIFY CIRCUIT JUDGE ANTHONY TATTI was served on the Portal in case 2019-CF-4193 on June 22, 2020 at 3:32 PM, see, VERIFIED MOTION TO DISQUALIFY CIRCUIT JUDGE ANTHONY TATTI Filing # 109217455 E-Filed 06/22/2020 03:32:06 PM

Disqualification and Disclosure, Florida Judicial College, pages 6-7.

"If the Judge fails to rule on the motion to disqualify within 30 days after service of the motion, the motion is deemed granted..."

Thirty (30) days have passed without a ruling; the motion is deemed granted, see Fla. R.

Jud. Admin. 2.330(j), time for determination:

(j) Time for Determination. The judge shall rule on a motion to disqualify immediately, but no later than 30 days after the service of the motion as set forth in subdivision (c). If not ruled on within 30 days of service, the motion shall be deemed granted and the moving party may seek an order from the court directing the clerk to reassign the case.

On July 31, 2020 in Case No. 2019-CF-4193, Judge Tatti struck 9 of my pro se motions, see,

ORDER STRIKING DEFENDANT'S PRO SE MOTIONS
Filing # 111102506 E-Filed 07/31/2020 12:55:49 PM

Judge Tatti wrote,

Because the Defendant is represented by counsel, his *pro se* motions are unauthorized. *Logan v. State*, 846 So.2d 472 (Fla. 2003) (holding a Defendant is not entitled to represent himself and have the assistance

of counsel); *Salser v. State*, 582 So.2d 12 (Fla. 5th DCA 1991)
(Defendant does not have the right to a "hybrid" representation).

Judge Tatti's reliance on the above caselaw is misplaced. To reiterate:

I did not request appointed counsel in 2019-CF-4193
I do not want appointed counsel in 2019-CF-4193
I am not entitled to appointed counsel in 2019-CF-4193

Judge Tatti's Order struck the following in Case No. 2019-CF-4193:

1. Defendant's Pro Se Motion for a hearing on State's Motion to Revoke Bond filed on June 19, 2020;
2. Defendant's Pro Se Verified Motion to Disqualify Circuit Judge Anthony Tatti filed on June 22, 2020;
3. Defendant's Pro Se Request for Disability Accommodation filed on July 2, 2020
4. Defendant's Pro Se Motion to Dismiss all Charges in Case No.: 2019-CF-4193 filed on July 7, 2020;
5. Defendant's Pro Se Motion for Recognizance Bond filed on July 7, 2020;
6. Defendant's Request for Disability Accommodation filed on July 9, 2020;
7. Defendant's Motion for Transcript and Video of Zoom Hearing July 9, 2020 filed on July 22, 2020.
8. Defendant's Motion for Rule 3.133 Pretrial Probable Cause Determinations and Adversary Preliminary Hearings filed on July 24, 2020; and
9. Defendant's Pro Se Motion for Order to Reassign Case Motion for Rehearing Order to Revoke Bond filed on July 27, 2020

Because more than 30 days have passed, there is no need to address anything else. The only thing that matters, was the motion to disqualify served pursuant to Rule 2.330(c)? The relevant part of Fla. R. Jud. Admin. 2.330(c) states,

In addition to filing with the clerk, the movant shall immediately serve a copy of the motion on the subject judge as set forth in Florida Rule of Civil Procedure 1.080.

My Certificate of Service states, I HEREBY CERTIFY the foregoing was served June 22, 2020 on the portal to Judge Tatti and to the names on the Notice of Service of Court Documents. Judge Tatti was automatically served in 2019-CF-4193 on the Portal. I served the Clerk on the Portal.

Thus, the motion was served to the Judge and the Clerk on June 22, 2020. Service was made according to Florida Rule of Civil Procedure 1.080. Judge Tatti's email address shown by The Florida Bar is: atatti@circuit5.org

Rule 1.080 SERVICE AND FILING OF PLEADINGS, ORDERS, AND DOCUMENTS (relevant portion)

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RULE 2.516. SERVICE OF PLEADINGS AND DOCUMENTS

(b) Service; How Made. When service is required or permitted to be made upon a party represented by an attorney, service must be made upon the attorney unless service upon the party is ordered by the court.

(1) Service by Electronic Mail ("e-mail"). All documents required or permitted to be served on another party must be served by e-mail, unless the parties otherwise stipulate or this rule otherwise provides. A filer of an electronic document has complied with this subdivision if the Florida Courts e-filing Portal ("Portal") or other authorized electronic filing system with a supreme court approved electronic service system ("e-Service system") served the document by e-mail or provided a link by e-mail to the document on a website maintained by a clerk ("e-Service").

RULE 2.525. ELECTRONIC FILING

(a) Definition. "Electronic transmission of documents" means the sending of information by electronic signals to, by or from a court or clerk, which when received can be transformed and stored or transmitted on paper, microfilm, magnetic storage device, optical imaging system, CD-ROM, flash drive, other electronic data storage system, server, case maintenance system ("CM"), electronic court filing ("ECF") system, statewide or local electronic portal ("eportal"), or other electronic record keeping system authorized by the supreme court in a format sufficient to communicate the information on the original document in a readable format. Electronic transmission of documents includes electronic mail ("e-mail") and any internetbased transmission procedure, and may include procedures allowing for documents to be signed or verified by electronic means.

(c) Documents Affected.

(1) All documents that are court records, as defined in rule 2.430(a)(1), must be filed by electronic transmission...

GROUNDS FOR HABEAS CORPUS RELIEF

IV. THE PETITIONER IS WRONGLY BEING RESTAINED BY \$4,000 MONEY BAIL BOND IN CASE 2019-CF-4193 AND \$5,000 MONEY BAIL BOND IN CASE 2020-CF-2417.

The Petitioner is age 64, has never been convicted of a crime, has resided in Marion County for over 15 years, is a former business owner, and educated with degrees in business and psychology. Pursuant to Rule 3.131(b)(1), Fla. R. Crim. P., “there is a presumption in favor of release on nonmonetary conditions for any person who is granted pretrial release.”

On July 7, 2020 in Case No. 2019-CF-4193, I filed DEFENDANT’S MOTION FOR RECOGNIZANCE BOND, see Filing # 109909167 E-Filed 07/07/2020 06:50:44 PM.

Pursuant to Rule 3.131(b)(1), Fla. R. Crim. P., “there is a presumption in favor of release on nonmonetary conditions for any person who is granted pretrial release.”

On November 10, 2019, I was arrested and and released on a \$4,000 bond total in case no. 2019-CF-004193-A-Z. My arrest was politically motivated, see Affidavit of Neil J. Gillespie and Marion Senior Services, Inc.

The arrest warrant signed by Judge S. Sue Robbins on November 7, 2019 authorizes modification of bail by the judge presiding at first appearance.

At the time of my arrest on November 10, 2019 I was eligible for Recognizance Bond based upon the following facts:

- A. I had no criminal record.
- B. I had a valid Florida driver’s license in good standing.
- C. I lived at my Florida residential homestead property, 8092 SW 115th Loop, Ocala, 34481, Marion Co., Florida, continuously and uninterruptedly since February 5, 2005.
- D. I was age 63 and suffering the infirmaries of aging, including type 2 diabetes.
- E. My income was limited to Social Security disability payments.
- F. I am educated, with undergraduate degrees in business and psychology.

On March 9, 2020 at 3:50 PM I emailed my appointed counsel, Zachary Glenn Phipps of the OCCRC for 5th D.C.A., and requested, “can you move for an order for release on my own recognizance? (and end the bail bond).” Mr. Phipps failed to seek ROR on my behalf in March 2019. Mr. Phipps failed to respond to my request for a recognizance bond.

Bail reduction is a legitimate function of defense counsel and zealous representation. The foregoing example is evidence that Mr. Phipps and the OCCRC for 5th D.C.A has not provided zealous advocacy on my behalf.

On July 28, 2020, I made a spoken motion during the arraignment in Case No. 2020-CF-2417 to be released on a recognizance bond. The money bail bond in that case is \$5,000. Judge Tatti denied my spoken motion, even though I appeared as required, and both charges were downgraded.

The writ of habeas corpus is so important in connection with constitutional liberty that a motion to dismiss it or quash it is not permitted. See *Crooms v. Schad*, 51 Fla. 168, 40 So. 497 (1906). Presently I am restrained by \$9,000 total in money bail bonds. I am age 64 and have never been convicted of a crime.

REASONS FOR GRANTING THE PETITION - 1

“standby counsel, hybrid counsel”

There appears to be a conflict of laws, between The Florida Bar, and the Florida courts, regarding Florida Bar Rule 4-3.8, *Special Responsibilities of a Prosecutor*. See the Comment, this part in particular: "Florida has adopted the American Bar Association Standards of Criminal Justice Relating to Prosecution Function. This is the product of prolonged and careful deliberation by lawyers experienced in criminal prosecution and defense and should be consulted for further guidance."

Standard 4-5.3 Obligations of Stand-By Counsel, suggests a hybrid representation which the Court has ruled against, see ORDER STRIKING DEFENDANTS PRO SE MOTIONS, Filing #111102506 E-Filed 07/31/2020 12:55:49 PM.

Because the Defendant is represented by counsel, his *pro se* motions are unauthorized. *Logan v. State*, 846 So.2d 472 (Fla. 2003) (holding a Defendant is not entitled to represent himself and have the assistance of counsel): *Salser v. State*, 582 So.2d 12 (Fla. 5th DCA 1991) (Defendant does not have the right to a "hybrid" representation).

Recent FSC Orders relying on Logan suggest it does not recognize the concept of Stand-By Counsel. See Standard 4-5.3 Obligations of Stand-By Counsel:

Standard 4-5.3 Obligations of Stand-By Counsel

(a) An attorney whose assigned duty is to actively assist a pro se criminally accused person should permit the accused to make the final decisions on all matters, including strategic and tactical matters relating to the conduct of the case, while still providing the attorney's best advice.

(b) An attorney whose assigned duty is to assist a pro se criminally accused person only when the accused requests assistance may bring to the attention of the accused steps that could be potentially beneficial or dangerous to the accused, but should not actively participate in the conduct of the defense unless requested by the accused or as directed by the court.

(c) In either case, the assigned attorney should respect the accused's right to develop and present the accused's own case, while still advising the accused of potential benefits and

dangers the attorney perceives in the course of the litigation. Such an attorney should be fully prepared about the matter, in order to offer such advice and in case the court and the accused determine that the full representation role should be transferred to defense counsel at some point during the criminal proceedings.

Also see a Florida Bar Journal article attached with link below, Vol. 71, No. 9 October 1997 Pg 44 Angela D. McCravy, Criminal Law, *Self-Representation and Ineffective Assistance of Counsel: How Trial Judges Can Find Their Way Thro*

<https://www.floridabar.org/the-florida-bar-journal/self-representation-and-ineffective-assistance-of-counsel-how-trial-judges-can-find-their-way-thro/>

Also see Hackworth Law PA, and the article *Plant City Criminal Lawyers: What Is Standby Counsel*, <https://bhtampa.com/blog/plant-city-criminal-lawyers-standby-counsel/>

REASONS FOR GRANTING THE PETITION - 2

“unelaborated decisions”

The Florida Supreme Court claims it doesn’t have jurisdiction to review unelaborated decisions of the district courts. The FSC held in this case, SC20-1255: (Appendix A)

This case 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*, No. SC19-1916 (Fla. June 11, 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.

The Florida Constitution, Article V, sec. 2(a) states in relevant part:

“no cause shall be dismissed because an improper remedy has been sought”

Existing law prohibits the Court from dodging its responsibility. Florida Supreme Court justices get paid by taxpayers \$220,600 annually; DCA judges get paid by taxpayers \$169,554; circuit judges by taxpayers \$160,688; and county court judges by taxpayers \$151,822.

We, the Citizens of Florida, employ judges to, *inter alia*, determine and decide issues.

The problem of "unelaborated decisions" amounts to a refusal by certain judges to perform their sworn duty. The duty to determine and decide issues is shown below, 12A FlaJur2d § 144

COURTS AND JUDGES, 12A FlaJur2d
§144 Duty to determine and decide issues


The power of the judiciary is not merely to rule on cases but also to decide them, subject to review only by superior courts.[fn1] Thus, when a court properly acquires jurisdiction, it must fully perform and exhaust its jurisdiction,[fn2] determine the controversy, and decide every issue or question properly arising in the case [fn3] and render a decision.[fn4]

[fn1] *Bush v. Schiavo*, 885 So. 2d 321 (Fla. 2004), cert. denied, 125 S Ct. 1086 (U.S. 2005). [fn2] *King v. State*, 143 So. 2d 458 (Fla. 1962); *Malone v. Meres*, 91 Fla. 709, 109 So. 677 (1926); *Schoenrock v. Ballard*, 185 So. 2d 760 (Fla. Dist. Ct. App. 1st Dist. 1966). [fn3] *Wade v. Clower*, 94 Fla. 817, 114 So. 548 (1927); *Malone v. Meres*, 91 Fla. 709, 109 So. 677 (1926); *Schoenrock v. Ballard*, 185 So. 2d 760 (Fla. Dist. Ct. App. 1st Dist. 1966). [fn4] *King v. State*, 143 So. 2d 458 (Fla. 1962).

CONCLUSION

The petition for a writ of certiorari should be granted.

Respectfully submitted,


NEIL JOSEPH GILLESPIE, PETITIONER

Date: NOVEMBER 23, 2020