

No: _____

IN THE
SUPREME COURT OF THE UNITED STATES

NEIL J. GILLESPIE - PETITIONER

VS.

BARKER, RODEMS & COOK, PA, and WILLIAM J. COOK,

JUDGE JAMES D. ARNOLD,

THIRTEENTH JUDICIAL CIRCUIT, FLORIDA - RESPONDENTS

Emergency Petition For Stay or Injunction From

Order Of The Florida Supreme Court

Application to Justice Clarence Thomas

Emergency Petition For Stay or Injunction

Submitted by

Neil J. Gillespie
Petitioner, pro se, non-lawyer
8092 SW 115th Loop
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(352) 854-7807
neilgillespie@mfi.net

I. Application To Justice Clarence Thomas

1. Petitioner pro se, Neil J. Gillespie (“Gillespie”), makes application to Justice Clarence Thomas pursuant to Rule 22 for an Emergency Petition For Stay or Injunction, and states:

2. Gillespie is a disabled, indigent civil contemnor facing incarceration June 1, 2011 at 11:00AM before Judge James D. Arnold, Thirteenth Judicial Circuit, Florida, for violating a state court order. The question whether an indigent defendant has a constitutional right to appointed counsel at a civil contempt proceeding that results in his incarceration is currently before this Court in Turner v. Rogers, U.S. Docket 10-10 and was argued March 23, 2011.

Based upon argument in Turner, Gillespie filed *Plaintiff’s Motion For Appointment Of Counsel, ADA Accommodation Request, and Memorandum Of Law*, May 24, 2011. (Exhibit 1). The next day Gillespie emailed counsel who participated in Turner seeking assistance. (Exhibit 2). About an hour later attorney Krista J. Sterken called Gillespie at home with an offer of representation contingent on a conflict search. Mr. Sterken is co-counsel with Michael D. Leffel of Foley & Lardner LLP who submitted an amicus brief in Turner for the Center for Family Policy and Practice. Unfortunately Mr. Leffel declined representation by letter May 27, 2011. (Exhibit 3).

3. This pleading is inherently insufficient due to Gillespie’s disability and declining health, see the letter of Dr. Karin Huffer, October 28, 2010, ADA Accommodations for Neil Gillespie. (Exhibit 4). Gillespie can no longer represent himself at hearings, he becomes easily distracted and confused, and can no longer speak coherently enough to advocate for himself.

II. Emergency Stay Or Injunction Necessary To Preserve The Status Quo

4. A stay or injunction is necessary in this case to preserve the status quo during pendency of resolution of the issues presented. The facts in this case are compelling:

a. Gillespie faces incarceration June 1, 2011 at 11:00AM on civil contempt by his former lawyers Barker, Rodems & Cook, PA in a six year-long lawsuit to recover \$7,143 stolen from Gillespie from a settlement in prior representation. Ryan Christopher Rodems is unethically representing his firm against a former client, and his independent professional judgment is materially limited by his interest and conflict. Mr. Rodems also countersued Gillespie for libel. The litigation is beyond contentious - Gillespie fears for his life and health.

b. Gillespie is disabled with speech, hearing, cognitive, and psycho-social disabilities related to a congenial craniofacial disorder. Gillespie also suffered Traumatic Brain Injury (TBI) August 20, 1988 during a criminal attack. Mr. Rodems knows Gillespie's disability from his firm's prior representation. Since March 3, 2006, Mr. Rodems has directed, with malice aforethought, a course of harassing conduct toward Gillespie that has aggravated his disability, caused substantial emotional distress, and serves no legitimate purpose. See *Verified Notice Of Filing Disability Information of Neil J. Gillespie*, filed May 27, 2011. (Exhibit 2).

c. Gillespie made a request for accommodation under Title II of the Americans With Disabilities Act (ADA) February 19, 2010 to Gonzalo B. Casares, ADA Coordinator for the Thirteenth Circuit. Mr. Casares is a building repair and maintenance person unqualified to review Gillespie's ADA medical report prepared by Dr. Karin Huffer. In a letter to Gillespie dated July 9, 2010, David Rowland, Counsel to the Thirteenth Circuit, denied Gillespie's ADA request for accommodation. Mr. Rowland is a lawyer, not a medical doctor, and unqualified to review the medical report, or grant or implement ADA accommodations based upon the medical report. As of today, no qualified person has reviewed the ADA medical report by Dr. Huffer and evaluated Gillespie's ADA request as it relates to Dr. Huffer's report and Title II of the ADA.

d. The hearing on the *Order Adjudging Plaintiff Neil J. Gillespie In Contempt* was held ex parte. Gillespie had no representation. The order is currently on appeal, Case No. 2D10-5197, Second District Court of Appeal, Florida. Mr. Rodems is disrupting the appellate process by holding hearings on the order while on appeal. The appellate court continues to grant extensions of time for Gillespie to file his amended initial brief so that he can address Rodems' ongoing disruptions. In addition, Gillespie's initial brief, and Rodems' answer brief, were stricken because the Clerk provided a defective record and index. The Clerk had to create a new record and index, and issue a "Clerk's Certificate" showing documents disappeared from file.

e. Gillespie was found indigent by Allison Raistrick of the Clerk's Indigent Screening Unit May 27, 2011 pursuant to section 27.52 Florida Statutes to appoint the public defender. Another clerk (anonymous) denied Gillespie indigent status under section 57.082 Florida Statutes to waive fees, thereby obstructing access to subpoenas and the service of subpoenas needed in defense of civil contempt.

f. Gillespie cannot legally represent himself pro se. On November 15, 2010. Judge Martha Cook entered an *Order Prohibiting Plaintiff from Appearing Pro Se*. On its face the order is a sham, and issued before the time expired for Gillespie to respond.

g. Gillespie is prohibited from setting motion with JAWS, the online *Judicial Automated Workflow System* used by lawyers to calendar motions. All pro se litigants must telephone the JA and manually set motions for hearing, and coordinate the available times with the availability of opposing counsel. This is impossible when counsel or the JA is not cooperative, as in this case.

h. The Thirteenth Judicial Circuit, Florida has a conflict hearing this case; it is a defendant in Gillespie v. Thirteenth Judicial Circuit, Florida, et al., case 5:10-cv-503, US District

Court, MD Fla., Ocala, for the misuse and denial of judicial process under the color of law, and violation of Title II of the ADA. Therefore the case should be moved to another circuit or venue.

III. Jurisdiction

5. This Court has appellate jurisdiction granted by Article III of the Constitution to review the Order of the Supreme Court of Florida in Case No. SC11-858 decided May 18, 2011.

6. This Court has original jurisdiction over Title II of the Americans With Disabilities Act (ADA), 42 U.S.C., Chapter 126, Equal Opportunities For Individuals With Disabilities, under Article III of the Constitution, and 28 U.S.C. section 1251.

7. This Court has original jurisdiction over cases in which a state shall be party under Article III of the Constitution, and 28 U.S.C. section 1251.

IV. Order of the Supreme Court of Florida in Case No. SC11-858

8. The Supreme Court of Florida by Order in SC11-858 dated May 18, 2011 denied Gillespie's Emergency Petition for Writ of Habeas Corpus, and Emergency Petition for Writ of Prohibition filed May 3, 2011. (Exhibit 6). Gillespie appeals that Order to this Court.

9. Gillespie's petitions to the Supreme Court of Florida were directed to an Evidentiary Hearing May 3, 2011, a civil contempt proceeding seeking Gillespie's incarceration for violating a state court order. (Exhibit 7). That hearing was held ex parte and Gillespie was not represented, and has been reset for June 1, 2011 at 11:00AM.

10. Gillespie's petitions to the Supreme Court of Florida are contained in a single pleading. (Exhibit 7). Gillespie raised the following issues:

(1) Gillespie's former lawyers Barker, Rodems & Cook, PA unlawfully seek his incarceration on a Writ of Bodily Attachment on "Order Adjudging Neil J. Gillespie In

Contempt" that is currently on appeal as part of a Final Summary Judgment final order in case no. 2010-5197. (¶1)

(2) Gillespie is disabled and has not received a requested ADA accommodation. (¶1)

(3) The attempt to incarcerate Gillespie is pure vengeance by his former lawyers who are angry he sued them to recover \$7,143 stolen from a settlement in prior representation. (¶1)

Due to a lack of time, Gillespie relied on the assertions of the following already filed documents that are incorporated into his petitions and raise the following issues:

(a) Affidavit of Neil J. Gillespie, April 25, 2011, trial court

(i) Gillespie was wrongfully denied ADA accommodation

(ii) Mr. Rodems is unlawfully (unethically) representing his firm against Gillespie, a former client, on a matter that is the same or substantially the same as the prior representation, and his independent professional judgment is materially limited by his own interest and conflict, which is the reason for problems in this case.

(iii) Since March 3, 2006 Mr. Rodems has directed, with malice aforethought, a course of harassing conduct toward Plaintiff that has aggravated his disability, caused substantial emotional distress, and serves no legitimate purpose, and has harmed Gillespie.

(vi) Judge Martha Cook presided over this lawsuit from May 24, 2010 through November 18, 2010. While presiding over this case Judge Cook misused and denied the Gillespie judicial process under the color of law. Gillespie moved to disqualify Judge Cook five times, all of which were all denied. Gillespie filed a Petition for Writ of Prohibition to remove Judge Cook November 18, 2010, Case No. 2D10-5529, Second District Court of Appeal. Judge Cook recused herself from the case the same day.

(v) Because of the forgoing Gillespie concluded that he could not obtain justice in this Court and commenced a Federal Civil Rights lawsuit, Gillespie v. Thirteenth Judicial Circuit, Florida et. al, Case No. 5:10-cv-503-oc-10-DAB, US District Court, Middle District of Florida, Ocala Division.

(b) Appellant's Verified Emergency Motion To Stay Pending Appeal, Motion For Order Of Protection, And Motion For Extension Of Time, April 25, 2011, with Addendum 2dDCA. Denied by the Second District Court of Appeal, Florida, by Order in 2D10-5197. Denied the motion to stay pending appeal, and denied motion for order of protection, granted extension of time. (Exhibit 8). Exhibit 11 to the pleading, is Gillespie's Complaint under Title II of the Americans with Disabilities Act, Section 504 of the Rehabilitation Act of 1973, Discrimination Complaint Form, OMB No. 1190-0009. (This appears elsewhere in the pleading too).

(c) Plaintiff's Motion to Disqualify Judge Arnold, May 2, 2011, trial court. Denied by Order dated May 4, 2011 after holding ex parte hearing.

(d) Verified Emergency Petition for Writ of Prohibition, Motion for Change of Venue, May 2, 2011, 2dDCA. Denied by the 2DCA May 4, 2011. (Exhibit 9).

(i) Gillespie sought to remove Judge Arnold and the Thirteenth Judicial Circuit because he fears he cannot have a fair hearing.

(ii) Court Counsel David A. Rowland has been preemptively defending the Thirteenth Judicial Circuit against Gillespie's lawsuit formally announced July 12, 2010 in the notice of claim made under section 768.28(6)(a) Florida Statutes but first raised in Gillespie's letter to Mr. Rowland of January 4, 2010 requesting information about section 768.28(6)(a) Florida Statutes. Mr. Rowland is controlling the judges in this case from behind the scene since at least January 4, 2010.

(iii) On July 9, 2010 Mr. Rowland seized control of Gillespie's ADA accommodation request from Gonzalo B. Casares, the Court's ADA Coordinator, and issued his own letter denying the request. Likewise there is evidence that Mr. Rowland controlled Judge Cook in this case from behind the scene.

(iv) The Thirteenth Judicial Circuit's unlawful conduct toward Gillespie is so extreme as to discourage counsel from representing him.

(v) Major James Livingston provided Gillespie a letter January 12, 2011 that impeached Judge Cook's "Order Adjudging Plaintiff Neil J. Gillespie In Contempt" issued September 30, 2010.

(vi) As a result of Gillespie's accusations of wrongdoing against the Thirteenth Judicial Circuit, he finds himself in a position not unlike Judge Gregory P. Holder who during 2001 and 2002 cooperated with the FBI in the courthouse corruption investigation. According to testimony by Detective Bartoszak, the courthouse corruption investigation team was concerned that Judge Holder's activities were being monitored by targets of the investigation. Judge Holder was advised by federal law enforcement agents to carry a weapon, and he was provided with a secure cell phone to communicate with the authorities.

(vii) Motion for Change of Venue to Marion County, Florida. At paragraph 35. "Because of the foregoing Gillespie cannot have a fair hearing in the Thirteenth Judicial Circuit and moves for a change of venue to Marion County, Florida, where he resides. In the alternative Gillespie moves to consolidate this case with the federal lawsuit Gillespie v. Thirteenth Judicial Circuit et al., Case No. 5:10-cv-503-oc-WTHDAB, US District Court, MD Florida, Ocala Division."

V. Our Legal System Depends Upon Integrity Of The Bar And The Bench

11. Our legal system depends upon the integrity of individual members of the bar and bench to follow the rules and codes of the legal profession and the judiciary. That integrity has broken down in this case, making it either impossible to fairly resolve, or prohibitively expensive in time and dollars. The practice of law is a profession the purpose of which is to supply disinterested counsel and service to others using independent professional judgment. In this case opposing counsel's independent professional judgment is materially limited by his own interest and conflict. Deference to the judgments and rulings of courts depends upon confidence in the integrity and independence of judges. In this case Judge Cook abandoned her integrity and independence by acting in the interest of opposing counsel. While Judge Cook is gone, the damage done to the case and my position may be impossible to overcome. Because of the foregoing, it is impossible for a fair adjudication of this matter in the 13th Circuit, and perhaps anywhere in Florida.

a. Circuit Court Judge Martha J. Cook repeatedly misused and denied judicial process to Gillespie under the color of law. Gillespie third motion to disqualify Judge Cook, "Emergency Motion To Disqualify Judge Cook" filed November 1, 2010 shows how Judge Cook knowingly introduced false information into the court record and other such as a coercive technique used to induce psychological confusion and regression in Gillespie by bringing a superior outside force to bear on his will to resist or to provoke a reaction in Gillespie. The CIA manual on torture techniques, the KUBARK manual, calls this the Alice in Wonderland or confusion technique.

b. Gillespie's fourth motion to disqualify Judge Cook, "Plaintiff's Fourth Motion To Disqualify Judge Martha J. Cook" November 8, 2010, shows that Judge Cook was essentially insolvent due to a near-collapse of the family business, Community Bank of Manatee, which was

operating under Consent Order, FDIC-09-569b and OFR 0692-FI-10/09. An insolvent judge lacks judicial independence and is a threat to democracy. As shown in Gillespie's motion to disqualify, Judge Cook's financial affairs violated the Code of Judicial Canons 2, 3, 5 and 6. Judge Cook's small (\$276M) nonmember FDIC insured bank lost over \$10 million dollars in 2009 and 2010, sold a controlling interest to a foreign national, who during the review process in Florida failed to disclose that its past employer ABN AMRO bank faced one of the largest Money Laundering and Trading With The Enemy cases ever brought by the Department of Justice. See

<http://www.federalreserve.gov/BoardDocs/Press/enforcement/2005/20051219/default.htm>

<http://www.idfpr.com/NEWSRLS/121905ABNAMROFine.asp>

http://lawprofessors.typepad.com/whitecollarcrime_blog/2005/12/abn_amro_bank_t.html

<http://www.fbi.gov/washingtondc/press-releases/2010/wfo051010.htm>

<http://www.justice.gov/opa/pr/2010/May/10-crm-548.html>

In 2011 Judge Cook's bank engaged in a untoward deal to merge two money-losing banks. In April 2011 Florida Governor Rick Scott suggested Gillespie share his concerns with the Florida Cabinet, which he did. Florida Attorney General Pam Bondi responded May 24, 2011 that the matter was forwarded to the legal department. Florida Agriculture Commissioner Adam Putnam responded May 17, 2011 and agreed with Gillespie that that politics have no role in determining the future of a financial institution. (Exhibit 10).

12. A copy of Plaintiff's First Amended Complaint, filed May 5, 2010, is submitted as Exhibit 11. Judge Cook refused to allow Gillespie to file even one amended complaint. The amended complaint shows how Barker, Rodems & Cook, PA perpetrated their fraud against Gillespie and other clients. Mr. Rodems is unethically representing his firm against Gillespie, a former client, on a matter that is the same or substantially similar to the prior representation, and

his independent professional judgment is materially limited by his own interest and conflict, which is the reason for problems in this case. Mr. Rodems should be disqualified as counsel.

VI. Prohibition: Thirteenth Judicial Circuit Has Conflict With Gillespie

13. Gillespie v Thirteenth Judicial Circuit, Florida, et al. Case No. 5:10-cv-503, US District Court, Middle District of Florida, Ocala Division, shows a conflict with Gillespie. A copy of Gillespie's federal ADA and Civil Rights complaint is submitted as Exhibit 12. The Thirteenth Judicial Circuit Should be disqualified as set forth in Emergency Petition for Writ of Prohibition filed May 3, 2011 in the Supreme Court of Florida. (Exhibit 6). This is a matter of public importance since legal research shows there is no case law on this subject, a fact confirmed to Gillespie in an email received from James R. Birkhold, Clerk of the Court, Florida Second District Court of Appeal.

VII. Americans With Disabilities Act (ADA)

14. Gillespie submitted a reasonable request for accommodation under Title II of the ADA February 19, 2010 accompanied by a medical report by Dr. Karin Huffer. (Exhibit 5). As of today no qualified person has reviewed the ADA Report by Dr. Karin Huffer and evaluated Gillespie's ADA request as it related to Dr. Huffer's report and Title II of the ADA.

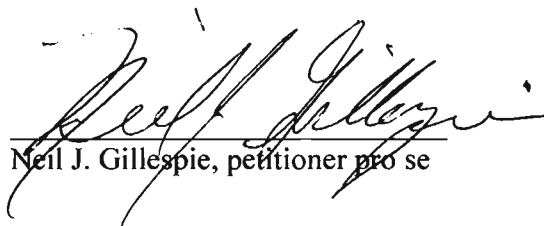
VIII Conclusion

15. A stay or injunction is necessary in this case to preserve the status quo during pendency of resolution of the issues presented. Gillespie is entitled to reasonable accommodations under the ADA, for a qualified person to review the ADA medical report by Dr. Huffer and evaluate Gillespie's ADA request as it relates to Dr. Huffer's report and Title II of the ADA. Our legal system depends upon the integrity of individual members of the bar and bench to follow the rules and codes of the legal profession and the judiciary. Deference to the judgments and rulings of

courts depends upon confidence in the integrity and independence of judges. This case shows what legal experts are saying. Lawrence Tribe, a constitutional scholar, a former Harvard Law School Professor, and Senior Counselor for Access to Justice at the US Justice Department spoke in June 2010 at the American Constitution Society. Tribe called Americans' access to justice a "dramatically understated" crisis. "The whole system of justice in America is broken," Tribe said. "The entire legal system is largely structured to be labyrinthine, inaccessible, unusable." Attorney and journalist Amy Bach spent eight years investigating the widespread courtroom failures that each day upend lives across America. In the process, she discovered how the professionals who work in the system, however well intentioned, cannot see the harm they are doing to the people they serve. Her book is "Ordinary Injustice, How America Holds Court." And perhaps the most insightful critic relative to the issues in this case are by Law Professor Benjamin H. Barton, author of the book on The Lawyer-Judge Bias in the American Legal System. Barton writes that virtually all American judges are former lawyers, a shared background that results in the lawyer-judge bias. This book argues that these lawyer-judges instinctively favor the legal profession in their decisions and that this bias has far-reaching and deleterious effects on American law. Professor Barton submitted an amici brief in Turner with Professor Darryl Brown in support of Respondents.

WHEREFORE Gillespie petitions the Court for a stay or injunction to preserve the status quo during pendency of resolution of the issues presented.

RESPECTFULLY SUBMITTED May 31, 2011.


Neil J. Gillespie, petitioner pro se

Appendix

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| | |
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| Exhibit 1 | May 24, 2011, Plaintiff's Motion For Appointment of Counsel, ADA, Memo of Law |
| Exhibit 2 | May 25, 2011, email, Gillespie to counsel for <u>Turner</u> |
| Exhibit 3 | May 27, 2011, letter, Michael D. Leffel, Foley & Lardner, declined representation |
| Exhibit 4 | Dr. Karin Huffer, October 28, 2010, ADA Accommodations for Neil Gillespie |
| Exhibit 5 | May 27, 2011, Verified Notice of Filing Disability Information of Neil J. Gillespie |
| Exhibit 6 | May 18, 2011, Florida Supreme Court, Order, DENIED petitions, SC11-858 |
| Exhibit 7 | May 3, 2011, Petition, Supreme Court Florida, writ of prohibition, habeas corpus, SC11-858 |
| Exhibit 8 | May 2, 2011, Second District Court of Appeal, Order, DENIED stay, protection 2D10-5197 |
| Exhibit 9 | May 4, 2011, Second District Court of Appeal, Order, DENIED writ prohibition 2D10-5197 |
| Exhibit 10 | Letters, Gov. Rick Scott, AG Pam Bondi, Agriculture Commissioner Adam Putnam |
| Exhibit 11 | May 5, 2010, <u>Plaintiff's First Amended Complaint</u> , 05-CA-007205, Gillespie v BRC |
| Exhibit 12 | September 28, 2010, complaint, <u>Gillespie v Thirteenth Judicial Circuit, Florida, et al</u> |

No: _____

IN THE
SUPREME COURT OF THE UNITED STATES

NEIL J. GILLESPIE - PETITIONER

VS.

BARKER, RODEMS & COOK, PA, et al. - RESPONDENTS

PROOF OF SERVICE

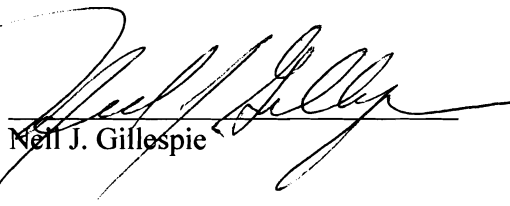
I, Neil J Gillespie, do swear or declare that on this date, May 31, 2011, as required by Supreme Court Rule 29 I have served the enclosed MOTION FOR LEAVE TO PROCEED *IN FORMA PAUPERIS* and EMERGENCY PETITION FOR STAY OR INJUNCTION on each party to the above proceeding or that party's counsel, and on every other person required to be served, by depositing an envelope containing the above documents in the United States mail properly addressed to each of them and with first-class postage prepaid, or by delivery to a third-party commercial carrier for delivery within 3 calendar days. The names and addresses of those served are as follows:

Ryan Christopher Rodems
Barker, Rodems & Cook, PA
400 North Ashley Drive, Suite 2100
Tampa, Florida 33602.

David A. Rowland, Court Counsel
Thirteenth Judicial Circuit Of Florida
Legal Department
800 E. Twiggs Street, Suite 603
Tampa, Florida 33602

I declare under penalty of perjury that the foregoing is true and correct.

Executed on May 31, 2011


Neil J. Gillespie

Neil Gillespie

From: "Neil Gillespie" <neilgillespie@mfi.net>
To: "Seth Waxman" <seth.waxman@wilmerhale.com>; "Stephanos Bibas" <sbibas@law.upenn.edu>
Cc: "James Emory Smith" <AGESmith@scag.gov>; "Noel Francisco" <njfrancisco@jonesday.com>;
"Anthony Franze" <anthony.franze@aporter.com>; "Neal Kumar Katyal"
<SupremeCtBriefs@USDOJ>; "Michael Leffel" <mleffel@foley.com>; "Stephen McConnell"
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"John Moylan" <jmoylan@wyche.com>; "David Raim" <drain@chadbourne.com>; "Stephen Zack"
<abapresident@abanet.org>
Sent: Wednesday, May 25, 2011 10:45 AM
Attach: 2011, 05-24-11, P's Motion For Appointment of Counsel, w Memo Law.pdf
Subject: Turner v. Rogers, Docket 10-10, US Supreme Court
Mr. Seth P. Waxman for Petitioner
Mr. Stephanos Bibas for Respondent
Counsel for Amicus Curiae and Parties at Interest

RE: Turner v. Rogers, Docket 10-10, US Supreme Court

Dear Counsel:

Thank you, each counsel who has participated in Turner v. Rogers. Because your work is accessible through the Supreme Court website and the SCOTUS Blog, it is available to ordinary people like me, an indigent civil contemnpor facing incarceration. Attached you will find my motion for appointment of counsel, based on legal arguments in Turner, that was filed yesterday.

The facts in my case are different, and in some ways more compelling than Turner. Last week the Florida Supreme Court denied my petition of writ of habeas corpus and petition for writ of prohibition. (Case No. SC11-858). Yesterday I spoke with Clayton Higgins, case analyst at the US Supreme Court, who said I have 90 days from the denial to file a petition for writ of certiorari; but I may need quicker relief like a stay. Other documents in this matter are posted on my Justice Network website, <http://YouSue.org/> and Scribd.

If anyone can offer assistance, I would appreciate that, or a referral. Time is of the essence.

Sincerely,

Neil J. Gillespie, pro se, nonlawyer
8092 SW 115h Loop
Ocala, Florida 34481
Telephone: (352) 854-7807
email: neilgillespie@mfi.net
Justice Network: <http://YouSue.org/>

cc: Dr. Karin Huffer





FOLEY & LARDNER LLP

ATTORNEYS AT LAW

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MADISON, WI 53701-1497
608.257.5035 TEL
608.258.4258 FAX
foley.com

May 27, 2011

VIA EMAIL AND U.S. MAIL

WRITER'S DIRECT LINE
608.258.4216
mleffel@foley.com EMAIL

Neil J. Gillespie
8092 SW 115th Loop
Ocala, Florida 34481

Dear Mr. Gillespie:

I am responding to your correspondence to our office requesting our assistance in representing you.

Each year, we receive a large number of requests for pro bono representation and we are unable to honor all requests. We evaluate each case based on a number of factors, as well as considering the demands of our current case load, before deciding whether we are able to offer representation. For a variety of reasons, including the press of other business, we are unfortunately unable to represent you in connection with this matter.

Sincerely,

Michael D. Leffel

BOSTON
BRUSSELS
CHICAGO
DETROIT

JACKSONVILLE
LOS ANGELES
MADISON
MIAMI

MILWAUKEE
NEW YORK
ORLANDO
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SAN DIEGO/DEL MAR
SAN FRANCISCO
SHANGHAI

SILICON VALLEY
TALLAHASSEE
TAMPA
TOKYO
WASHINGTON, D.C.



Neil Gillespie

From: "Ernst, Heidi" <HErnst@foley.com>
To: "Neil Gillespie" <neilgillespie@mfi.net>
Cc: "Leffel, Michael D." <MLEffel@foley.com>; "Sterken, Krista J." <KSterken@foley.com>
Sent: Friday, May 27, 2011 11:27 AM
Attach: (Untitled).PDF
Subject: Representation
Mr. Gillespie,

Please see the attached letter.

Heidi

Heidi Ernst

Assistant to Michael D. Leffel,
Matthew R. Lynch and Connor A. Sabatino
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DR. KARIN HUFFER

Licensed Marriage and Family Therapist #NV0082
ADAAA Titles II and III Specialist
Counseling and Forensic Psychology
3236 Mountain Spring Rd. Las Vegas, NV 89146
702-528-9588 www.lvaallc.com

October 28, 2010

To Whom It May Concern:

I created the first request for reasonable ADA Accommodations for Neil Gillespie. The document was properly and timely filed. As his ADA advocate, it appeared that his right to accommodations offsetting his functional impairments were in tact and he was being afforded full and equal access to the Court. Ever since this time, Mr. Gillespie has been subjected to ongoing denial of his accommodations and exploitation of his disabilities

As the litigation has proceeded, Mr. Gillespie is routinely denied participatory and testimonial access to the court. He is discriminated against in the most brutal ways possible. He is ridiculed by the opposition, accused of malingering by the Judge and now, with no accommodations approved or in place, Mr. Gillespie is threatened with arrest if he does not succumb to a deposition. This is like threatening to arrest a paraplegic if he does not show up at a deposition leaving his wheelchair behind. This is precedent setting in my experience. I intend to ask for DOJ guidance on this matter.

While my work is as a disinterested third party in terms of the legal particulars of a case, I am charged with assuring that the client has equal access to the court physically, psychologically, and emotionally. Critical to each case is that the disabled litigant is able to communicate and concentrate on equal footing to present and participate in their cases and protect themselves.

Unfortunately, there are cases that, due to the newness of the ADAAA, lack of training of judicial personnel, and entrenched patterns of litigating without being mandated to accommodate the disabled, that persons with disabilities become underserved and are too often ignored or summarily dismissed. Power differential becomes an abusive and oppressive issue between a person with disabilities and the opposition and/or court personnel. The litigant with disabilities progressively cannot overcome the stigma and bureaucratic barriers. Decisions are made by medically unqualified personnel causing them to be reckless in the endangering of the health and well being of the client. This creates a severe justice gap that prevents the ADAAA from being effectively applied. In our adversarial system, the situation can devolve into a war of attrition. For an unrepresented litigant with a disability to have a team of lawyers as adversaries, the demand of litigation exceeds the unrepresented, disabled litigant's ability to maintain health while pursuing justice in our courts. Neil Gillespie's case is one of those. At this juncture the harm to Neil Gillespie's health, economic situation, and general diminishment of him in terms of his legal case cannot be overestimated and this bell

cannot be unrung. He is left with permanent secondary wounds.

Additionally, Neil Gillespie faces risk to his life and health and exhaustion of the ability to continue to pursue justice with the failure of the ADA Administrative Offices to respond effectively to the request for accommodations per Federal and Florida mandates. It seems that the ADA Administrative offices that I have appealed to ignore his requests for reasonable accommodations, including a response in writing. It is against my medical advice for Neil Gillespie to continue the traditional legal path without properly being accommodated. It would be like sending a vulnerable human being into a field of bullies to sort out a legal problem.

I am accustomed to working nationally with courts of law as a public service. I agree that our courts must adhere to strict rules. However, they must be flexible when it comes to ADA Accommodations preserving the mandates of this federal law Under Title II of the ADA. While public entities are not required to create new programs that provide heretofore unprovided services to assist disabled persons. (*Townsend v. Quasim* (9th Cir. 2003) 328 F.3d 511, 518) they are bound under ADA as a ministerial/administrative duty to approve any reasonable accommodation even in cases merely regarded as having a disability with no formal diagnosis.

The United States Department of Justice Technical Assistance Manual adopted by Florida also provides instructive guidance: "The ADA provides for equality of opportunity, but does not guarantee equality of results. The foundation of many of the specific requirements in the Department's regulations is the principle that individuals with disabilities must be provided an equally effective opportunity to participate in or benefit from a public entity's aids, benefits, and services." (U.S. Dept. of Justice, Title II, *Technical Assistance Manual* (1993) § II-3.3000.) A successful ADA claim does not require excruciating details as to how the plaintiff's capabilities have been affected by the impairment, even at the summary judgment stage. *Gillen v. Fallon Ambulance Serv., Inc.*, 283 F.3d. My organization follows these guidelines maintaining a firm, focused and limited stance for equality of participatory and testimonial access. That is what has been denied Neil Gillespie.

The record of his ADA accommodations requests clearly shows that his well-documented disabilities are now becoming more stress-related and marked by depression and other serious symptoms that affect what he can do and how he can do it particularly under stress. Purposeful exacerbation of his symptoms and the resulting harm is, without a doubt, a strategy of attrition mixed with incompetence at the ADA Administrative level of these courts. I am prepared to stand by that statement as an observer for more than two years.

Supreme Court of Florida

WEDNESDAY, MAY 18, 2011

CASE NO.: SC11-858

Lower Tribunal No(s): 05-CA-007205

NEIL J. GILLESPIE

vs. BARKER, RODEMS &
COOK, P.A., ET AL.

Petitioner(s)

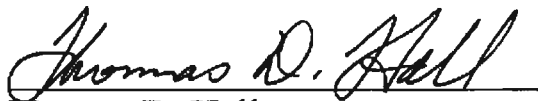
Respondent(s)

The petition for writ of habeas corpus is hereby denied.

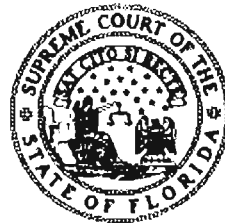
PARIENTE, LEWIS, QUINCE, POLSTON, and PERRY, JJ., concur.

A True Copy

Test:



Thomas D. Hall
Clerk, Supreme Court



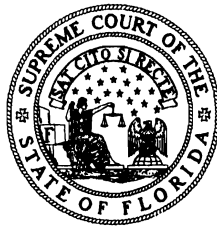
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Served:

DAVID A. ROWLAND
NEIL J. GILLESPIE
RYAN CHRISTOPHER RODEMS
HON. PAT FRANK, CLERK
HON. JAMES D. ARNOLD, JUDGE

EXHIBIT

6



Supreme Court of Florida

Office of the Clerk
500 South Duval Street
Tallahassee, Florida 32399-1927

THOMAS D. HALL
CLERK
TANYA CARROLL
CHIEF DEPUTY CLERK
SUSAN DAVIS MORLEY
STAFF ATTORNEY

PHONE NUMBER (850) 488-0125
www.floridasupremecourt.org

ACKNOWLEDGMENT OF NEW CASE

May 4, 2011

RE: NEIL J. GILLESPIE vs. BAKER, RODEMS & COOK,
P.A., ET AL.

CASE NUMBER: SC11-858
Lower Tribunal Case Number(s) : 05-CA-007205

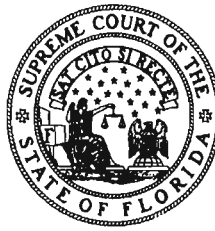
The Florida Supreme Court has received the following documents reflecting a filing date of 5/3/2011.

Emergency Petition for Writ of Habeas Corpus
Emergency Petition for Writ of Prohibition

The Florida Supreme Court's case number must be utilized on all pleadings and correspondence filed in this cause. Moreover, ALL PLEADINGS SIGNED BY AN ATTORNEY MUST INCLUDE THE ATTORNEY'S FLORIDA BAR NUMBER.

FOR GENERAL FILING INFORMATION AND ADMINISTRATIVE ORDER NO. AOSC04-84, PLEASE VISIT THE CLERK'S OFFICE WEBSITE AT <http://www.floridasupremecourt.org/clerk/index.shtml>

wm
cc:
DAVID A. ROWLAND
NEIL J. GILLESPIE
RYAN CHRISTOPHER RODEMS
HON. PAT FRANK, CLERK
HON. JAMES D. ARNOLD, JUDGE



Supreme Court of Florida

Office of the Clerk
500 South Duval Street
Tallahassee, Florida 32399-1927

THOMAS D. HALL
CLERK
TANYA CARROLL
CHIEF DEPUTY CLERK
SUSAN DAVIS MORLEY
STAFF ATTORNEY

PHONE NUMBER (850) 488-0125
www.floridasupremecourt.org

AMENDED
ACKNOWLEDGMENT OF NEW CASE
May 5, 2011

RE: NEIL J. GILLESPIE vs. BARKER, RODEMS &
COOK, P.A., ET AL.

CASE NUMBER: SC11-858
Lower Tribunal Case Number(s) : 05-CA-007205

The Florida Supreme Court has received the following documents reflecting a filing date of 5/3/2011.

Emergency Petition for Writ of Habeas Corpus
Emergency Petition for Writ of Prohibition

The Florida Supreme Court's case number must be utilized on all pleadings and correspondence filed in this cause. Moreover, ALL PLEADINGS SIGNED BY AN ATTORNEY MUST INCLUDE THE ATTORNEY'S FLORIDA BAR NUMBER.

**FOR GENERAL FILING INFORMATION AND ADMINISTRATIVE ORDER
NO. AOSC04-84, PLEASE VISIT THE CLERK'S OFFICE WEBSITE AT
<http://www.floridasupremecourt.org/clerk/index.shtml>**

wm

cc:

DAVID A. ROWLAND
NEIL J. GILLESPIE
RYAN CHRISTOPHER RODEMS
HON. PAT FRANK, CLERK
HON. JAMES D. ARNOLD, JUDGE

Florida Supreme Court Case Docket

Case Number: SC11-858 - Closed

NEIL J. GILLESPIE vs. BARKER, RODEMS & COOK, P.A., ET AL.

Lower Tribunal Case(s): 05-CA-007205

05/21/2011 02:38

| Date Docketed | Description | Filed By | Notes |
|----------------------|------------------------|---|--|
| 05/03/2011 | PETITION-HABEAS CORPUS | PS Neil J. Gillespie BY: PS Neil J. Gillespie | W/ATTACHMENTS (FILED AS "EMERGENCY PETITION FOR WRIT OF HABEAS CORPUS & EMERGENCY PETITION FOR WRIT OF PROHIBITION") (05/05/11: ACK OF NEW CASE LTR CORRECTED TO REFLECT CORRECT CASE STYLE) |
| 05/04/2011 | No Fee Required | | |
| 05/18/2011 | DISP-HABEAS CORPUS DY | | The petition for writ of habeas corpus is hereby denied. |

IN THE DISTRICT COURT OF APPEAL OF THE STATE OF FLORIDA
SECOND DISTRICT, POST OFFICE BOX 327, LAKE LAND, FL 33802-0327

May 4, 2011

CASE NO.: 2D11-2127

L.T. No. : 05-CA-007205

Neil J. Gillespie

v. Barker, Rodems & Cook,
P A & William J. Cook

Appellant / Petitioner(s),

Appellee / Respondent(s).

BY ORDER OF THE COURT:

Petitioner's petition for writ of habeas corpus is denied.

LaROSE, CRENSHAW, and BLACK, JJ., Concur.

I HEREBY CERTIFY that the foregoing is a true copy of the original court order.

Served:

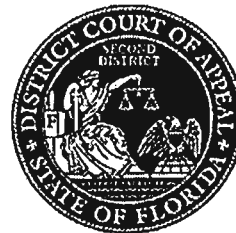
Neil J. Gillespie

Ryan Christopher Rodems, Esq.

Pat Frank, Clerk

aw


James Birkhold
Clerk



EXHIBIT

9

IN THE DISTRICT COURT OF APPEAL OF THE STATE OF FLORIDA
SECOND DISTRICT, POST OFFICE BOX 327, LAKE LAND, FL 33802-0327

May 6, 2011

CASE NO.: 2D11-2127

L.T. No. : 05-CA-007205

Neil J. Gillespie

v. Barker, Rodems & Cook,
P A & William J. Cook

Appellant / Petitioner(s),

Appellee / Respondent(s).

BY ORDER OF THE COURT:

AMENDED ORDER

Petitioner's petition for writ of prohibition is denied.

LaROSE, CRENSHAW and BLACK, JJ., Concur.

I HEREBY CERTIFY that the foregoing is a true copy of the original court order.

Served:

Neil J. Gillespie

Ryan Christopher Rodems, Esq.

Pat Frank, Clerk

aw


James Birkhold
Clerk





RICK SCOTT
GOVERNOR

STATE OF FLORIDA
Office of the Governor

THE CAPITOL
TALLAHASSEE, FLORIDA 32399-0001

www.flgov.com
850-488-7146
850-487-0801 fax

April 13, 2011

Mr. Neil Gillespie
8092 Southwest 115th Loop
Ocala, Florida 34481

Dear Mr. Gillespie:

Thank you for contacting Governor Rick Scott's office about changes to the Office of Financial Regulation. The Governor asked that I respond on his behalf.

Governor Scott wants to know how people feel about the many issues we face and your input is important to him. As you know, the Governor and the Cabinet serve over the Office of Financial Regulation (OFR) together as the Financial Services Commission and make decisions about its functions. You may also wish to share your concerns with the Florida Cabinet: Attorney General Pam Bondi, Chief Financial Officer Jeff Atwater and Agriculture Commissioner Adam Putnam. Please do not hesitate to write again to share your concerns and ideas about issues that are important to you.

Thank you again for taking the time to contact the Governor's Office.

Sincerely,

A handwritten signature in black ink that reads "Julie A. Jordan".

Julie A. Jordan
Office of Citizen Services

JAJ/cas

Attorney General Pam Bondi
Office of Attorney General
State of Florida
The Capitol PL-01
Tallahassee, FL 32399-1050

April 30, 2011

Chief Financial Officer Jeff Atwater
Office of the Chief Financial Officer
Florida Department of Financial Services
200 East Gaines Street
Tallahassee, FL 32399-0301

Agriculture Commissioner Adam Putnam
Florida Department of Agriculture and Consumer Services
The Capitol
Tallahassee, FL 32399-0800

Dear Ms. Bondi, and Messrs. Atwater and Putnam:

Governor Scott suggested I share my concerns with the Florida Cabinet about my recent experience with the Office of Financial Regulation (OFR). In a word, it was awful. Enclosed you will find copies of the Governor's letter and my letter to him of February 22, 2011 about irregularities in the application of Marcelo Lima, foreign national, to obtain a controlling interest in a Community Bank of Manatee (CBM), a small (\$276M) nonmember FDIC insured bank.

The bank lost over \$10 million dollars in 2009 and 2010 and was under consent order until recently. CBM was founded in 1995 by William H. Sedgeman who is married to Circuit Judge Martha J. Cook in Hillsborough County. Judge Cook's 2009 Form 6 disclosure showed she was essentially insolvent. An insolvent judge lacks judicial independence and is a threat to democracy. That might explain her outrageous behavior while presiding over a civil lawsuit between me and my former lawyers. Judge Cook recused herself immediately upon my Petition For Writ of Prohibition, 2D10-5529, which included information about her insolvency.

Good government benefits the well-being of Florida and its residents and has my support. Good government breaks down when special interests prevail, and that appears the case at OFR and a proposed merger between Judge Cook's bank and First Community Bank of America, Pinellas Park, Florida. I believe OFR Commissioner Cardwell is using his office to benefit the special interests of Judge Cook, her bank, and well-connected law firms who appear before Judge Cook, over the interests of the citizens of Florida. The proposed merger is between two money-losing banks that makes no financial sense given the poor economic conditions in the bank's market.

OFR granted my petition for a public hearing on the proposed merger (Admin. File No. 0828-FI-03/11) but stonewalled requests for information about the public hearing process. For example OFR failed to provide an agenda for the hearing. OFR counsel Janet Massin Anderson, Fla. Bar No. 054821, responded to my request for information stating "Please be advised that the public hearing in the matter of the proposed merger of Community Bank & Co. and First Community

Bank of America is being handled in accordance with Florida Statutes and the rules promulgated thereunder.” Clearly this is not useful in understanding the public hearing process.

Ms. Anderson also failed to provide the Order Granting Hearing as shown in the certificate of service, misconduct intended to impede my participation. Twenty-five hours before the hearing I filed a notice of withdrawal due to a renewed threat of incarceration on a bogus contempt order by Judge Cook in the civil litigation. Ms. Anderson failed to acknowledge the withdrawal, or confirm if the hearing would be canceled, until the next day, and less than 2 hours before the hearing commenced. Ms. Anderson’s misconduct should be disciplined by the Florida Bar.

Florida’s financial institutions have failed at a faster rate, and cost the FDIC disproportionately more than elsewhere. This past December Commissioner Cardwell reported to the Financial Services Commission that “Since January 2009, 44 financial institutions have failed: 14 in 2009, 29 in 2010 and one already in 2011. Florida is in the top five states nationally in the number of mortgage foreclosures.” The mortgage foreclosure crisis has resulted in the breakdown of the rule of law in Florida’s courts. Last month the ACLU sued Lee County for systematically denying homeowners a fair opportunity to defend their homes against foreclosure.

The Financial Crisis Inquiry Commission determined that the 2008 financial crisis was an “avoidable” disaster caused by widespread failures in government regulation, corporate mismanagement and heedless risk-taking by Wall Street. More recently the 650-page US Senate report, “Wall Street and the Financial Crisis: Anatomy of a Financial Collapse,” was released by the Senate Permanent Subcommittee on Investigations. Senator Carl Levin, co-chairman of the subcommittee, said in a New York Times interview, “The overwhelming evidence is that those institutions deceived their clients and deceived the public, and they were aided and abetted by deferential regulators and credit ratings agencies who had conflicts of interest.” (New York Times, April 13, 2011, *Naming Culprits in the Financial Crisis*).

I encourage each of you to read the documents in my petition for public hearing on the proposed merger, which are also published on Scribd. You will find OFR is a parody, Mr. Cardwell used his office to benefit a special interest, and Ms. Anderson is unethical.

Thank you for your consideration.

Sincerely,

Neil J. Gillespie
8092 SW 115th Loop
Ocala, Florida 34481

cc: Gov. Rick Scott (letter only)
Enclosures



FLORIDA DEPARTMENT OF AGRICULTURE AND CONSUMER SERVICES
COMMISSIONER ADAM H. PUTNAM

May 17, 2011

Mr. Neil J. Gillespie
8092 SW 115th Loop
Ocala, FL 34481

Dear Mr. Gillespie:

Thank you for contacting Commissioner Putnam to share your concerns with the Florida Office of Financial Regulation (OFR). He has requested that I contact you on his behalf.

Commissioner Putnam agrees that politics have no role in determining the future of a financial institution and believes that consistent regulation of our state's financial institutions will provide for the growth and stability of sound community banks and thrifts. Please know that it remains of paramount importance to the Commissioner that Florida's financial institutions receive fair and equal treatment among regulators – whether State or Federal.

The Commissioner has directed me to make sure your concerns are brought to OFR's attention and properly addressed.

If you would like to discuss this matter further, please feel free to contact our Cabinet Affairs Office at (850) 617-7747.

Sincerely,

A handwritten signature in black ink that reads "Brooke R. McKnight".

Brooke R. McKnight
Deputy Cabinet Affairs Director

cc: Linda Charity, Director
Division of Financial Institutions
Office of Financial Regulation



**PAM BONDI
ATTORNEY GENERAL
STATE OF FLORIDA**

OFFICE OF THE ATTORNEY GENERAL

**Office of Citizen Services
The Capitol
Tallahassee, Florida 32399-1050**

**Toll-free In Florida: (866) 966-7226
Telephone: (850) 414-3990
Fax: (850) 410-1630**

May 24, 2011

Mr. Neil J. Gillespie
8092 Southwest 115th Loop
Ocala, Florida 34481

Dear Mr. Gillespie:

Attorney General Pam Bondi received your correspondence regarding your experiences with the Florida Office of Financial Regulation (OFR). Attorney General Bondi asked that I respond. I am sorry for your difficulties.

We have reviewed your correspondence to determine if our agency can in any way be of assistance to you. Your complaint has been forwarded to the Attorney General's legal staff for further review. What action, if any, this office may take is unknown at this time. However, please be aware our office does not mediate on behalf of private individuals.

If you are dissatisfied with the handling of your concerns by OFR, you may wish to contact the OFR Inspector General for any assistance which may be available. The contact information is:

Office of Inspector General
Office of Financial Regulation
200 East Gaines Street
Tallahassee, Florida 32399-0370
Telephone: (850) 410-9712

As the OFR is an agency under the direct authority of the Governor's Office, you may also wish to contact the Chief Inspector General for the State of Florida at (850) 922-4637.

Please consult a private attorney for any legal guidance you may need. The Florida Bar offers a Lawyer Referral Service toll-free at (800) 342-8060. If you cannot afford an attorney, you may be eligible for low cost or pro bono assistance through a local legal aid office. The Florida Bar can assist you with this process.

I hope you will understand the Attorney General's duties are prescribed by law. Thank you for taking the time to share your concerns with the Attorney General's Office.

Sincerely,

Brandon Brooks
Office of Citizen Services