

IN THE CIRCUIT COURT OF THE THIRTEENTH JUDICIAL CIRCUIT
IN AND FOR HILLSBOROUGH COUNTY, FLORIDA
CIVIL DIVISION

NEIL J. GILLESPIE,

Plaintiff,

Case No.: 05-CA-007205

vs.

Division: J

BARKER, RODEMS & COOK, P.A.,
A Florida corporation, and
WILLIAM J. COOK,

Defendants.

_____ /

PROCEEDINGS: Hearing
BEFORE: Honorable James D. Arnold
DATE: June 16, 2011
TIME: 10:30 a.m. - 10:47 a.m.
PLACE: Hillsborough County Courthouse
800 Twiggs Street
Tampa, Florida 33602
REPORTED BY: Nicholas Lafaro
Stenographic Reporter and
Notary Public,
State of Florida at Large

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APPEARANCES:

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ALSO PRESENT:

EDWARD CASTAGLIUOLO

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PROCEEDINGS

THE BAILIFF: Please remain seated.

MR. CASTAGLIUOLO: Good morning, Judge.

MR. RODEMS: Good morning, your Honor.

MR. CASTAGLIUOLO: Judge, my papers --

THE COURT: Yes.

MR. CASTAGLIUOLO: My original notice of
appearance --

THE COURT: Okay.

MR. CASTAGLIUOLO: -- I'm filing with the
court, and my motion beneath it.

THE COURT: Okay.

MR. CASTAGLIUOLO: Judge, I've known
Mr. Gillespie for about, oh, I'm going to say,
almost 14 days. Not longer than that. And, it's
readily -- readily apparent to me that this
gentleman has some problems, which cause him to be
contentious, to say the least.

And, I'm well aware of the history of this
case. It goes back to 2005. I've read -- I
haven't even scratched the surface, but I read a
lot of pages about this case. So I'm not totally
uninformed about the background and the origins of
this matter that we're here for today.

My sole purpose here today -- as I was

1 explaining to counsel prior to the hearing, I wish
2 I could file a limited appearance, but, as we all
3 know, we can't do that. In for a penny, in for a
4 pound. My sole purpose is, really, to keep this
5 man from going to jail. I really believe that he
6 has had the fear of God put in him with regard to
7 being arrested.

8 He's called me when the sheriff's officer was
9 knocking on his door and calling me by cell at the
10 same time. I spoke to that sheriff's officer. The
11 sheriff's officer said, if we pick him up, he's
12 going to sit in the Marion County Jail for two
13 weeks before Hillsborough even thinks of coming
14 over to get him.

15 And the system being what it is, Judge, and
16 this being a civil matter, I have constructed a
17 proposed order, where, basically, what I'm asking
18 counsel to agree to, and I'm sure he won't, 'cause
19 he's defending his side vigorously, as he should, I
20 want him to give Mr. Gillespie another 60 days to
21 sit, with or without me, at a deposition
22 (inaudible) of execution; or, if he doesn't do that
23 by August 31st, the way I wrote the order, the
24 proposed order, then, Mr. Rodems can come in ex
25 parte and get his writ of bodily attachment all

1 over again. It's basically giving him another bite
2 at the apple to comply.

3 And the linchpin of all this, Judge, is that,
4 for the last 21 months, he's been without counsel.
5 So he's been on the internet. He's been left to
6 his own devices and his own -- he's my client and
7 I've had this discussion with him. He's left to
8 his own delusions about the way this process should
9 work.

10 He's finally been made to realize it ain't
11 going to happen that way. It's going to happen the
12 way this Court wants it to happen and there is
13 no -- there is no other alternative.

14 MR. RODEMS: Your Honor, we would not agree to
15 that. And in fact, we would ask you not to rescind
16 or to dissolve the writ of bodily attachment.

17 Judge, the order to show cause commanded
18 Mr. Gillespie to appear before your Honor, on June
19 1st.

20 THE COURT: Let me interrupt you, if I could,
21 Counsel.

22 MR. RODEMS: Yes.

23 THE COURT: 'Cause, I don't know how many
24 judges were before me, but I know there was a
25 number of judges before me, and I don't have all

1 the background of the case.

2 The basis of the deposition is based upon --
3 what was -- was it an award of attorney's fees?

4 MR. RODEMS: Yes, sir. There's a judgment
5 against Mr. Gillespie in favor of my clients.

6 THE COURT: The basis of the award of the
7 attorney's fees was?

8 MR. RODEMS: Violation of Section 57.105 for
9 filing frivolous pleadings and also discovery
10 violations for not complying with discovery
11 requests and discovery orders.

12 THE COURT: Okay. All right. I'm sorry. Go
13 ahead.

14 MR. RODEMS: Yes, sir.

15 The order to show cause commanded
16 Mr. Gillespie to appear before your Honor and show
17 cause why he should be held in contempt for
18 violating prior orders of this court. The prior
19 order of this court at issue was entered by Judge
20 Cook and it commanded Mr. Gillespie to appear
21 within 60 days for his deposition. So --

22 THE COURT: And was -- was there not a
23 subpoena duces tecum --

24 MR. RODEMS: Yes, sir.

25 THE COURT: -- to produce certain documents?

1 MR. RODEMS: Notice of -- because he's a
2 party, notice of deposition duces tecum for him to
3 appear and produce documents and --

4 THE COURT: And what -- and what were the
5 documents that were requested?

6 MR. RODEMS: The various types of things that
7 one would expect in a collection case.

8 Mr. Gillespie receives income from a trust.
9 We wanted to see the trust documents. We also want
10 to see his financial records, records relating to
11 assets, and other things, bank account records,
12 various things we know, because of
13 Mr. Gillespie's --

14 THE COURT: Counsel, do you have a copy of the
15 subpoena duces tecum?

16 MR. CASTAGLIUOLO: Yes, I do. I don't have it
17 with me, your Honor. I've seen it. As you can
18 see, the court file is extensive.

19 THE COURT: Right.

20 MR. CASTAGLIUOLO: But if you look at Exhibit
21 "A" to my motion, Mr. Gillespie has -- his argument
22 to me is that he's responded to very much of what
23 Mr. Rodems has asked for. He wrote under a cover
24 letter -- I think that's page 2 and the cover
25 letter that you're looking at. So if you went back

1 one more, that would be the beginning of Exhibit
2 "A." And a lot of this is he's -- he claims to
3 have given Mr. Rodems these materials on more than
4 one occasion.

5 And that cover letter covers a list of items.
6 He also made that part of the court record under
7 some type of a pleading cover. Again, that's
8 buried back in the -- in the file from last summer.

9 THE COURT: Okay.

10 MR. CASTAGLIUOLO: And --

11 THE COURT: I believe he filed a criminal -- a
12 criminal indigency affidavit.

13 MR. CASTAGLIUOLO: And that was approved.

14 THE COURT: Well, that was --

15 MR. CASTAGLIUOLO: He was found to be
16 indigent.

17 THE COURT: A criminal indigency --

18 MR. CASTAGLIUOLO: Right.

19 THE COURT: -- was -- was approved by the
20 clerk on a criminal case, but there's no criminal
21 case.

22 MR. CASTAGLIUOLO: Yes. And that's why the
23 public defender dropped him recently.

24 THE COURT: Right. But, if -- if he has no
25 documents, or if he does, why hasn't he produced

1 them? And if he has no assets, why doesn't he sit
2 for the deposition and get it over with and that's
3 the end?

4 MR. CASTAGLIUOLO: Your Honor, that's --
5 that's what I've educated him over the last almost
6 14 days about, and that's what I've told him.

7 He's also a stroke away from a Chapter 7
8 bankruptcy. So, this thing could go away real
9 quick. And that's all the more reason why I don't
10 want him to sit in jail; so that I don't have to go
11 to the jail and have him sign his bankruptcy
12 petition and schedules.

13 If you'll look at Exhibit "A," though, your
14 Honor, and not to belabor the point, but he claims
15 he's given a lot of this stuff --

16 THE COURT: Why don't -- why don't you bring
17 your client in tomorrow morning, with the
18 documents? Counsel could be here. You can use my
19 hearing room. The bailiff will be here.
20 They'll -- I'll -- I'll direct the bailiffs to --
21 the sheriff's office to escort your client up here.
22 He gives his deposition. He produces his
23 documents.

24 MR. CASTAGLIUOLO: Because there's an active
25 warrant out, and that nice deputy will put some

1 cufflinks on him, that he's not going to like.
2 That's why he didn't come here today.

3 THE COURT: Well, the warrant is to bring the
4 individual before the Court, before me.

5 MR. CASTAGLIUOLO: But the first stop is the
6 jail, your Honor, to process him.

7 THE COURT: All right. I'm not going to argue
8 with you.

9 MR. CASTAGLIUOLO: No, I'm not trying to be
10 argumentative.

11 THE COURT: I'm just saying -- I'm offering an
12 alternative to bring him in tomorrow morning for a
13 deposition.

14 MR. CASTAGLIUOLO: I -- I will contact him and
15 see if that's possible.

16 Is it possible to do Monday or Tuesday?

17 THE COURT: Could you take your deposition
18 tomorrow?

19 MR. RODEMS: Your Honor --

20 THE COURT: That's -- what they want to do is,
21 they want to take a deposition and see these
22 documents and -- and that's all this is about.

23 MR. RODEMS: I'm supposed to be on vacation
24 with my family right now. I -- I came in today
25 specifically for this, and as soon as I'm done, I'm

1 going to be joining my family down at the beach.

2 THE COURT: Okay. Well --

3 MR. RODEMS: So, I -- look, I want to get this
4 deposition done.

5 THE COURT: The bottom line is, if he's
6 brought before the Court --

7 MR. RODEMS: Yes, sir.

8 THE COURT: -- I will direct you -- if -- if
9 he's going to sit for a deposition, to give the --
10 the -- to -- to appear, to give -- to take the
11 deposition --

12 MR. RODEMS: Yes, sir.

13 THE COURT: -- if he's willing to take it. If
14 he's not willing to take it, that's a different
15 story. But, you know, you'd be directed to take
16 the deposition. So you or someone from your office
17 would have to make themselves available.

18 MR. CASTAGLIUOLO: He's definitely willing to
19 take it, your Honor. But in deference to
20 Mr. Rodems' vacation, and my own schedule, could we
21 have some leeway of, perhaps, next week? Or, or at
22 the end of his vacation, when he comes back?

23 THE COURT: When do you come back from your
24 vacation?

25 MR. RODEMS: I'll be back Monday. I have -- I

1 know I could definitely do it Tuesday. Monday, I
2 do have a deposition.

3 THE COURT: Let me look at my schedule.

4 (Recess taken.)

5 THE COURT: You said Tuesday would work for
6 you?

7 MR. RODEMS: Yes, sir. Tuesday in the --
8 actually, Tuesday, at any time, and -- and
9 Wednesday.

10 THE COURT: The sergeant indicated to me, if
11 Gillespie shows up at the courthouse and they --
12 they would be downstairs waiting for him -- they
13 would escort him straight up here.

14 MR. CASTAGLIUOLO: And I'll bring that to my
15 client.

16 What time, Judge, on Tuesday?

17 THE COURT: I don't know.

18 What time?

19 MR. RODEMS: Judge, I can be here at whatever
20 time you open the doors for business. I can -- you
21 know, I've got -- I've got a client meeting at
22 nine. I'm going to move that for this. And, and
23 I've got a deposition at one, that I --

24 THE COURT: Well, you got a client meeting at
25 nine. Of course --

1 MR. CASTAGLIUOLO: Gillespie's coming from
2 Ocala, so --

3 THE COURT: Nine o'clock in the morning
4 downstairs is pretty busy. You know, I mean, we
5 run a couple of thousand --

6 MR. RODEMS: Yes, sir.

7 THE COURT: -- run thousands of people through
8 here every day through security.

9 MR. CASTAGLIUOLO: May I suggest 10:30, your
10 Honor? Would that work with the Court?

11 THE COURT: Would that accommodate you with
12 your client interview?

13 MR. RODEMS: Yes, sir, that would be perfect.
14 I could conduct that interview over an hour and
15 then be here by 10:30. Certainly.

16 THE COURT: 10:30. All -- I'm conducting
17 hearings Monday and Tuesday in the hearing room
18 here. So, we will find another room. Yeah. We'll
19 have a room to -- the hearing room to conduct the
20 deposition.

21 MR. RODEMS: There is one matter, Judge. And
22 I'm just trying to head off a problem in the past.

23 Mr. Gillespie is trying very hard not to show
24 to me the trust documents, where he gets income.

25 THE COURT: Well, at this point in time, the

1 time for filing objection to production are long
2 over with.

3 MR. CASTAGLIUOLO: Well, he's filed an
4 objection to that. And I think that's what counsel
5 is referring to.

6 THE COURT: Well --

7 MR. CASTAGLIUOLO: I've been told that the
8 only thing in the trust document is the house,
9 which is underwater, and if there were any rumors
10 of income --

11 THE COURT: Produce -- produce the trust
12 documents and I'll review them in camera.

13 Any objection to that, Counsel?

14 MR. RODEMS: No, sir. Not at all.

15 THE COURT: You bring the -- you bring the
16 trust documents with you and I'll review them in
17 camera.

18 If the documents are produced, if he gives his
19 deposition, as far as I'm concerned, that's the end
20 of it.

21 MR. CASTAGLIUOLO: That would be great, Judge.
22 Very generous.

23 THE COURT: All right.

24 MR. CASTAGLIUOLO: I don't -- certainly, my
25 order doesn't reflect that, Judge. Will you be

1 issuing your own order or is this -- it's a matter
2 of record.

3 THE COURT: Well, it's a matter of record.
4 I'm just -- I'm just indicating to you what I'd be
5 willing to do, and make arrangements to have -- and
6 I can tell the sheriff right now to have
7 Mr. Gillespie escorted up and they'll have somebody
8 there, starting at 10 o'clock, just waiting for him
9 to -- to escort him through security and bring him
10 up here.

11 MR. CASTAGLIUOLO: That'll be my message to
12 Mr. Gillespie, your Honor.

13 THE COURT: And, I -- at this point in time,
14 his coming here is on a voluntary basis. If he
15 comes in on a voluntary basis on Tuesday, he brings
16 the documents, including the trust documents, which
17 I'll review in camera -- okay -- and willing to sit
18 for a deposition under oath, a full deposition
19 under oath, then I'll take that all into
20 consideration; and, and as far as I'm concerned, if
21 he does produce the documents, he does sit for
22 deposition, at that point in time, I'd be inclined
23 to withdraw any pick-up order.

24 MR. CASTAGLIUOLO: Great, your Honor. Thank
25 you.

1 MR. RODEMS: So, are we to --

2 THE COURT: But --

3 MR. RODEMS: -- assemble here?

4 THE COURT: But -- but that's what I would do
5 under those circumstances. And I generally don't
6 say what I'm going to do ahead of time.

7 If he doesn't -- if he doesn't want to -- if
8 he doesn't show up on Tuesday, doesn't show up on
9 Tuesday.

10 MR. CASTAGLIUOLO: Well, I'll be here on
11 Tuesday, and my message to him is that he had
12 better be here on Tuesday.

13 THE COURT: I mean -- I mean, it's -- it's a
14 voluntary thing on his part. If he wishes to come
15 in on Tuesday, I will be here, counsel will be
16 here.

17 MR. CASTAGLIUOLO: And I'll be here.

18 THE COURT: Okay.

19 MR. RODEMS: So we --

20 THE COURT: If he doesn't show up, he doesn't
21 show up.

22 MR. RODEMS: We're to come to your chambers at
23 10 a.m., your Honor?

24 THE COURT: Pardon me.

25 MR. RODEMS: Are we to come to your chambers

1 at 10 a.m.?

2 THE COURT: Uh-huh.

3 MR. RODEMS: Yes, sir.

4 THE COURT: Well, 10:30.

5 MR. CASTAGLIUOLO: It's going to start at
6 10:30.

7 MR. RODEMS: Yes, sir.

8 THE COURT: I'll just have representatives
9 from the sheriff's office down there at 10 o'clock.

10 MR. RODEMS: I'll be here at 10:30 on Tuesday
11 of next week.

12 Thank you.

13 THE COURT: I'm not sure if we need to enter
14 an order, other than the fact that I'm not setting
15 aside any pick-up order at this time.

16 MR. CASTAGLIUOLO: That's what I was just
17 referring to, the order.

18 THE COURT: If you want to bring an order with
19 you at that time, that'll be fine.

20 MR. CASTAGLIUOLO: Okay.

21 THE COURT: Just say an order denying.

22 MR. CASTAGLIUOLO: And may I leave those files
23 with you, your Honor?

24 THE COURT: And, and if he does want to
25 voluntarily appear, and you want to bring a

1 proposed order, then I'll be glad to review it at
2 that time after deposition.

3 This is original. I'll --

4 MR. CASTAGLIUOLO: They're the originals.

5 THE COURT: I'll ask the clerk to file this
6 with the court.

7 MR. CASTAGLIUOLO: Thank you, Judge.

8 THE COURT: Okay.

9 MR. RODEMS: Thank you, Judge. Thanks for
10 your time.

11 THE COURT: Have a nice day.

12 (Time noted 10:47 a.m.)

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CERTIFICATE OF REPORTER

STATE OF FLORIDA)
COUNTY OF HILLSBOROUGH)

I, Nicholas Lafaro, certify that I was authorized to and did stenographically report the proceedings; and that the foregoing pages are a true and complete record of my stenographic notes taken during said proceedings.

I further certify that I am not a relative, employee, attorney, or counsel of any of the parties, nor am I a relative or employee of any of the parties' attorneys or counsel connected with the action, nor am I financially interested in the action.

Dated this 16th day of June, 2011.

NICHOLAS LAFARO
Court Reporter

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