

UNITED STATES DISTRICT COURT
MIDDLE DISTRICT OF FLORIDA
OCALA DIVISION

NEIL JOSEPH GILLESPIE,

Plaintiff,

v.

Case No. 5:21-cv-416-PGB-PRL

STATE OF FLORIDA,

Defendant.

ORDER OF DISMISSAL

Plaintiff, a pre-trial detainee at the Marion County Jail proceeding *pro se*, initiated this action by filing a civil rights complaint. (Doc. 1.) Plaintiff complains that the statute under which he is charged is unconstitutional. (*Id.*)

The case is currently before the Court for screening pursuant to the Prison Litigation Reform Act (PLRA). The PLRA requires the Court to dismiss a case if the Court determines that the action is frivolous, malicious, fails to state a claim upon which relief can be granted, or seeks monetary relief against a defendant who is immune from such relief. *See* 28 U.S.C. § 1915A. The Court must liberally construe a *pro se* Plaintiff's allegations. *See Haines v. Kerner*, 404 U.S. 519 (1972); *see also Miller v. Stanmore*, 636 F. 2d 986, 988 (5th Cir. 1981).

This Court must abstain from passing on Plaintiff's claims pursuant to the *Younger v. Harris* abstention doctrine. 401 U.S. 37 (1971). "Under *Younger v. Harris* and its

progeny, federal district courts must refrain from enjoining pending state court proceedings except under special circumstances.” *Old Republic Union Ins. Co. v. Tillis Trucking Co., Inc.*, 124 F.3d 1258, 1261 (11th Cir. 1997). “The policy of equitable restraint expressed in [*Younger*] . . . is founded on the premise that ordinarily a pending state prosecution provides the accused a fair and sufficient opportunity for vindication of federal constitutional rights.” *Hughes v. Att’y Gen. of Fla.*, 377 F.3d 1258, 1264 n. 7 (11th Cir. 2004).

The exceptions to *Younger* are very narrow and apply only if there is evidence of state proceedings motivated by bad faith, irreparable injury would occur, or there is no adequate alternative state forum where the plaintiff’s constitutional issues can be raised. *Hughes v. Att’y Gen. of Fla.*, 377 F.3d 1258, 1263 (11th Cir. 2004). In his most recent filing, received by the Court on March 10, 2022, Plaintiff has communicated that his state criminal case is ongoing. (Doc. 22.) None of the *Younger* exceptions apply in the present case.

For the reasons stated herein, the complaint (Doc. 1) is **DISMISSED without prejudice**. The Clerk is directed to enter judgment accordingly, terminate any pending motions, and close the file.

IT IS SO ORDERED.

DONE AND ORDERED in Ocala, Florida, on April 4, 2022.



PAUL G. BYRON
UNITED STATES DISTRICT JUDGE

Copies furnished to:
Counsel of Record
Unrepresented Parties
SA: OCAP-2

FILED

United States District Court
Middle District of Florida
OCALA Division

2021 AUG 16 PM 12:58
CLERK, US DISTRICT COURT
MIDDLE DISTRICT OF FL
OCALA, FL 32101

Neil Joseph Gillespie
INMATE ID: A0255941

PLAINTIFF,

CASE NO: 5:21-cv-416

v.

PGB - PRL

STATE OF Florida,
DEFENDANT.

COMPLAINT FOR A CONSTITUTIONAL CHALLENGE TO A STATUTE

PLAINTIFF PRO SE Neil Joseph Gillespie sues the state of Florida under Fed. R. Civ. Pro 5.1(a)(2) FOR A CONSTITUTIONAL CHALLENGE TO Florida statute 934.03, INTERCEPTION AND DISCLOSURE OF WIRE, ORAL, OR ELECTRONIC COMMUNICATION PROHIBITED, AND STATES:

PARTIES

1. The PLAINTIFF is Neil Joseph Gillespie ("Gillespie"), home address 8092 SW 115th Loop, Ocala, Marion County, Florida, 34481.
 - Gillespie is currently incarcerated in the Marion County Jail, 3290 NW 10th Street, Ocala, Marion County Florida 34475, INMATE ID: A0255941
2. The DEFENDANT is The state of Florida. ("state" or "Florida")

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| 2 | Jurisdiction, venue, Certification |
| 3 | Parties; Case of an Actual Controversy |
| 4-5 | <u>MARION County Florida Case 2019 CF 4193</u> <ul style="list-style-type: none"> • Interception of Oral Communication, F.S. 934.03(1)(a) • Disclosure of Oral Communication, F.S. 934.03(1)(c) |
| 6-11 | <u>MARION County Florida Case 2021 CF 286</u> <ul style="list-style-type: none"> • Interception of Oral Communication, F.S. 934.03(1)(a) • Disclosure of Oral Communication, F.S. 934.03(1)(c) |
| 7-11 | • <u>Commonwealth of Pennsylvania v. Neil Joseph Gillespie</u> Extradition Case No: CP-09-MD-319-2021 |
| 12-16 | • <u>Federal Bureau of Investigation (FBI) TAMPA</u> Letter May 23, 2014, Paul Wysopal Special Agent in Charge |
| 17-21 | • <u>Pleadings in Marion County Circuit Court, Florida</u> Constitutional Challenge F.S. 934.03 |
| 22- | <u>Constitutional Challenge, Fed. R. Civ. Pro. 5.1(a)(2)</u> F.S. 934.03 Interception and Disclosure of Wire, Oral, or Electronic Communication Prohibited. |
| <u>Appendix A</u> | F.S. 934.03 Interception and Disclosure of Wire, Oral, or Electronic Communications Prohibited. |
| <u>Appendix B</u> | F.S. 934.01 Legislative Findings |
| <u>Appendix C</u> | 18 U.S.C. 2511, Interception and Disclosure of Wire, Oral, or Electronic Communication Prohibited (18 U.S.C. 2511(2)(d)) |

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JURISDICTION

3. This Court has JURISDICTION under:

- Article III, section 2, U.S. Constitution
- 28 U.S.C. 1331, Federal Question
- Fed. R. Civ. Pro 5.1 - Constitutional Challenge to A Statute - NOTICE, CERTIFICATION, AND INTERVENTION.

VENUE

4. Venue is Proper in the Ocala Division under 28 U.S.C. 1391(h)(1) As the Plaintiff Resides in Ocala, he is incarcerated in Ocala, and is alleged to have violated Fla. Stat. 934.03(1)(a) in Ocala, FL.

CERTIFICATION

5. Under Fed. R. Civ. Pro. 5.1(b) certification by the Court, the Court must, under 28 U.S.C. 2403, certify to the appropriate Attorney General that a statute has been questioned.

- Florida Attorney General. To Provide Notice of A Constitutional Challenge to A Statute, CHARTER, ORDINANCE OR FRANCHISE, Pursuant to sec. 86.091, Fla. Stat. (2012), Rule 1.071, Fla. R. Civ. Pro.; Rule 5.1(a)(2) Fed. R. Civ. Pro., AND Title 28 U.S.C. 2403:

OAg. CIVIL.ESERVE@MYFLORIDALEGAL.COM

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6. This case is an actual controversy between the Plaintiff, Neil Joseph Gillespie ("Gillespie"), a non-lawyer appearing pro se, and the defendant, the state of Florida.
7. Gillespie is a citizen of the state of Florida.
8. Gillespie is a citizen of the United States.
9. Defendant, state of Florida, is one of the several states of the United States. ("state" or "Florida")
10. The state has arrested and incarcerated Gillespie twice for one-party consent "interception" of a telephone call, where Gillespie was a party to the telephone call, which is lawful under Federal Law 18 U.S.C. 2511(2)(d), but prohibited by Fla. Stat. 934.03(1)(a) interception of oral communication.
11. Gillespie is currently incarcerated on no bond pretrial detention in the Marion County Jail, for interception of oral communication, 934.03(1)(a), and failure to appear (FTA)
12. Gillespie has been held on no bond since February 4, 2021, a total of 186 days

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CASE 2019 CF 4193

13. Gillespie was arrested November 10, 2019 in case 2019 CF 4193 for interception and disclosure of oral communication, as a party to a telephone call with Marion Senior Services:

State of Florida v. Neil Joseph Gillespie

Marion County Circuit Court, Criminal Division

Case No: 2019 CF 4193 For violation of:

Fla. stat. 934.03 (1)(a) interception of oral communication

Fla. stat. 934.03 (1)(c) disclosure of oral communication

14. The Probable Cause Affidavit for case no. 2019 CF 4193 appears at Exhibit 1 and shows Gillespie was released from jail November 11, 2019 on \$4,000 bond.
15. The Probable Cause Affidavit alleges in case 2019 CF 4193 that Gillespie was a party to a telephone call to Marion Senior Services answered by Chonnie Phillips, a temp worker, and provided a recording of the telephone call to Jennifer Martinez, Executive Director of Marion Senior Services, in violation of 934.03(1)(a) interception of oral communication, and a violation of 934.03(1)(c) disclosure of oral communication.
16. As a party to the telephone call, Gillespie lawfully intercepted the telephone call under 18 U.S.C. 2511(2)(d). (Appendix 3)

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CASE 2019 CF 4193

17. The ARREST AFFIDAVIT IN CASE NO. 2019 CF 4193 shows Gillespie's IRATE COMMENTS ABOUT MARION COUNTY SHERIFF Billy woods. Sheriff woods was the vice president of MARION SENIOR SERVICES. The MARION County sheriff's OFFICE incorporated defamatory comments by a person unknown to Gillespie, Vicki Tomlinson, who may have worked FOR MARION SENIOR SERVICES, in a report to EXONERATE Michelle Orgorek in an incident where Orgorek struck Gillespie with her vehicle as he stood in the front yard of his home.
18. The information in case 2019 CF 4193 appears at Exhibit 2 and alleges:
- Count 1: UNLAWFUL interception of ORAL COMMUNICATION (F3) 934.03(i)(a)
Count 2: UNLAWFUL disclosure of ORAL COMMUNICATION (F3) 934.03(i)(c)
19. The state amended the charges in 2019 CF 4193 to show two (2) VIOLATIONS OF 934.03 (i)(a), interception of ORAL COMMUNICATION, AND NO VIOLATIONS OF 934.03(i)(c), disclosure of ORAL COMMUNICATION.
20. Gillespie was arrested on November 10, 2019 in case 2019 CF 4193 637 days ago, well beyond the 175 day limit for a speedy trial under Fla. R. CRIM. PRO 3.191, and as required by Art. I, sec 16(a) Fla. Const., and the U.S. Sixth Amendment.

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CASE 2021 CF 286

21. ON JANUARY 20, 2021 MARION County Circuit Judge GARY SANDERS denied Gillespie's Motion For A 60 DAY stay For eye surgery in violation of the AMERICANS with Disabilities Act (ADA) when Gillespie Failed to APPEAR JANUARY 20, 2021 AT 3:00 PM FOR AN ALLEGED "Faretto HEARING" IN CASE 2019 CF 4193
22. Gillespie's Failure to APPEAR was Justified under the AMERICANS with Disabilities Act, 42 U.S.C. CHAPTER 126, For A Medical EMERGENCY, eye surgery to REPAIR Gillespie's detached Retina, A Reasonable Accommodation under the ADA For the disability of IMPAIRED vision OR blindness.
23. ON JANUARY 23, 2021 Gillespie was initially EXAMINED in the EMERGENCY ROOM (ER) OF Wills Eye Hospital, Philadelphia, operated by Jefferson Hospital Neuroscience, at NINTH AND Walnut streets, Philadelphia. Gillespie was EXAMINED AGAIN ON JANUARY 24, 2021 in the ER, AND ON JANUARY 26, 2021 AT Wills Eye Hospital PRIOR TO SURGERY. (EXHIBIT 16)
24. ON JANUARY 28, 2021 Gillespie had SURGERY At Wills Eye Hospital to REPAIR A complex RETINA Detachment. (EXHIBIT 17)
26. Gillespie was ARRESTED February 4, 2021 ON Judge SANDERS bench WARRANT while RECOVERING FROM eye surgery AT the Red Roof INN LANGHORNE, PENNSYLVANIA. The Bench WARRANT APPEARS AT EXHIBIT 3

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CASE 2021 CF 286

- 26. Gillespie WAS INCARCERATED ON NO BOND IN THE Bucks County Jail, 1730 South Easton Road, Doylestown, PA 18901, FOR 95 DAYS, AS HE UNSUCCESSFULLY CONTESTED EXTRADITION TO FLORIDA, SO HE COULD RETURN VOLUNTARILY AND EXONERATE HIS BOND.
- 27. EXTRADITION IS GOVERNED BY ARTICLE IV, SECTION 2, U.S. CONSTITUTION, THE FEDERAL FUGITIVE FELONY ACT, 18 U.S.C. 3182, AND IN PENNSA, THE UNIFORM CRIMINAL EXTRADITION ACT, 42 PA 9121.
- 28. Gillespie's Extradition case in Pennsylvania is ON APPEAL:

COMMONWEALTH V. Neil Joseph Gillespie

Bucks County Court of Common Pleas

EXTRADITION CASE NO: CP-09-MD-319-2021 (EXHIBIT 6)

APPEAL NO: 959 EPA 2021

Hon. Judge Clyde W. Waite
 Bucks County Courthouse
 100 N. MAIN STREET
 Doylestown, PA 18901

MATTHEW WEINTRAUB
 Bucks County District Attorney
 100 N. MAIN STREET
 Doylestown, PA 18901

- 29. ON APRIL 6, 2021 Gillespie WAS SERVED A GOVERNOR'S WARRANT SIGNED BY PENNSYLVANIA GOVERNOR TOM WOLF AND FLORIDA GOVERNOR RICK DESANTIS, WHILE INCARCERATED IN THE Bucks County Jail, WHICH SHOWED NEW CRIMINAL CHARGES IN CASE 2021 CF 286:

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CASE 2021 CF 286

State of Florida v. Neil Joseph Gillespie

MARION COUNTY CIRCUIT COURT, CRIMINAL DIVISION

CASE NO: 2021 CF 286, FOR VIOLATION OF:

FLA. STAT. 934.03(1)(a) INTERCEPTION OF ORAL COMMUNICATION

FLA. STAT. 934.03(1)(c) DISCLOSURE OF ORAL COMMUNICATION

30. Gillespie was Extradited to Florida MAY 10, 2021 by U.S. EXTRADITION, AT A COST OF \$7,000, via A COMMERCIAL FLIGHT ON DELTA AIRLINES, FROM Allentown, PENNSYLVANIA, to ORLANDO, Florida, then driven to the MARION COUNTY JAIL, ARRIVING LATER the SAME day MAY 10, 2021, where he REMAINS today ON PRETRIAL Detention without bail.
31. The Probable Cause AFFIDAVIT FOR CASE 2021 CF 286 APPEARS AT EXHIBIT 4 AND is dated JANUARY 21, 2021 AND Shows "NO Bond."
32. The Probable Cause Affidavit Alleges in CASE 2021 CF 286 that Gillespie was a party to a telephone call with JANINE LUKER, AND PROVIDED A Recording of the call to "ASSISTANT STATE ATTORNEYS JARED GAINNEY AND ALICIA WINTER KORN, DOJ PERSONEL, PERSONAL ASSOCIATED WITH THE City OF OCALA, MARION COUNTY ATTORNEYS OFFICE, AND THE FLORIDA ATTORNEY GENERAL'S OFFICE" IN VIOLATION OF 934.03(1)(a) INTERCEPTION OF ORAL COMMUNICATION, AND A VIOLATION OF 934.03(1)(c) DISCLOSURE OF ORAL COMMUNICATION.

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CASE 2021 CF 286

33. As a party to the telephone call, Gillespie lawfully intercepted the telephone call under 18 U.S.C. 2511(2)(d).
34. Gillespie believes the information in case 2021 CF 286 alleges:
- UNLAWFUL interception of ORAL COMMUNICATION (F3) 934.03(i)(a)
 - UNLAWFUL disclosure of ORAL COMMUNICATION (F3) 934.03(i)(c)
35. The state amended the charges in 2021 CF 286 to show two (2) violations of 934.03(i)(a) interception of ORAL COMMUNICATION, AND NO VIOLATIONS OF 934.03(i)(c) disclosure of ORAL COMMUNICATION.
36. The Probable Cause Affidavit in case 2021 CF 286, by reporting Officer Corporal Billy Burleson of the Marion County Sheriff's Office (MCSO), fails to show Gillespie emailed recordings of nine telephone calls to Eservice.marion@saos.org. Gillespie served the state attorney's office to provide evidence in case 2020 CF 2417 that Sarah Thompson repeatedly telephoned Gillespie for his help and protection in violation of Gillespie's no contact bond condition. Ms. Thompson is the alleged victim in 2020 CF 2417 but shows no fear of Gillespie as would be expected of an actual crime victim. Instead, Thompson acts more like a stalker.
- See, Defendant's motion to modify conditions of pretrial release, submitted May 31, 2021 in case 2020-CF-2417. (Exhibit 18)

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CASE 2021 CF 286

37. The ARREST AFFIDAVIT IN CASE 2021 CF 286 IS SIGNED BY MARION COUNTY CIRCUIT JUDGE R. GREGG JERALD. PRIOR TO BEING APPOINTED JUDGE, R. GREGG JERALD WAS THE MCSO GENERAL COUNSEL, AND HAS A HISTORY DEPRIVING GILLESPIE OF HIS RIGHTS UNDER COLOR OF LAW, IN THE FORECLOSURE OF HIS HOME, AND OTHER MATTERS.
38. THE FLORIDA APPLICATION FOR REQUISITION IN GILLESPIE'S EXTRADITION CASE (EXHIBIT 5), ADDRESSED TO FLORIDA GOVERNOR RON DESANTIS, ALLEGES, INTER ALIA, FOUR (4) COUNTS OF UNLAWFUL INTERCEPTION OF ORAL COMMUNICATION (2 COUNTS EACH IN 2 CASES), AND NO COUNTS OF UNLAWFUL DISCLOSURE OF ORAL COMMUNICATION, ACCORDING TO THE AFFIDAVIT SUBMITTED FEBRUARY 19, 2021 BY JANINE A. NIXON, ASSISTANT STATE ATTORNEY, FIFTH CIRCUIT, FLORIDA. HOWEVER, IT APPEARS THE STATE DID NOT AHEAD THE INFORMATION IN CASE 2021 CF 286 UNTIL JULY 3, 2021.
39. FURTHERMORE, ASA NIXON'S AFFIDAVIT FALSELY STATES AT PARAGRAPH 4 THAT SHERIFF WILLIAM MICHAEL WOODS HAS NO PRIVATE INTEREST IN THE ARREST OF THE FUGITIVE, GILLESPIE. IN FACT, SHERIFF WOODS WAS A DEFENDANT IN GILLESPIE'S CIVIL LAWSUIT IN MARION COUNTY, CASE 2020 CA 934 FOR UNLAWFUL DETAINER AND CIVIL RIGHTS INVOLVING SARAH THOMPSON AND THE EVENTS IN 2020 CF 2417. GILLESPIE'S ARREST AND EXTRADITION PREVENTED HIM FROM FILING A SECOND AMENDED COMPLAINT AGAINST SHERIFF WOODS, ET AL, AS GRANTED BY THE COURT, RESULTING IN THE DISMISSAL OF CASE 2020 CA 934.

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CASE 2021 CF 286

40. ASA NIXON'S APPLICATION FOR REQUISITION AND AFFIDAVIT (EXHIBIT 5)
FALSELY STATES AT PARAGRAPH 7:

This Application is not made for the purpose of enforcing the collection of a debt, or for any private purpose whatsoever, but for the purpose alleged in said crisis and information, and that if the Requisition applied for be granted, the Criminal Proceedings shall not be used for any of said objects.

41. Gillespie's Petition for Habeas Corpus in Commonwealth v. Gillespie, Extradition Case No. CP-09-MD-319-2021, appears at Exhibit 6, and impeaches Nixon's Application for Requisition and Affidavit with multiple examples showing the Application for Requisition in the Fifth Circuit was made to collect a debt and made for a private purpose against Gillespie, including: (by Paragraph # below)

- # 10-12: To collect a debt in Gillespie's case 2018CA 2640 against the Fifth Circuit and Judge Ann Melinda Cragg's for deprivation of rights in Home Foreclosure case 2013CA115 (HECM Reverse Mortgage)
- # 15: U.S. Supreme Court Petition NO: 20-929 shows Gillespie's arrest in 2019 CF 4193 was to benefit Sheriff Woods, Attorney Samantha Shealy Rauba, Marion Senior Services, Marion County Bar Assn., SAO.
- # 23-24: Retribution for Notice of Tort Liability 76828 waiver of sovereign immunity in 2020 CA 934 for personal injury; and in 2020 CF 2417 for denial of disability accommodation with malice aforethought.

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Federal Bureau of Investigation (FBI), TAMPA

Paul wysopal SPECIAL Agent in Charge

MAY 23, 2014

42. Gillespie's letter MAY 23, 2014 to the FBI TAMPA Division APPEARS AT EXHIBIT 7 AND Responds to A telephone call Received FROM 813-253-1000 by A MAN who identified HIMSELF AS the TAMPA FBI, AND states IN PART:

"ON information AND belief, my long-standing PRACTICE OF Recording telephone calls ON A LAND LINE is PERMITTED."

43. Gillespie's 11 Page letter to the FBI REFERENCEs Florida STATUTES, CHAPTER 934, SECURITY OF COMMUNICATIONS; SURVEILLANCE, sometimes called the wiretapping statute, AND F.S. 934.03 INTERCEPTION AND DISCLOSURE OF WIRE, ORAL, OR ELECTRONIC COMMUNICATIONS, PROHIBITED, AND NOTES:

"there is A significant difference between wiretapping AND one OR two PARTY consent. wiretapping is the covert monitoring OR Recording OF telephone CONVERSATIONS by A third PARTY government Agency, such AS by LAW ENFORCEMENT with A court order."

44. IN contrast, one OR two PARTY consent is essentially enhanced note-taking by private persons NOT AFFILIATED with the government. FROM wikipedia:

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"Under the Law of the United States AND most state Laws, there is nothing illegal about one of the Parties to a telephone call Recording the Conversation, OR giving Permission For calls to be Recorded OR Permitting their telephone Line to be Tapped. However the telephone Recording Laws in Most U.S. States Require only one Party to be Aware of the Recording, while 12 states Require both Parties to be Aware." [MAY 23, 2014]
http://en.wikipedia.org/wiki/telephone_tapping

45. Federal Law Permits one-Party Consent to Record calls, see 18 U.S.C. 2511 (2)(d) if not acting under color of Law.

46. Gillespie's letter MAY 23, 2014 to the FBI TAMPA Division also states:

"ONE PARTY Consent is the Law in 38 states, twelve states, including Florida, Require two Party Consent. ON its FACE, two Party consent is unconstitutional under the Equal Protection Clause of the Fourteenth Amendment to the United States Constitution. The clause, which took effect in 1868, Provides that no state shall deny to any person within its Jurisdiction "the equal Protection of the Laws," [wikipedia]

47. IN Addition, Gillespie Now believes Article IV, section 2, Clause 1, U.S. Constitution Applies, the Privileges and Immunities Clause:

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"The citizens of each state shall be entitled to all Privileges and Immunities of citizens in the several states."

48. Likewise, Gillespie now believes Article I, section 8, clause 3, U.S. Constitution also applies, the Interstate Commerce clause; the Congress shall have Power to...

"to regulate Commerce with Foreign Nations, and among the several States, and with the Indian Tribes;"

49. Two Party Consent is also unconstitutional under the Supremacy clause, the provision in Article VI, clause 2, of the U.S. Constitution that establishes the U.S. Constitution, Federal statutes, and U.S. treaties as "the Supreme Law of the Land." It provides that these are the highest form of law in the U.S. legal system, and mandates that all state judges must follow federal law when a conflict arises between federal law and either the state constitution or state law of any state. (Wikipedia, Supremacy clause, May 23, 2014)

50. Gillespie's letter May 23, 2014 to the FBI Tampa also states:

"I rely on the holding in Royal Health Care Services, Inc. v. Jefferson-Pilot Life Ins. Co., 924 F.2d 215 (11th Cir. 1991), in my view Florida law prohibits "interception" of certain communication, but not all recording, the U.S. Eleventh

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Circuit Court of Appeals has held that because only interceptions made through an "electronic, mechanical or other device" are illegal under Florida law, telephones used in the ordinary course of business to record conversations do not violate the law. In other words, the telephone set "intercepts" the call, not the recording device, and the phone call is lawfully recorded after lawful interception. This is in contrast to a court-ordered wiretap where a call is "intercepted" before it reaches the telephone set, the land-line home office telephone that I use lawfully intercepts a call before lawfully recording the call.

Please find enclosed a copy of Royal Healthcare Servs. Inc. v. Jefferson-Pilot Life Ins. Co.

also enclosed are pages 29 and 30 from Petition No. 12-7747 for writ of certiorari to the Supreme Court of the United States, Neil J. Gillespie v. Thirteenth Judicial Circuit Florida, et al. My petition was denied February 19, 2013, rehearing denied April 15, 2013, see the docket...

Supreme Court Review is discretionary. Less than 100 of the approximately 10,000 petitions per term are granted review, denial of review is not a judgment on the legal merits of a petition.

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51. Gillespie's Letter May 23, 2014 to the FBI TAMPA Notes on Page 10 of 11, A quote Found on his U.S. Supreme Court Petition NO: 12-7747 on Petition Page 30, the Florida Business Extension Exception Under Fla. Stat. 934.02(4)(a)(1):

"All calls on Plaintiff's home office business telephone Extension are Recorded For quality Assurance Purposes Pursuant to the business use exemption of Florida statutes chapter 934, section 934.02(4)(a)(1) and the holding of Royal Health Care Servs. Inc. v. Jefferson-Pilot Life Ins. Co., 924 F.2d 215 (11th Cir 1991)

52. Gillespie has given Public Notice online for many years, that all calls on his home office business phone, 352-854-7807, are lawfully recorded for quality assurance purposes pursuant to the business extension phone exemption under Fla. Stat. 934.02(4)(a)2, see Gillespie's Justice Network web page, www.nosue.org/telephoneRecording.

- The Justice Network name is Registered with the Florida Department of state, Division of Corporations, Address, Justice Network, 8092 SW 115th Loop, Ocala, Florida, 34481, 352-854-7807.

Gillespie's Campaign office is also 352-854-7807 Phone Number, see

- Neil J. Gillespie, Candidate For President, ID: P60022993
- Neil J. Gillespie For President, Campaign Committee ID: C00627810
- Campaign website, <https://neil2020.blogspot.com/>

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Pleadings in Marion County Circuit Court
Constitutional Challenge F.S. 934.03

53. Gillespie Filed on February 20, 2020 (Doc 43) in case 2019 CF 4193:

Defendant's Notice of Constitutional Challenge
Chapter 934 Security of Communications; Surveillance

that appears at Exhibit 8. In Response, the Court (Judge Tatti) entered "order striking Defendant's Jury trial Demanded." (Doc 48)

54. Gillespie Filed on July 24, 2020 in case 2019 CF 4193:

Defendant's Motion for Rule 3.133 Pretrial Probable Cause
Determinations and Adversary Preliminary Hearings
Filing # 110752421, E-Filed 7/24/20 at 12:16:47 PM.

that appears at Exhibit 9. This Pleading also raises a Constitutional Challenge to F.S. 934.03. In Response, the Court (Judge Tatti), struck Gillespie's Rule 3.133 motion because 'the Defendant is represented by Counsel, his PROSE 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); Salsora v. State, 582 So. 2d 12 (Fla. 5th DCA 1991) (Defendant does not have the right to a "hybrid" representation).

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55. Appointed counsel was forced on Gillespie in case 2019 CF 4193 in violation of FARETTA V. CALIFORNIA, 422 U.S. 806 (1975), to deny him effective counsel, from the arraignment on December 19, 2019 through January 20, 2021, when the court (Judge Sanders) scheduled a 2 hour "Faretta Hearing", which was actually a trap to bring Gillespie to court to arrest him on new charges of violation of F.S. 934.03(1)(a) interception of oral communication, and violation of F.S. 934.03(1)(c) disclosure of oral communication, to foreclose his emergency eye surgery, and to prevent him from filing an effective amended complaint in case 2018 CA 2640 for deprivation of civil rights and disability accommodation in home foreclosure case 2013 CA 115, Gillespie v. Fifth Judicial Circuit and Judge ANN McLINDA CRAGG, et al.

56. Gillespie's Appointed Counsel in case 2019 CF 4193:

- KRISTINA Bellanger, Asst. Public Defender
December 16, 2019 through January 7, 2020
- Zachary Phipps, Office of Criminal Conflict and Civil Regional Counsel,
(OCCRC) January 16, 2020 through August 6, 2020.
- Brenda H. Smith, Esq. Never accepted the appointment and never filed a notice of appearance to represent Gillespie
August 6, 2020 through January 20, 2021

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57. Gillespie Filed on JANUARY 20, 2021 in CASE 2020CF2417:

Defendant's Notice of Constitutional Challenge
Chapter 934, Security of Communications; Surveillance
Filing # 119932624 EFiled 01/20/2021 @ 2:59:49 PM

That appears at Exhibit 10 and includes 3 Exhibits. Gillespie appeared pro se in case 2020 CF 2417. This pleading raises a constitutional challenge to F.S. 934.03, but had no further action that Gillespie knows about. Later that day the court (Judge Sanders) denied Gillespie's motion for a 60 day stay for eye surgery, and denied Gillespie's disability accommodation request for the alleged Faretta hearing. Judge Sanders also telephoned attorney David Markus whom Gillespie sought to retain. After getting a phone call from Judge Sanders, Mr. Markus refused to represent Gillespie.

58. Gillespie's Notice of Constitutional challenge (Exhibit 10) Filed JANUARY 20, 2021 in CASE 2020CF2417 has 40 pages, including:

Exhibit 1, Gillespie's Letter May 23, 2014 to the FBI TAMPA

Exhibit 2, Gillespie's email January 9, 2021 to chief Frank Talbot, Assistant U.S. Attorney, et al, with his recorded calls with the U.S. Supreme Court, for the purpose of a constitutional challenge to F.S. 934.03, interception and disclosure of oral communication prohibited.

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Exhibit 3, Gillespie's email JANUARY 13, 2021 to JARED GAINCY Assistant State Attorney, et al, with his Recorded Telephone call OF July 30, 2020 with appointed counsel Zachary Phipps, OCC RC, Regarding Phipps Agreement to withdrawal his Motion to Determine Defendant's Competency to stand trial in case 2019 CF 4193. Phipps did not withdrawal his Motion, but withdrew FROM the case INstead ON August 6, 2020. See the Following AS Part of Exhibit 3:

- Transcript of Recorded telephone Conversation July 30, 2020 between Gillespie and Attorney Zachary Phipps.
- MR Phipps' Motion MARCH 13, 2020 to Determine Defendant's Competency to stand trial.
- Order Granting Motion to Rescind order appointing DR. TONIA WERNER to do A Competency evaluation AND Order Compelling Defendant to appear for evaluation (Judge Sanders)

Gillespie's email to ASA Gaincy, et al, was sent JANUARY 13, 2021 at 10:46 AM. Judge Sanders entered his Order JANUARY 12, 2021 at 12:44 PM, less than 2 hours later.

Gillespie's Lawfully Recorded telephone Conversation with MR Phipps Resolved 10 months of Controversy in less than 2 hours, showing how A Lawfully Recorded telephone call can protect the Rights

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OF A PARTY TO A ONE-PARTY CONSENT RECORDED CALL WITH A VERBATIM WRITTEN TRANSCRIPT OF WHAT WAS SAID.

- Judge Sanders, in his order GRANTING DR. WERNER'S MOTION TO RESCIND HER APPOINTMENT TO EVALUATE GILLESPIE, AND RESCINDING THE ORDER COMPELLING GILLESPIE TO APPEAR, ESSENTIALLY LEGALIZED ONE-PARTY CONSENT INTERCEPTION AND DISCLOSURE OF ORAL COMMUNICATION IN FLORIDA.
- Judge Sanders Relied on Gillespie's Lawfully intercepted and disclosed telephone conversation with MR. PHIPPS AS LEGAL AND COMPELLING EVIDENCE TO GRANT DR. WERNER'S MOTION.

MR. PHIPPS ALSO OPINED DURING THE PHONE CALL THAT THE 2020 CF 2417 CASE IS "RETRIBUTION" AGAINST GILLESPIE, AND, "AT THE VERY LEAST, ABUSE OF THEIR DISCRETION," FOR THE THINGS GILLESPIE REQUESTED FROM THE MARION COUNTY SHERIFF'S OFFICE (MCSO). ONE THING GILLESPIE REQUESTED WAS A CRIMINAL INVESTIGATION OF FORECLOSURE JUDGE ANN MELINDA CRAIGS FOR VIOLATION OF FLA STAT 817.568(8)(a) CRIMINAL USE OF PERSONAL IDENTIFICATION INFORMATION IN THE FORECLOSURE OF HIS HOME ON A FEDERAL HECM REVERSE MORTGAGE, SEE EXHIBIT 11.

Judge CRAIGS signed the ARREST WARRANT FOR GILLESPIE IN CASE 2020CF 2417 AND signed A SEARCH WARRANT ALLOWING THE MCSO TO SMASH OPEN GILLESPIE'S FRONT HOUSE DOOR AND CONDUCT A VIOLENT SEARCH OF THE PROPERTY IN VIOLATION OF, INTER ALIA, THE FOURTH AMENDMENT TO THE U.S. CONSTITUTION.

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Constitutional Challenge, Fed. R. Civ. Pro 5.1(a)(2)
F.S. 934.03 Interception And Disclosure of wire, oral, or
electronic communication Prohibited (Appendix A)

63. F.S. 934.03 Interception And Disclosure of wire, oral or electronic
communication Prohibited, is not a criminal statute under Title XLVI
Florida statutes, "CRIMES," which includes chapters 775 to 896.

64. F.S. 934.03 appears under Title XLVII "CRIMINAL PROCEDURE AND
CORRECTIONS," which includes chapters 900 to 985, Florida statutes,
and pertains to wiretapping by persons acting under color of law.

65. The legislative findings found in F.S. 934.01(4) state in relevant part:

"To safeguard the privacy of innocent persons, the interception
of wire or oral communications when none of the parties to
the communication has consented to the interception, should
be allowed only when authorized by a court of competent
jurisdiction and should remain under the control and
supervision of the authorizing court." (Appendix B)

66. The operative words in F.S. 934.01(4) are "privacy of innocent
persons" when "none of the parties to the communication has
consented". This is wiretapping or eavesdropping.

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67. Gillespie Relies on the holding of Royal Health Care Services, Inc. v. Jefferson-Pilot Life Ins. Co., to Lawfully Record Conversations on his home office telephone extension in the ordinary course of business, as permitted by F.S. 934.02(4)(a) 1, and as reported to the FBI Tampa Field Office May 23, 2014, see Exhibit 7, and Pages 12-16 of this Constitutional Challenge.
68. Public Corruption in Marion County Florida is one part of Gillespie's ordinary course of business under F.S. 934.02(4)(a) 1 for his Justice Network and Political Campaigns.
69. The Public Corruption Unit (PCU) of the FBI Headquarters in Washington DC wrote Gillespie April 11, 2014 (Exhibit 12) and said in part:

"... the PCU has forwarded your complaint information to the appropriate local FBI field office. Should you wish to provide any additional information related to this matter, please furnish the specific details directly to the below address.

Cc/enc:
FBI TAMPA
5525 West Gray Street
TAMPA, FL 33609

BRIAN J. NADEAU
Unit Chief
Public Corruption Unit
U.S. Department of Justice
Federal Bureau of Investigation
Washington, D.C. 20535

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70. The state has arrested and incarcerated Gillespie in 2019, and again in 2021, for violation of F.S. 934.03 (1)(a) and F.S. 934.03(1)(c), amended to 4 counts under F.S. 934.03 (1)(a) Interception of oral communication, even though the state knows Gillespie acts under the business extension exception under F.S. 934.02 (4)(a) 1, and has not violated the law.
71. Gillespie is now held on indefinite no bond pretrial detention in the Marion County Jail for a corrupt purpose: Retribution for contesting home foreclosure on a Federal Home Equity Conversion Mortgage, called a HECM Reverse Mortgage, and to collect that debt.
72. On July 29, 2021 Marion County Judge Circuit Court Gary Sanders denied Gillespie's motion to reinstate case 2018 CA 2640 for deprivation of civil rights and denial of disability accommodation against the Fifth Judicial Circuit Florida, and Circuit Judge Ann Melinda Craggs, in the foreclosure of Gillespie's home. The order of dismissal April 14, 2021 appears at Exhibit 13. Gillespie's motion to reinstate case 2018 CA 2640 appears at Exhibit 14.
73. Judge Sanders did not serve the order denying Gillespie's motion to reinstate case 2018 CA 2640 of July 29, 2021 to Gillespie in the jail, but mailed the order where Gillespie does not have access. Therefore Gillespie cannot provide a copy here. But Gillespie gave notice of appeal August 5, 2021 to the 5th DCA. Exhibit 15

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74. The U.S. Eleventh Circuit Ruling in Royal Health Care Services (Exhibit 7) notes on Page 5, PARAGRAPH 4:

"The Historical Note that follows the Legislative Findings section of the Act (FN12) indicates that, "[w]ith one exception (FN13) the state law follows closely the Federal Act,"

the exception is 18 U.S.C. 2511(2)(d) that allows one-party consent interception of wire, oral, or electronic communication by persons not acting under color of law. This exception is vital to protect citizens of the United States from being charged with wiretapping for recording a phone call as a party to the call, and retribution by corrupt Florida state public officials.

75. The U.S. Eleventh Circuit also notes in Royal Health Care Services on Page 4, PARAGRAPH 2:

"we believe the telephone extension intercepted the call (FN6) while the tape recorder recorded it."

"FN6, our use of the term "Intercepted" here is in accord with its common meaning, not as defined by the Florida statute we are examining. We conclude later in this opinion that under the statute, NO interception took place.

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76. The U.S. Eleventh Circuit's use of the term "Intercepted" here in accord with its common meaning is crucial. The state has alleged Gillespie was a party to the intercepted oral communication in case 2019 CF 4193 and 2021 CF 286, which was a telephone call with another person. The state has not alleged Gillespie acted under color of law.
77. As a party to the telephone call, Gillespie did not "eavesdrop" as alleged in the General Offense Code.
78. Gillespie's telephone set intercepts his telephone calls when he lifts the receiver to make or answer a call. This is how telephones work. If a telephone set did not intercept a phone call, it would not be a functional telephone. However, this common meaning interception is not as it is defined by the state statute. Under the statute, no interception took place.
79. F.S. 934.03(1)(b) states, "only communication intentionally intercepted by electronic, mechanical, or other device are prohibited," this prohibition cannot mean a telephone set, but must refer to specialized wiretapping equipment used when no party to the communication has consented.
80. If using a telephone in accord with the common meaning of the term "intercepted" is a crime in Florida, then most of the state's 20 million or so residents have violated F.S. 934.03(1)(a) when a party to a telephone call with another person.

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81. The holding in Otero v. Otero, 736 So.2d 771 (Fla App 3 Dist 1999) 98-3127 held, because the taping of oral communication did not violate 934, the statute did not prevent disclosure, and the disclosure did not violate F.S. 934.03 (1)(c).
82. On its face, F.S. 934.03 is void for vagueness when applied to a one-party consent telephone call by a person not acting under color of law in accord with the common meaning of the term "intercepted".
83. F.S. 934.03 and two-party consent also violates the Constitution and Laws of the United States.

Federal Law

84. As a citizen of the United States, Gillespie has rights and protections available to him under the Constitution and Laws of the United States.
85. Federal Law permits one-party consent to record calls. (18 U.S.C. 2511 (2)(d)). (Appendix C). One-party consent to record phone calls is the law in 38 states, twelve states, including Florida, require two-party consent (Exhibit 7)
86. Under F.S. 934.02(22) Definitions, "state" means any state of the United States, the District of Columbia, the Commonwealth of Puerto Rico, or any other possession or territory of the United States.

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National Supremacy

87. The Constitution and Laws of the United States are the "Supreme Law of the Land," ART. VI, CL2, U.S. Const., the "Supremacy Clause":

This Constitution, and the Laws of the United States which shall be made in Pursuance thereof, and all Treaties made or which shall be made, under the Authority of the United States, shall be the Supreme Law of the Land; and the Judges in every State shall be bound thereby, Any Thing in the Constitution or Laws of any State to the contrary notwithstanding.

88. Under ART. VI, CL3, U.S. Const., "All our Judicial Officers, both of the United States and of the several States, shall be bound by Oath or Affirmation, to support this Constitution.

89. Interception of wire, oral, or electronic communication is lawful under Federal Law, 18 U.S.C. 2511(2)(d) where one person is a party to the communication, and not acting under color of Law.

90. Title 18, Chapter 119 of the United States Code (U.S.C.) states at 18 U.S.C. 2511(2)(d): (Appendix C)

It shall not be unlawful under this chapter for a person not acting under color of Law to intercept a wire, oral,

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OR electronic communication where such Person is a Party to the communication or where one of the Parties to the communication has given prior consent to such interception unless such communication is intercepted for the purpose of committing any criminal or tortious act in violation of the Constitution or laws of the United States or of any state.

91. Therefore, Gillespie did not unlawfully intercept oral communication under Federal law, 18 U.S.C. 2511(2)(d) because he was a Party to the communication and was not acting under color of law.
92. Under the U.S. Supremacy Clause, Art. VI, Cl. 2, U.S. Const., 18 U.S.C. 2511(2)(d) is the Supreme Law of the Land, and must be followed by every state court judge in the United States, including every judge in Marion County and Florida.
93. Because 18 U.S.C. 2511(2)(d) is the Supreme Law of the Land in the United States, and must be followed by every state court judge, Gillespie did not unlawfully intercept communication as stated in the Probable Cause Affidavit in case 2019 CF 4193, and Gillespie did not unlawfully intercept communication as stated in the Probable Cause Affidavit in case ~~2021 CF 286~~ 2021 CF 286, as such, the undisputed material facts of case 2019 CF 4193 and case 2021 CF 286 fail to establish a prima facie case of guilt against Gillespie.

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94. therefore, F.S. 934.03 is unconstitutional under the (violates) Constitution and laws of the United States.

95. F.S. 934.03 is unconstitutional under the U.S. Fifth Amendment:

"No Person shall be... deprived of life, liberty or Property without due Process"

Gillespie is currently deprived of his liberty and is incarcerated, held on indefinite no bond pretrial detention for the past 186 days.

96. The charges against Gillespie in case 2019 CF 4193 and case 2021 CF 286 are unconstitutional under the U.S. Sixth Amendment: (violates the 6th Amend)

"In all criminal prosecutions the accused shall enjoy the right... to be informed of the nature and cause of the accusations..."

The Record shows in each case Gillespie was initially charged with violating F.S. 934.03(1)(a), interception of oral communication, and with violating F.S. 934.03(1)(c), disclosure of oral communication. Then, without notice or explanation, the state charged Gillespie with 2 counts of F.S. 934.03(1)(a) in each case, 4 counts total, and no violation of F.S. 934(1)(c).

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97. One-Party Consent interception of ORAL COMMUNICATION is Lawful in 38 states where a person is not acting under color of Law. Therefore Florida's two-party consent Rule is unconstitutional (violates) under Art. IV, section 2, clause 1, U.S. Constitution, the Privileges and Immunities Clause:

"the citizens of each state shall be entitled to all Privileges and Immunities of citizens in the several states"

one-party consent is the law in 38 states, or seventy-five (75) percent of the states.

98. Florida's two-party consent is unconstitutional under Article I, section 8, clause 3, U.S. Constitution, the Interstate Commerce Clause; (violates) the Congress shall have Power to

"to Regulate Commerce with Foreign Nations, and Among the several states, and with the Indian Tribes;"

The Parties in the Royal Health Care Services case were from different states and was a "diversity case". Royal Health Care Services in Miami, Fla, and Jefferson-Pilot Life Ins. Co in the state of North Carolina. Gillespie resides in Florida and intercepted a phone call with the U.S. Supreme Court in Washington D.C., For Example

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99. F.S. 934.03 (1)(a), interception of wire, oral, or electronic communication, is unconstitutional under the Fourteenth Amendment, Section 1, U.S. Constitution: (because 934.03 violates the 14th Amendment)

Amendment XIV

Section 1: All persons born or naturalized in the United States and subject to the jurisdiction thereof, are citizens of the United States and of the state wherein they reside. No state shall make or enforce any law which shall abridge the privileges or immunities of citizens of the United States; nor shall any state deprive any person of life, liberty or property without due process of law; nor deny to any person within its jurisdiction the equal protection of the laws.

100. Gillespie was born in the United States and subject as a citizen to the jurisdiction of the United States.
101. The state of Florida made or enacted F.S. 934.03 (1)(a) and enforced it against Gillespie and abridged the privileges and immunities due him as a citizen of the United States, under 18 U.S.C. 2511 (2)(d), namely to deprive him of the privilege to intercept oral communication as a party to the communication, not acting under the color of law, and immunity from prosecution for doing so, in violation of the Fourteenth Amendment, section 1

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102. The state of Florida deprived Gillespie of 186 days of Liberty without due Process of Law, in violation of the Fourteenth Amendment Section 2, of the Constitution of the United States.

103. the state of Florida deprived Gillespie of the equal protection of Federal Law, including 18 U.S.C. 2511(2)(d), in violation of the Fourteenth Amendment, section 2, Constitution of the United States.

104. F.S. 934.03 violates Gillespie's Right to Freedom of speech under the First Amendment to the Constitution of the United States:

First Amendment: "Congress shall make no Law...
Abridging the Freedom of speech..."

Gillespie is Lawfully Permitted to intercept ORAL COMMUNICATION to which he is A Party under 18 U.S.C. 2511(2)(d) And not Acting under Color of Law. Gillespie is Lawfully Permitted to Record himself speaking, And Permitted to have a written transcript made of his Recorded one-Party consent conversation on the telephone, under 18 U.S.C. 2511(2)(d).

105. Gillespie's First Amendment Right to speech is Violated under F.S. 934.03 when he is Prohibited From intercepting ORAL COMMUNICATION to which he is a Party And not Acting under Color of Law. Gillespie is Prohibited under F.S. 934.03 From Recording himself speaking on the telephone.

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106 Gillespie is Prohibited under F.S. 934.03 From making A written transcript of his Recorded one-Party Consent telephone Conversation under Florida's two-party Consent Requirement, IN VIOLATION OF his First Amendment Right to Freedom of speech.

107. This Complaint For A Constitutional Challenge shows Florida statute 934.03 Interception and disclosure of wire, oral, or electronic communication Prohibited Violates the Constitution and Laws of the United States and is therefore unconstitutional.

Wherefore, Gillespie Respectfully moves this Honorable Court to GRANT his COMPLAINT For A Constitutional Challenge to Florida statute 934.03, Interception and Disclosure of wire, oral, or electronic communication Prohibited, and find Florida statute 934.03 violates the Constitution and Laws of the United States, and Declare F.S. 934.03 UNCONSTITUTIONAL

Respectfully Submitted August 11, 2021.

Neil Joseph Gillespie

Neil Joseph Gillespie
MARION County Jail, Med B 114B
3290 NW 10th Street
Ocala, FL 34475
Inmate ID: A0255941

Home Address
8092 SW 115th Loop
Ocala, FL 34481

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NJA

Declaration under Penalty of Perjury
28 U.S.C. 1746(2)

I, Neil Joseph Gillespie, declare under Penalty of Perjury that I AM the Plaintiff, I have read this complaint for a constitutional challenge to Florida statute 934.03, and the information in this complaint is true and correct. I understand that a false statement of a material fact may serve as the basis for prosecution for perjury.

I placed this complaint in the Marion County Jail Mail on August ~~10~~¹¹, 2021
NJA

Date: August ~~10~~¹¹, 2021

Plaintiff: Neil Joseph Gillespie

Inmate ID: A0255941

Marion County Jail, Med B, 114B

3290 NW 10th Street

Ocala, FL 34475

Neil Gillespie (signature)
Neil Joseph Gillespie

Clerk of Court
United States District Court
Middle District of Florida
Ocala Division
207 N.W. Second Street
Ocala, Florida 34475

August 11, 2021

RECEIVED
2021 AUG 16 PM 12:58
CLERK U.S. DISTRICT COURT
MIDDLE DISTRICT OF FL
OCALA, FLORIDA

Dear Clerk,

Please find enclosed my complaints for a constitutional challenge to a statute, Fed. R. Civ. Pro 5.1(a)(2)

Please provide the enclosed pleadings to the names shown on the certificate of service, on the court's CM/ECF system because I am in jail and cannot do so myself. Please provide forms for Rule 4(d) waiving service. Please provide a paper copy of each pleading requiring physical service, as the jail copy service is not reliable, and may take weeks to get the copies needed. You may bill me for any fees and costs. Thank you.

This is envelope #1 of 2. Thanks again.

Sincerely,
Neil Joseph Corlespie
Neil Joseph Corlespie
Marion County Jail, Med B, 114B
3290 NW 10th Street
Ocala, FL 34475
Inmate ID: A0255941

Mailing Address

Home Address
8092 SW 115th Loop
Ocala, FL 34481

Certificate of Service

I, Neil Joseph Gillespie, hereby certify that on August ¹¹~~10~~ 2021 I placed the enclosed Pleading in the Marion County Jail Mail to provide by U.S. Mail to the Clerk of Court, United States District Court, Middle District of Florida, Ocala Division, 207 N.W. Second Street, Ocala, Florida 34475.

I request the Clerk provide the enclosed Pleading to the names below on the Court's CM/ECF System because I am incarcerated and cannot do so myself. I also request the Clerk provide forms for Rule 4(d) waiving service, and a paper copy of each Pleading requiring physical service.

Ashley Moody, Attorney General
Office of the Attorney General
The Capital
Tallahassee, FL 32399

William Gladson, State Attorney
State Attorney's Office
110 NW 1st Avenue, Suite 5000
Ocala, FL 34475

oag.civil.eserve@myfloridalegal.com

ESERVICE.MARION@SAO5.ORG

Signed Neil Joseph Gillespie

Neil Joseph Gillespie, #A0255941
Marion County Jail, Med B, 114B
3290 NW 10th Street
Ocala, FL 34475

Home Address
8092 SW 115th Loop
Ocala, FL 34481

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Appendix A F.S. 934.03 Interception And Disclosure of wire, oral, or electronic communication Prohibited.

Appendix B F.S. 934.01 Legislative Findings

Appendix C 18 U.S.C. 2511(2)(d) Interception and Disclosure of wire, oral, or electronic communication Prohibited (Lawful one-party)

Exhibit 1 Probable Cause Affidavit 2019 CF 4193

Exhibit 2 INFORMATION 2019 CF 4193

Exhibit 3 Bench WARRANT JAN-20-2021 2019 CF 4193

Exhibit 4 Probable Cause Affidavit 2021 CF 286

Exhibit 5 Application For Requisition/Affidavit Fifth Circuit

Exhibit 6 Extradition Habeas Corpus CP-09-MD-319-2021

Exhibit 7 Gillespie letter to FBI TAMPA, MAY 23, 2014

Exhibit 8 Notice of Constitutional challenge 2019 CF 4193

Exhibit 9 Defendant's Rule 3.133 Motion 2019 CF 4193

Exhibit 10 Notice of Constitutional challenge 2020 CF 2417

Exhibit 11 Request Prosecution F.S. 817.568 (8)(a) Judge Ann Cripps

Exhibit 12 FBI Washington DC letters to Gillespie re Public Corruption

Exhibit 13 2018 CA 2640 order of Dismissal April 14, 2021

Exhibit 14 2018 CA 2640 Plaintiff's Motion Reinstatement Case

Exhibit 15 2018 CA 2640 Notice of Appeal 5th DCA

Exhibit 16 Emergency Room Wills Eye Hospital - Jefferson Health

Exhibit 17 Wills Eye Hospital Surgery JAN-28-2021

Exhibit 18 Defendant's motion to modify conditions of Pretrial Release. CASE 2020 CF 2417

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Select Year: 2020

The 2020 Florida Statutes

Title XLVII
CRIMINAL PROCEDURE AND
CORRECTIONS

Chapter 934
SECURITY OF COMMUNICATIONS;
SURVEILLANCE

[View Entire
Chapter](#)

934.03 Interception and disclosure of wire, oral, or electronic communications prohibited.—

(1) Except as otherwise specifically provided in this chapter, any person who:

(a) Intentionally intercepts, endeavors to intercept, or procures any other person to intercept or endeavor to intercept any wire, oral, or electronic communication;

(b) Intentionally uses, endeavors to use, or procures any other person to use or endeavor to use any electronic, mechanical, or other device to intercept any oral communication when:

1. Such device is affixed to, or otherwise transmits a signal through, a wire, cable, or other like connection used in wire communication; or

2. Such device transmits communications by radio or interferes with the transmission of such communication;

(c) Intentionally discloses, or endeavors to disclose, to any other person the contents of any wire, oral, or electronic communication, knowing or having reason to know that the information was obtained through the interception of a wire, oral, or electronic communication in violation of this subsection;

(d) Intentionally uses, or endeavors to use, the contents of any wire, oral, or electronic communication, knowing or having reason to know that the information was obtained through the interception of a wire, oral, or electronic communication in violation of this subsection; or

(e) Intentionally discloses, or endeavors to disclose, to any other person the contents of any wire, oral, or electronic communication intercepted by means authorized by subparagraph (2)(a)2., paragraph (2)(b), paragraph (2)(c), s. 934.07, or s. 934.09 when that person knows or has reason to know that the information was obtained through the interception of such a communication in connection with a criminal investigation, has obtained or received the information in connection with a criminal investigation, and intends to improperly obstruct, impede, or interfere with a duly authorized criminal investigation;

shall be punished as provided in subsection (4).

(2)(a)1. It is lawful under this section and ss. 934.04-934.09 for an operator of a switchboard, or an officer, employee, or agent of a provider of wire or electronic communication service whose facilities are used in the transmission of a wire or electronic communication, to intercept, disclose, or use that communication in the normal course of his or her employment while engaged in any activity which is a necessary incident to the rendition of his or her service or to the protection of the rights or property of the provider of that service, except that a provider of wire communication service to the public shall not utilize service observing or random monitoring except for mechanical or service quality control checks.

2. Notwithstanding any other law, a provider of wire, oral, or electronic communication service, or an officer, employee, or agent thereof, or landlord, custodian, or other person, may provide information, facilities, or technical assistance to a person authorized by law to intercept wire, oral, or electronic communications if such provider, or an officer, employee, or agent thereof, or landlord, custodian, or other person, has been provided with:

a. A court order directing such assistance signed by the authorizing judge; or

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b. A certification in writing by a person specified in s. 934.09(7) that no warrant or court order is required by law, that all statutory requirements have been met, and that the specified assistance is required, setting forth the period of time during which the provision of the information, facilities, or technical assistance is authorized and specifying the information, facilities, or technical assistance required.

3. A provider of wire, oral, or electronic communication service, or an officer, employee, or agent thereof, or landlord, custodian, or other person may not disclose the existence of any interception or the device used to accomplish the interception with respect to which the person has been furnished an order under this section and ss. 934.04-934.09, except as may otherwise be required by legal process and then only after prior notice to the Governor, the Attorney General, the statewide prosecutor, or a state attorney, as may be appropriate. Any such disclosure renders such person liable for the civil damages provided under s. 934.10, and such person may be prosecuted under s. 934.43. An action may not be brought against any provider of wire, oral, or electronic communication service, or an officer, employee, or agent thereof, or landlord, custodian, or other person for providing information, facilities, or assistance in accordance with the terms of a court order under this section and ss. 934.04-934.09.

(b) It is lawful under this section and ss. 934.04-934.09 for an officer, employee, or agent of the Federal Communications Commission, in the normal course of his or her employment and in discharge of the monitoring responsibilities exercised by the commission in the enforcement of 47 U.S.C. chapter 5, to intercept a wire, oral, or electronic communication transmitted by radio or to disclose or use the information thereby obtained.

(c) It is lawful under this section and ss. 934.04-934.09 for an investigative or law enforcement officer or a person acting under the direction of an investigative or law enforcement officer to intercept a wire, oral, or electronic communication when such person is a party to the communication or one of the parties to the communication has given prior consent to such interception and the purpose of such interception is to obtain evidence of a criminal act.

(d) It is lawful under this section and ss. 934.04-934.09 for a person to intercept a wire, oral, or electronic communication when all of the parties to the communication have given prior consent to such interception.

(e) It is unlawful to intercept any wire, oral, or electronic communication for the purpose of committing any criminal act.

(f) It is lawful under this section and ss. 934.04-934.09 for an employee of a telephone company to intercept a wire communication for the sole purpose of tracing the origin of such communication when the interception is requested by the recipient of the communication and the recipient alleges that the communication is obscene, harassing, or threatening in nature. The individual conducting the interception shall notify local police authorities within 48 hours after the time of the interception.

(g) It is lawful under this section and ss. 934.04-934.09 for an employee of:

1. An ambulance service licensed pursuant to s. 401.25, a fire station employing firefighters as defined by s. 633.102, a public utility, a law enforcement agency as defined by s. 934.02(10), or any other entity with published emergency telephone numbers;
2. An agency operating an emergency telephone number "911" system established pursuant to s. 365.171; or
3. The central abuse hotline operated pursuant to s. 39.201

to intercept and record incoming wire communications; however, such employee may intercept and record incoming wire communications on designated "911" telephone numbers and published nonemergency telephone numbers staffed by trained dispatchers at public safety answering points only. It is also lawful for such employee to intercept and record outgoing wire communications to the numbers from which such incoming wire communications were placed when necessary to obtain information required to provide the emergency services being requested. For the purpose of this paragraph, the term "public utility" has the same meaning as provided in s. 366.02 and includes a person, partnership, association, or corporation now or hereafter owning or operating equipment or facilities in the state for conveying or transmitting messages or communications by telephone or telegraph to the public for compensation.

(h) It shall not be unlawful under this section and ss. 934.04-934.09 for any person:

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1. To intercept or access an electronic communication made through an electronic communication system that is configured so that such electronic communication is readily accessible to the general public.
2. To intercept any radio communication which is transmitted:
 - a. By any station for the use of the general public, or that relates to ships, aircraft, vehicles, or persons in distress;
 - b. By any governmental, law enforcement, civil defense, private land mobile, or public safety communications system, including any police or fire communications system, readily accessible to the general public;
 - c. By a station operating on an authorized frequency within the bands allocated to the amateur, citizens band, or general mobile radio services; or
 - d. By any marine or aeronautical communications system.
3. To engage in any conduct which:
 - a. Is prohibited by s. 633 of the Communications Act of 1934; or
 - b. Is excepted from the application of s. 705(a) of the Communications Act of 1934 by s. 705(b) of that act.
4. To intercept any wire or electronic communication the transmission of which is causing harmful interference to any lawfully operating station of consumer electronic equipment to the extent necessary to identify the source of such interference.
5. To intercept, if such person is another user of the same frequency, any radio communication that is not scrambled or encrypted made through a system that utilizes frequencies monitored by individuals engaged in the provision or the use of such system.
6. To intercept a satellite transmission that is not scrambled or encrypted and that is transmitted:
 - a. To a broadcasting station for purposes of retransmission to the general public; or
 - b. As an audio subcarrier intended for redistribution to facilities open to the public, but not including data transmissions or telephone calls, when such interception is not for the purposes of direct or indirect commercial advantage or private financial gain.
7. To intercept and privately view a private satellite video communication that is not scrambled or encrypted or to intercept a radio communication that is transmitted on frequencies allocated under subpart D of part 74 of the rules of the Federal Communications Commission that is not scrambled or encrypted, if such interception is not for a tortious or illegal purpose or for purposes of direct or indirect commercial advantage or private commercial gain.
 - (i) It shall not be unlawful under this section and ss. 934.04-934.09:
 1. To use a pen register or a trap and trace device as authorized under ss. 934.31-934.34 or under federal law; or
 2. For a provider of electronic communication service to record the fact that a wire or electronic communication was initiated or completed in order to protect such provider, another provider furnishing service toward the completion of the wire or electronic communication, or a user of that service, from fraudulent, unlawful, or abusive use of such service.
 - (j) It is not unlawful under this section and ss. 934.04-934.09 for a person acting under color of law to intercept the wire or electronic communications of a computer trespasser which are transmitted to, through, or from a protected computer if:
 1. The owner or operator of the protected computer authorizes the interception of the communications of the computer trespasser;
 2. The person acting under color of law is lawfully engaged in an investigation;
 3. The person acting under color of law has reasonable grounds to believe that the contents of the communications of the computer trespasser will be relevant to the investigation; and
 4. The interception does not acquire communications other than those transmitted to, through, or from the computer trespasser.
 - (k) It is lawful under this section and ss. 934.04-934.09 for a child under 18 years of age to intercept and record an oral communication if the child is a party to the communication and has reasonable grounds to believe that recording the communication will capture a statement by another party to the communication that the other

Appendix A Page 40F4

party intends to commit, is committing, or has committed an unlawful sexual act or an unlawful act of physical force or violence against the child.

(3)(a) Except as provided in paragraph (b), a person or entity providing an electronic communication service to the public shall not intentionally divulge the contents of any communication while in transmission on that service to any person or entity other than an addressee or intended recipient of such communication or an agent of such addressee or intended recipient.

(b) A person or entity providing electronic communication service to the public may divulge the contents of any such communication:

1. As otherwise authorized in paragraph (2)(a) or s. 934.08;
2. With the lawful consent of the originator or any addressee or intended recipient of such communication;
3. To a person employed or authorized, or whose facilities are used, to forward such communication to its destination; or
4. Which were inadvertently obtained by the service provider and which appear to pertain to the commission of a crime, if such divulgence is made to a law enforcement agency.

(4)(a) Except as provided in paragraph (b), whoever violates subsection (1) is guilty of a felony of the third degree, punishable as provided in s. 775.082, s. 775.083, s. 775.084, or s. 934.41.

(b) If the offense is a first offense under paragraph (a) and is not for any tortious or illegal purpose or for purposes of direct or indirect commercial advantage or private commercial gain, and the wire or electronic communication with respect to which the offense under paragraph (a) was committed is a radio communication that is not scrambled, encrypted, or transmitted using modulation techniques the essential parameters of which have been withheld from the public with the intention of preserving the privacy of such communication, then:

1. If the communication is not the radio portion of a cellular telephone communication, a cordless telephone communication that is transmitted between the cordless telephone handset and the base unit, a public land mobile radio service communication, or a paging service communication, and the conduct is not that described in subparagraph (2)(h)7., the person committing the offense is guilty of a misdemeanor of the first degree, punishable as provided in s. 775.082 or s. 775.083.

2. If the communication is the radio portion of a cellular telephone communication, a cordless telephone communication that is transmitted between the cordless telephone handset and the base unit, a public land mobile radio service communication, or a paging service communication, the person committing the offense is guilty of a misdemeanor of the second degree, punishable as provided in s. 775.082 or s. 775.083.

History.—s. 3, ch. 69-17; s. 1163, ch. 71-136; ss. 2, 3, ch. 74-249; s. 249, ch. 77-104; s. 1, ch. 78-376; s. 187, ch. 79-164; s. 2, ch. 80-27; s. 1, ch. 87-301; s. 2, ch. 88-184; s. 2, ch. 89-269; s. 1582, ch. 97-102; s. 18, ch. 99-168; ss. 7, 9, ch. 2000-369; s. 2, ch. 2002-72; s. 30, ch. 2010-117; s. 154, ch. 2013-183; s. 1, ch. 2015-82.

Appendix B page 1 of 1

Select Year: 2020

The 2020 Florida Statutes

Title XVII Chapter 934 View Entire Chapter
CRIMINAL PROCEDURE AND SECURITY OF COMMUNICATIONS;
CORRECTIONS SURVEILLANCE

934.01 Legislative findings.—On the basis of its own investigations and of published studies, the Legislature makes the following findings:

- (1) Wire communications are normally conducted through the use of facilities which form part of an intrastate network. The same facilities are used for interstate and intrastate communications.
- (2) In order to protect effectively the privacy of wire and oral communications, to protect the integrity of court and administrative proceedings, and to prevent the obstruction of interstate commerce, it is necessary for the Legislature to define the circumstances and conditions under which the interception of wire and oral communications may be authorized and to prohibit any unauthorized interception of such communications and the use of the contents thereof in evidence in courts and administrative proceedings.
- (3) Organized criminals make extensive use of wire and oral communications in their criminal activities. The interception of such communications to obtain evidence of the commission of crimes or to prevent their commission is an indispensable aid to law enforcement and the administration of justice.
- (4) To safeguard the privacy of innocent persons, the interception of wire or oral communications when none of the parties to the communication has consented to the interception should be allowed only when authorized by a court of competent jurisdiction and should remain under the control and supervision of the authorizing court. Interception of wire and oral communications should further be limited to certain major types of offenses and specific categories of crime with assurance that the interception is justified and that the information obtained thereby will not be misused.

History.—s. 1, ch. 69-17.

Appendix C Page 1 of 2

§ 2511. Interception and disclosure of wire, oral, or electronic communications prohibited

- (1) Except as otherwise specifically provided in this chapter [18 USCS §§ 2510 et seq.] any person who—
 - (a) intentionally intercepts, endeavors to intercept, or procures any other person to intercept or endeavor to intercept, any wire, oral, or electronic communication;
 - (b) intentionally uses, endeavors to use, or procures any other person to use or endeavor to use any electronic, mechanical, or other device to intercept any oral communication when—
 - (i) such device is affixed to, or otherwise transmits a signal through, a wire, cable, or other like connection used in wire communication; or
 - (ii) such device transmits communications by radio, or interferes with the transmission of such communication; or
 - (iii) such person knows, or has reason to know, that such device or any component thereof has been sent through the mail or transported in interstate or foreign commerce; or
 - (iv) such use or endeavor to use (A) takes place on the premises of any business or other commercial establishment the operations of which affect interstate or foreign commerce; or (B) obtains or is for the purpose of obtaining information relating to the operations of any business or other commercial establishment the operations of which affect interstate or foreign commerce; or
 - (v) such person acts in the District of Columbia, the Commonwealth of Puerto Rico, or any territory or possession of the United States;
 - (c) intentionally discloses, or endeavors to disclose, to any other person the contents of any wire, oral, or electronic communication, knowing or having reason to know that the information was obtained through the interception of a wire, oral, or electronic communication in violation of this subsection;
 - (d) intentionally uses, or endeavors to use, the contents of any wire, oral, or electronic communication, knowing or having reason to know that the information was obtained through the interception of a wire, oral, or electronic communication in violation of this subsection; or
 - (e) (i) intentionally discloses, or endeavors to disclose, to any other person the contents of any wire, oral, or electronic communication, intercepted by means authorized by sections 2511(2)(a)(ii), 2511(2)(b)–(c), 2511(2)(e), 2516, and 2518 of this chapter [18 USCS §§ 2511(2)(a)(ii), 2511(2)(b)–(c), 2511(2)(e), 2516, and 2518], (ii) knowing or having reason to know that the information was obtained through the interception of such a communication in connection with a criminal investigation, (iii) having obtained or received the information in connection with a criminal investigation, and (iv) with intent to improperly obstruct, impede, or interfere with a duly authorized criminal investigation,
- shall be punished as provided in subsection (4) or shall be subject to suit as provided in subsection (5).
- (12) (a) It shall not be unlawful under this chapter [18 USCS §§ 2510 et seq.] for an operator of a switchboard, or an officer, employee, or agent of a provider of wire or electronic communication service, whose facilities are used in the transmission of a wire or electronic communication, to intercept, disclose, or use that communication in the normal course of his employment while engaged in any activity which is a necessary incident to the rendition of his service or to the protection of the rights or property of the provider of that service, except that a provider of wire communication service to the public shall not utilize service observing or random monitoring except for mechanical or service quality control checks.
 - (11) Notwithstanding any other law, providers of wire or electronic communication service, their officers, employees, and agents, landlords, custodians, or other persons, are authorized to provide information, facilities, or technical assistance to persons authorized by law to intercept wire, oral, or electronic communications or to conduct electronic surveillance, as defined in section 101 of the

Foreign Intelligence Surveillance Act of 1978 [50 USCS § 1801] if such provider, its officers, employees, or agents, landlord, custodian, or other specified person, has been provided with—

- (A) a court order directing such assistance or a court order pursuant to section 704 of the Foreign Intelligence Surveillance Act of 1978 [50 USCS § 1881(c) signed by the authorizing judge; or
- (B) a certification in writing by a person specified in section 2518(7) of this title [18 USCS § 2518(7)] or the Attorney General of the United States that no warrant or court order is required by law, that all statutory requirements have been met, and that the specified assistance is required,

setting forth the period of time during which the provision of the information, facilities, or technical assistance is authorized and specifying the information, facilities, or technical assistance required. No provider of wire or electronic communication service, officer, employee, or agent thereof, or landlord, custodian, or other specified person shall disclose the existence of any interception or surveillance or the device used to accomplish the interception or surveillance with respect to which the person has been furnished an order or certification under this subparagraph, except as may otherwise be required by legal process and then only after prior notification to the Attorney General or to the principal prosecuting attorney of a State or any political subdivision of a State, as may be appropriate. Any such disclosure, shall render such person liable for the civil damages provided for in section 2520 [18 USCS § 2520]. No cause of action shall lie in any court against any provider of wire or electronic communication service, its officers, employees, or agents, landlord, custodian, or other specified person for providing information, facilities, or assistance in accordance with the terms of a court order, statutory authorization, or certification under this chapter [18 USCS §§ 2510 et seq.]

- (11i) If a certification under subparagraph (ii)(B) for assistance to obtain foreign intelligence information is based on statutory authority, the certification shall identify the specific statutory provision and shall certify that the statutory requirements have been met.
- (b) It shall not be unlawful under this chapter [18 USCS §§ 2510 et seq.] for an officer, employee, or agent of the Federal Communications Commission, in the normal course of his employment and in discharge of the monitoring responsibilities exercised by the Commission in the enforcement of chapter 5 of title 47 [47 USCS §§ 151 et seq.] of the United States Code, to intercept a wire or electronic communication, or oral communication transmitted by radio, or to disclose or use the information thereby obtained.
- (c) It shall not be unlawful under this chapter [18 USCS §§ 2510 et seq.] for a person acting under color of law to intercept a wire, oral, or electronic communication, where such person is a party to the communication or one of the parties to the communication has given prior consent to such interception.
- (4) It shall not be unlawful under this chapter [18 USCS §§ 2510 et seq.] for a person not acting under color of law to intercept a wire, oral, or electronic communication where such person is a party to the communication or where one of the parties to the communication has given prior consent to such interception unless such communication is intercepted for the purpose of committing any criminal or tortious act in violation of the Constitution or laws of the United States or of any State.
- (e) Notwithstanding any other provision of this title or section 705 or 706 of the Communications Act of 1934 [47 USCS § 605 or 606], it shall not be unlawful for an officer, employee, or agent of the United States in the normal course of his official duty to conduct electronic surveillance, as defined in section 101 of the Foreign Intelligence Surveillance Act of 1978 [50 USCS § 1801], as authorized by that Act [50 USCS §§ 1801 et seq.].
- (9) Nothing contained in this chapter or chapter 121 or 206 of this title [18 USCS §§ 2510 et seq., or 2701 et seq., or 3121 et seq.], or section 705 of the Communications Act of 1934 [47 USCS § 605], shall be deemed to affect the acquisition by the United States Government of foreign intelligence information from international or foreign communications, or foreign intelligence activities conducted in accordance with otherwise applicable Federal law involving a foreign electronic communications system, utilizing a means other than electronic surveillance as defined in section 101 of the Foreign Intelligence Surveillance Act of 1978 [50 USCS § 1801], and procedures in this chapter or chapter 121 or 206 of this title [18 USCS §§ 2510 et seq., or 2701 et seq., or 3121 et seq.] and the Foreign Intelligence Surveillance Act of 1978 [50 USCS §§ 1801 et seq.] shall be the

Exhibit 1 Page 1 of 8

19-CF-4193



Probable Cause Affidavit

MARION COUNTY SHERIFF'S OFFICE
692 NW 30TH AVE
OCALA, FL 34475

ORIGINAL

| | | | |
|---|---|--|------------------------------------|
| Report Date / Time 10/30/2019 04:07 PM | Report Number MCSO65ARR00119S | Case Number/Cad Number MCSO19OFF28054 / | Reporting Officer Name LEWIS, A |
| Originating Agency ORI FL0420000 | Occur Date Time Range 10/29/2019 00:00:00 - 10/29/2019 00:00:00 | OBTS 4203171189 | Clearance |

Location of Occurrence

| | | | |
|---------------|---------------|----------------------|----------|
| County | Location Type | Location Description | |
| Street Number | Street | Apt/Lot/Bldg | City |
| | | State | Zip Code |
| | | FL | |

Suspect

| | | | | | | | | | |
|--|-------------|-----------------------------|-----------|-------------------------------------|--|-----------------|---------|------|------|
| First Name NEIL | Middle Name | Last Name GILLESPIE | Suffix | Race WHITE | Sex MALE | Height 5'10" | Weight | Hair | Eyes |
| MNI # | SSN | Date of Birth 03/19/1956 | Age 63 | Place of Birth Philadelphia, PA. | Drivers License or other ID G421630560990 | State FL | ID Type | | |
| Address * RESIDENCE / 8092 SW 115TH LP, OCALA, FL 34481 / | | | | | | | | | |

Probable Cause Affidavit Data

| | |
|-------------------------|--------|
| Question | Answer |
| Occupation and Employer | |
| Question | Answer |
| Alias | |
| Question | Answer |
| Under the influence of | |
| Question | Answer |
| Domestic Related | |

Arrest

| | | |
|------------------------------------|------------------------|-----------------------------|
| Arrest Date/Time 11-10-19 18:45 | Arrest Location Type | Arrest Location Description |
| Street Number 8092 | Street SW 115th Lp. | Apt/Lot/Bldg |
| County Marion | City Ocala | State FL |
| Zip Code 34481 | | |

Charge : S

| | | | |
|---|------------------------|---------------------------------------|----------------------------------|
| Counts 1 | Charge 934.03.1a | Bond Amount \$2000.00 | <input type="checkbox"/> No Bond |
| Charge Degree T | Charge Level FELONY | General Offense Code EAVESDROPPING | |
| Charge Description ILLEGAL INTERCEPTION OF COMMUNICATION | | | |

Probable Cause Affidavit

Sgt [Signature]



Page 1 of 6
Certified A True Copy
of 8 page document
this 9 day of 11 2019
GREGORY C. HARRELL
Clerk of Court and Comptroller
By [Signature] D.C.

FILED
CRIMINAL INT
NOV 12 A
DAVID WELLS
CLERK OF COURT
MARION COUNTY, FL

Exhibit 1 Page 2 of 8

ORIGINAL

| | | | |
|---|---|--|------------------------------------|
| Report Date / Time 10/30/2019 04:07 PM | Report Number MCSO55ARR00119S | Case Number/Cad Number MCSO19OFF28054 / | Reporting Officer Name LEWIS, A |
| Originating Agency ORI FL0420000 | Occur Date Time Range 10/29/2019 00:00:00 - 10/29/2019 00:00:00 | OBTS | Clearance |

Charge : S

| | | | |
|-------------|---------------------|--------------------------|----------------------------------|
| Counts 1 | Charge 934.03.1c | Bond Amount \$2000.00 | <input type="checkbox"/> No Bond |
|-------------|---------------------|--------------------------|----------------------------------|

| | | |
|--------------------|------------------------|--|
| Charge Degree T | Charge Level FELONY | General Offense Code INVADE PRIVACY |
|--------------------|------------------------|--|

Charge Description
ILLEGAL DISCLOSURE OF COMMUNICATION

Bond Set by Charges

| | |
|--------------------------|----------------------------------|
| Bond Amount \$4000.00 | <input type="checkbox"/> No Bond |
|--------------------------|----------------------------------|

| |
|--------------|
| Bond Type(s) |
|--------------|

Probable Cause

DID COMMIT THE LISTED CRIMES TO WIT:

ON OCTOBER 16, 2019, NEIL GILLESPIE MADE A TELEPHONE CALL TO MARION SENIOR SERVICES. THE TELEPHONE CALL WAS ANSWERED BY CHONNIE PHILLIPS, A TEMP EMPLOYEE OF MARION SENIOR SERVICES. GILLESPIE RECORDED THIS TELEPHONE CALL WITHOUT PHILLIPS' CONSENT, PERMISSION, OR KNOWLEDGE. THE CALL LASTED APPROXIMATELY 7-1/2 MINUTES. IN SO DOING, GILLESPIE VIOLATED S. 934.03(1)(A), WHICH PROVIDES THAT IT IS ILLEGAL TO INTENTIONALLY INTERCEPT, ENDEAVOR TO INTERCEPT, OR PROCURE ANOTHER PERSON TO INTERCEPT OR ENDEAVOR TO INTERCEPT ANY WIRE, ORAL, OR ELECTRONIC COMMUNICATION.

ON OCTOBER 25, 2019, NEIL GILLESPIE SENT AN E-MAIL TO JENNIFER MARTINEZ, THE EXECUTIVE DIRECTOR OF MARION SENIOR SERVICES. THE E-MAIL REFERENCED AND INCLUDED AS AN ATTACHMENT A "WAV" AUDIO FILE CONTAINING A RECORDING OF THE ILLEGALLY RECORDED TELEPHONE CONVERSATION. IN SO DOING, GILLESPIE VIOLATED S. 934.03(1)(C), WHICH PROVIDES THAT IT IS ILLEGAL TO INTENTIONALLY DISCLOSE OR ENDEAVOR TO DISCLOSE TO ANY OTHER PERSON THE CONTENTS OF ANY WIRE, ORAL, OR ELECTRONIC COMMUNICATION, KNOWING OR HAVING REASON TO KNOW THE INFORMATION WAS OBTAINED THROUGH THE INTERCEPTION OF A WIRE, ORAL, OR ELECTRONIC COMMUNICATION, IN VIOLATION OF THIS SECTION.

THE CONTENTS OF THE RECORDING CAN BE SUMMARIZED AS FOLLOWS: THE CALL STARTS WITH A DIAL TONE AND THE RECORDED STATEMENT, "THIS CALL MAY BE RECORDED FOR QUALITY ASSURANCE PURPOSES," IS THEN HEARD. THE PHONE CAN THEN BE HEARD DIALING A PHONE NUMBER. THE CALL IS THEN ANSWERED BY CHONNIE PHILLIPS. GILLESPIE THEN ASKS TO SPEAK TO SOMEBODY IN AUTHORITY AND STATES THAT IT IS ABOUT WHETHER THEY HAVE AN EMPLOYEE OR VOLUNTEER NAMED VICKI ELLEN TOMLINSON. PHILLIPS THEN ADVISES THAT SHE IS ATTEMPTING TO DETERMINE IF

Exhibit 1 Page 3 of 8

ORIGINAL

| | | | |
|---|---|--|------------------------------------|
| Report Date / Time 10/30/2019 04:07 PM | Report Number MCSO55ARR00119S | Case Number/Cad Number MCSO19OFF28054 / | Reporting Officer Name LEWIS, A |
| Originating Agency ORI FL0420000 | Occur Date Time Range 10/29/2019 00:00:00 - 10/29/2019 00:00:00 | OBTS | Clearance |

TOMLINSON IS ASSOCIATED WITH MARION SENIOR SERVICES. FIVE (5) MINUTES INTO THE PHONE CALL, GILLESPIE AGAIN ASKS IF TOMLINSON IS ASSOCIATED WITH THE ORGANIZATION. PHILLIPS RESPONDS, "YES, SIR, AND THAT'S WHAT I'M GOING TO...", AT WHICH POINT GILLESPIE THEN INTERRUPTED HER STATING, "SO SHE IS?" PHILLIPS THEN STATED, "YES." GILLESPIE THEN BECAME IRATE, STATED THAT TOMLINSON DIDN'T KNOW HIM, THAT SHE WAS "SHOOTING OFF HER BIG MOUTH TO THE MARION COUNTY SHERIFF'S OFFICE," AND GOES ON TO READ FROM AN MCSO INCIDENT REPORT (19OFF26500) IN WHICH TOMLINSON STATED THAT HE ALLOWED RANDOM PEOPLE TO LIVE IN HIS HOUSE. GILLESPIE THEN STATES, "HOW THE HELL DOES SHE KNOW THAT?" HE STATES THAT TOMLINSON DEFAMED HIM, AND THAT SHE DID SO AS A WITNESS, TO THE MARION COUNTY SHERIFF, THAT IT IS IN AN OFFICIAL REPORT, AND THAT DID IT WHILE UNDER THEIR EMPLOYMENT. HE THEN STATES, "YOU GOT IT?" HE THEN STATES, "I SEE THAT BILLY WOODS IS VICE CHAIR, THAT SMACKED ASS." GILLESPIE THEN EXCLAIMS, "FUCK HIM AND FUCK YOU!"

ON OCTOBER 28, 2019, WRITER WAS ASSIGNED TO INVESTIGATE THIS MATTER AND WAS PROVIDED WITH A COPY OF THE RECORDED TELEPHONE CONVERSATION. WRITER WAS ALSO PROVIDED WITH A NUMBER OF E-MAILS SENT BY GILLESPIE TO VARIOUS PERSONS, INCLUDING JENNIFER MARTINEZ, BRITTANY COLBERT (THE SUPERVISOR OF THE MCSO RECORDS DIVISION), MCSO LIEUTENANT CHARLES WELCH, MCSO GENERAL COUNSEL TIMOTHY MCCOURT, AND THE SHERIFF. WRITER WAS ALSO PROVIDED WITH REPLY E-MAILS SENT TO GILLESPIE FROM MARTINEZ, COLBERT, AND MCCOURT. WRITER REVIEWED THESE MATERIALS.

WRITER MADE CONTACT WITH JENNIFER MARTINEZ. MARTINEZ IS THE EXECUTIVE DIRECTOR OF MARION SENIOR SERVICES. MARTINEZ STATED SHE HAD BEEN RECEIVING E-MAILS AND COMMUNICATIONS FROM GILLESPIE, IN WHICH HE WAS ATTEMPTING TO LEARN WHETHER A WOMAN NAMED VICKI TOMLINSON WAS AN EMPLOYEE OF MARION SENIOR SERVICES.

GILLESPIE'S APPARENT DESIRE TO LEARN INFORMATION ABOUT MS. TOMLINSON BEGAN AFTER AN INCIDENT THAT OCCURRED ON OCTOBER 9, 2019, WHERE GILLESPIE WAS INVOLVED IN A DISPUTE WITH A WOMAN NAMED MICHELLE OGUREK WHO HAD BEEN RESIDING IN HIS HOME FOR A FEW DAYS. DEPUTIES WENT TO GILLESPIE'S HOME AND, WHILE THERE, SPOKE TO VICKI TOMLINSON, A WOMAN WHO WAS PROVIDING SERVICES AT THE RESIDENCE OF GILLESPIE'S NEIGHBOR, CATHY BETENCOURT. ACCORDING TO THE INCIDENT REPORT FOR THAT CASE (#19OFF26500), TOMLINSON TOLD DEPUTIES THAT "GILLESPIE ALWAYS TENDS TO LET RANDOM PEOPLE LIVE IN HIS RESIDENCE."

ON OCTOBER 10, 2019, GILLESPIE MADE A PUBLIC RECORDS REQUEST FOR THE INCIDENT REPORT. ON OCTOBER 11, 2019, THE INCIDENT REPORT WAS E-MAILED TO GILLESPIE.

ON OCTOBER 16, 2019, MR. GILLESPIE APPEARS TO HAVE LEARNED FROM BETANCOURT THAT TOMLINSON WAS A HEALTH AIDE SHE OBTAINED FROM MARION SENIOR SERVICES.

EXHIBIT 1 PAGE 4 OF 8

ORIGINAL

| | | | |
|---|---|--|------------------------------------|
| Report Date / Time 10/30/2019 04:07 PM | Report Number MCSO55ARR00119S | Case Number/Cad Number MCSO19OFF28054 / | Reporting Officer Name LEWIS, A |
| Originating Agency ORI FL0420000 | Occur Date Time Range 10/29/2019 00:00:00 - 10/29/2019 00:00:00 | OBTS | Clearance |

ON OCTOBER 16, 2019, GILLESPIE SENT AN E-MAIL TO SEVERAL PERSONS, INCLUDING MARTINEZ, STATING THAT TOMLINSON "MADE A FALSE STATEMENT ABOUT [HIM]," THAT HE HAD NEVER MET HER, AND THAT "SHE HAS NO BASIS FOR HER FALSE STATEMENT, WHICH AMOUNTS TO SLANDER, AND A CIVIL RIGHTS VIOLATION." BASED UPON WRITER'S REVIEW OF MCSO RECORDS AND A LETTER SENT BY GILLESPIE TO HIS NEIGHBOR, IT APPEARS GILLESPIE HAS HAD SEVERAL WOMEN RESIDE AT HIS HOME DURING 2019 WHOM HE APPEARS TO HAVE MET THROUGH CRAIGSLIST.

ON OCTOBER 17, 2019 (BASED UPON THE DATE OF THE LETTER), GILLESPIE WROTE A LETTER TO BETENCOURT. IN THE LETTER, GILLESPIE STATES THAT TOMLINSON "MAY HAVE BEEN REPEATING FALSEHOODS YOU TOLD HER ABOUT ME." HE ALSO WROTE THAT HE DID NOT LET RANDOM PEOPLE LIVE IN HIS RESIDENCE AND INSTRUCTED BETENCOURT TO "KINDLY DISABUSE YOURSELF OF THAT FALSEHOOD," "STOP MAKING FALSE STATEMENTS ABOUT ME TO OTHERS," AND TO "MIND [HER] OWN BUSINESS." HE THEN WROTE THAT BETENCOURT WAS "SHUNNED IN THIS NEIGHBORHOOD, BY [HER] OWN FAMILY, APPARENTLY FOR GOSSIPING."

ON OCTOBER 21, 2019, MARTINEZ E-MAILED GILLESPIE AND ADVISED THAT MS. TOMLINSON WAS NOT A MARION SENIOR SERVICES VOLUNTEER AND WAS NOT EMPLOYED BY THEM. LATER THAT SAME DAY, IN RESPONSE, GILLESPIE E-MAILED MARTINEZ AND STATED, "PERSONNEL AT MARION SENIOR SERVICES WITH WHOM I SPOKE BY TELEPHONE SAID VICKI TOMLINSON WAS EMPLOYED OR A VOLUNTEER WITH MARION SENIOR SERVICES. I WILL LOOK FOR THE RECORDING OF THAT CALL FOR THE DETAILS AS SOON AS TIME PERMITS." HE THEN ASKED IF MARION SENIOR SERVICES DELIVERED MEALS TO CATHY BETANCOURT, 8091 SW 115TH LOOP, OCALA, FL 34481. HE WROTE, "SOME ORGANIZATION IS DELIVERING MEALS TO BETANCOURT, AND THE DRIVERS HAVE BLOCKED MY DRIVEWAY DOING SO."

ON OCTOBER 21, 2019, GILLESPIE ALSO E-MAILED GENERAL COUNSEL MCCOURT AND STATED THAT THE OCTOBER 9, 2019 INCIDENT REPORT CONTAINED A FALSE STATEMENT ABOUT HIM MADE BY OGUREK.

ALSO ON OCTOBER 21, 2019, GILLESPIE SHOWED UP TO MARION SENIOR SERVICES. HE MADE CONTACT WITH MARTINEZ. GILLESPIE STATED HE WANTED INFORMATION REGARDING HIS NEIGHBOR CATHY BETENCOURT AND WHETHER SHE RECEIVED SERVICES FROM MARION SENIOR SERVICES. GILLESPIE WAS TOLD THIS INFORMATION COULD NOT BE PROVIDED DUE TO HIPAA. GILLESPIE STATED THAT WHOEVER DELIVERED HER MEALS BLOCKED HIS DRIVEWAY. MARTINEZ TOLD GILLESPIE THAT BETENCOURT WAS NOT A CLIENT BUT THAT IF SOMEBODY WAS BLOCKING HIS DRIVEWAY THEY WOULD NO LONGER DO SO. GILLESPIE ALSO ATTEMPTED TO GET INFORMATION REGARDING TOMLINSON.

ON OCTOBER 24, 2019, GILLESPIE SENT AN E-MAIL TO JENNIFER MARTINEZ. HE WROTE

Exhibit 1 Page 5 of 8**ORIGINAL**

| | | | |
|---|---|--|------------------------------------|
| Report Date / Time 10/30/2019 04:07 PM | Report Number MCSO55ARR00119S | Case Number/Cad Number MCSO19OFF28054 / | Reporting Officer Name LEWIS, A |
| Originating Agency ORI FL0420000 | Occur Date Time Range 10/29/2019 00:00:00 - 10/29/2019 00:00:00 | OBTS | Clearance |

THAT HE "CHECKED THE RECORD OF MY PHONE CALL WITH MARION SENIOR SERVICES AS [HE] SAID [HE] WOULD WHEN [THEY] MET MONDAY OCTOBER 21, 2019 IN THE AFTERNOON AT [HER] OFFICE." HE WROTE THAT HIS TELEPHONE CALL WAS MADE ON OCTOBER 16, 2019, AT 8:05AM. HE WROTE THAT HE SPOKE WITH A WOMAN WHO IDENTIFIED HERSELF AS CHONNIE, THAT THE CALL WAS 7 MINUTES AND 35 SECONDS LONG, AND THAT CHONNIE CONFIRMED THAT TOMLINSON IS AFFILIATED WITH MARION SENIOR SERVICES. GILLESPIE THEN WRITES, "SO YOU MAY WANT TO CHECK WITH CHONNIE. YOU MAY NOT HAVE RECORDS OF AN ASSOCIATION WITH VICKI TOMLINSON BECAUSE THOSE RECORDS WERE DELETED. TOMLINSON MAY NEVER HAVE BEEN EMPLOYED WITH YOUR AGENCY BUT WAS A VOLUNTEER. TOMLINSON MAY NOT BE CURRENTLY PRESENT IN YOUR VOLUNTEER DATABASE BECAUSE THE RECORD WAS DELETED. WHAT POSITION DOES CHONNIE HOLD WITH MARION SENIOR SERVICES? CHONNIE MAY BE MISTAKEN, AND SHE REFUSED TO CONNECT ME WITH THE PERSON IN CHARGE, OR ANYONE IN A POSITION OF AUTHORITY. INSTEAD CHONNIE ACTED AS A GO-BETWEEN WITH MANAGEMENT DURING OUR TELEPHONE CALL.

I CALLED CATHY BETANCOURT AT 7:43AM ON OCTOBER 16, 2019. CATHY SAID SHE KNOWS VICKI ELLEN TOMLINSON, AND SAID TOMLINSON IS A HEALTH AID SHE GETS THROUGH "SENIOR SERVICES". CATHY CLAIMS SHE DOES NOT KNOW HOW TO CONTACT TOMLINSON. CATHY DISPUTES THE WRITTEN STATEMENT THAT DEPUTY GONZALEZ ATTRIBUTES TO TOMLINSON IN HIS REPORT. SEPARATELY I HAVE NOT ABLE TO LOCATE VICKI ELLEN TOMLINSON. I MAY ASK THE MCSO FOR THE RECORDS IT HAS FOR ITS "WITNESS".

ON OCTOBER 25, 2019, GILLESPIE SENT THE E-MAIL TO MARTINEZ, WRITING, "TO ASSIST WITH YOUR REVIEW OF THIS MATTER, I AM PROVIDING YOU A WAV FILE OF MY CALL WITH CHONNIE, WHICH CAN BE PLAYED ON WINDOWS MEDIA PLAYER, ETC."

ON OCTOBER 29, 2019, GILLESPIE APPARENTLY ATTEMPTED TO CALL TOMLINSON SEVERAL TIMES AND LEFT HER VOICEMAILS; HER TELEPHONE NUMBER WAS LOCATED IN THE INCIDENT REPORT GILLESPIE PREVIOUSLY OBTAINED THROUGH A PUBLIC RECORDS REQUEST. IN ONE OF THESE VOICEMAILS, GILLESPIE STATED THAT HE WOULD CALL HER EVERY 30 MINUTES UNTIL HE CALLED HER BACK. LATER THAT DAY, GILLESPIE SENT AN E-MAIL TO GENERAL COUNSEL MCCOURT. IN IT, HE REQUESTED TO BE PROVIDED WITH RECORDS OF CONTACT INFORMATION FOR TOMLINSON. GILLESPIE STATED THAT HE HAD ATTEMPTED TO CALL TOMLINSON AT THE TELEPHONE NUMBER LISTED IN MCSO INCIDENT REPORT 19OFF26500 BUT THAT NOBODY ANSWERED OR RETURNED. HE STATED HE WISHED TO SPEAK WITH TOMLINSON REGARDING HER AFFILIATION WITH MARION SENIOR SERVICES AND THE STATEMENTS SHE MADE TO DEPUTIES AS REFLECTED IN THE 19OFF26500 INCIDENT REPORT. GILLESPIE ALSO OBTAINED A COPY OF A TRAFFIC CITATION ISSUED TO TOMLINSON IN 2015 AND STATED THAT HER ADDRESS AS REFLECTED ON THAT CITATION IS NOT CORRECT.

ON OCTOBER 30, 2019, CHONNIE PHILLIPS LISTENED TO THE ABOVE-DESCRIBED RECORDING AND IDENTIFIED IT AS A TELEPHONE CALL TO WHICH SHE WAS A PARTY.

Exhibit 1 Page 6 of 8

ORIGINAL

| | | | |
|---|---|--|------------------------------------|
| Report Date / Time 10/30/2019 04:07 PM | Report Number MCSO55ARR00119S | Case Number/Cad Number MCSO19OFF28054 / | Reporting Officer Name LEWIS, A |
| Originating Agency ORI FL0420000 | Occur Date Time Range 10/29/2019 00:00:00 - 10/29/2019 00:00:00 | OBT5 | Clearance |

PHILLIPS WAS EMPLOYED AT MARION SENIOR SERVICES - 1101 SW 20TH CT, OCALA, FLORIDA - AT THE TIME THE PHONE CALL WAS MADE. PHILLIPS ADVISED SHE REMEMBERED THE PHONE CALL. PHILLIPS STATED SHE WAS NOT AWARE, NOR DID GILLESPIE MAKE HER AWARE, THAT THE PHONE CALL WAS BEING RECORDED BY GILLESPIE. SHE STATED THAT SHE DID NOT LIKE BEING RECORDED. SHE ALSO STATED THAT THE STATEMENT AT THE BEGINNING OF THE CALL, THAT THE CALL WAS BEING RECORDED FOR QUALITY ASSURANCE PURPOSES, WAS NOT PLAYED WHILE SHE WAS ON THE PHONE.

WRITER PLAYED THE RECORDED TELEPHONE CALL FOR LIEUTENANT CHARLES WELCH. LIEUTENANT WELCH IS ASSIGNED TO MCSO'S SOUTHWEST DISTRICT AND HAS HAD NUMEROUS DEALINGS WITH GILLESPIE. LIEUTENANT WELCH WAS ABLE TO IDENTIFY THE MALE'S VOICE ON THE RECORDING AS BEING THAT OF GILLESPIE.

BASED UPON THE FOREGOING, WRITER BELIEVES PROBABLE CAUSE EXISTS TO BELIEVE GILLESPIE VIOLATED S. 934.03(1)(A) BY ILLEGALLY RECORDED A TELEPHONE CALL BETWEEN HIMSELF AND CHONNIE PHILLIPS AND THEN SUBSEQUENTLY VIOLATED S. 934.03(1)(C) BY DISCLOSING THAT PHONE CALL TO JENNIFER MARTINEZ VIA E-MAIL.

| | | |
|-----------------------------|---|--------------------------------|
| Officer Name Rank / ID # | Involvement On Report / Reporting Role | Officer Agency Org/Unit |
| LEWIS, A 2010 | REPORTING OFFICER | MARION COUNTY SHERIFF'S OFFICE |

The undersigned certifies and swears that he/she has just and reasonable grounds to believe that the above named Defendant, committed violation(s), of law, on the below date(s) and time(s), as listed in the probable cause associated with this report:

| | | | |
|-------------------|--------------------------------|---------------|--|
| Reporting Officer | | | Sworn and subscribed before me, the undersigned authority This the <u>5</u> day of <u>NOV</u> , <u>2019</u> DEPUTY OF THE COURT, NOTARY OR LAW ENFORCEMENT <i>[Signature]</i> #3379 |
| Officer Name | Office Rank | Officer ID No | |
| LEWIS, A | 2010 | 4482 | |
| Officer Agency | MARION COUNTY SHERIFF'S OFFICE | | |
| Officer Signature | <i>[Signature]</i> | | |

On 11-10-19 the defendant did become arrested per Marion County Warrant # 19CF4193, for Count I Unlawful Interception of Oral Communication, Count II Unlawful Disclosure of Oral Communication. The warrant was issued on 11/7/19 by Judge S. Robbins. Bond: \$4,000.

J. Rivera 6048

Exhibit 1 Page 7 of 8

WARRANTS NOV 7 2019 15:31

Exhibit 1 Page 50 of 8

CASE NUMBER: 19028054

ORIGINAL

NAME OF INMATE: Gillespie, Neil

OBTS: 4203171189

Indication of: Alcohol: Drug: Weapon Seized: Juvenile Disposition:

Jail Log: (To be completed by booking officer) Jail Inmate #:

Date Booked: 11-10-19 Time Booked: 1958 Booking Officer: 6169 Fingerprinted By: 6169

Photographed By: 6169 Bin Number: _____ Advised of Rights By: Advised

Check for Warrants: NCIC PCIC Local Holds: Yes No Agency of Hold:

Attorney (if known): _____ Religion: None Marital Status: S M D Sep

Telephone call logged: Time AM PM # ()

Next Of Kin: None Relation: _____ Relation Phone: _____

Relation Address: _____

Bond Date: _____ Returnable Court Date: _____ Returnable Court Time: _____ Release Date: _____

Release Time: _____ AM/PM Releasing Officer: _____ Bond, Charge A: _____ Charge B: _____

Charge C: _____ Charge D: _____ Charge E: _____ Bond Type: ROR SURETY CASH

Name Address of Bondsman: _____ BAIL BOND CERT Other

FILED
CRIMINAL INTAKE

2019 NOV 12 A 9 09

DAVID R. ELLSPERMAN
CLERK CIRCUIT COURT
MARION COUNTY, ILL

Exhibit 2 page 10 of 2

IN THE CIRCUIT COURT OF THE FIFTH JUDICIAL CIRCUIT
OF THE STATE OF FLORIDA, IN AND FOR MARION COUNTY

THE STATE OF FLORIDA

CASE NO. 2019-CF-004193-A-Z

vs

INFORMATION

NEIL JOSEPH GILLESPIE

IN THE NAME AND BY THE AUTHORITY OF THE STATE OF FLORIDA:

BRAD KING, State Attorney of the Fifth Judicial Circuit of the State of Florida, in and for Marion County prosecuting for the State of Florida, by and through the undersigned Assistant State Attorney, in the said County, under oath, information makes that: NEIL JOSEPH GILLESPIE (R/G: W/M, DOB: 03/19/1956) in the County of Marion, and the State of Florida, on or about the 16th day of October in the year of Our Lord, twenty-nineteen:

COUNT I

UNLAWFUL INTERCEPTION OF ORAL COMMUNICATION (F3)

934.03(1)(a)

did intentionally intercept or endeavor to intercept the wire, oral, or electronic communication of another person, to wit: Chonnie Phillips, in violation of Florida Statute 934.03(1)(a);

COUNT II

UNLAWFUL DISCLOSURE OF ORAL COMMUNICATION (F3)

934.03(1)(c)

and the Assistant State Attorney upon his oath aforesaid, further information makes that NEIL JOSEPH GILLESPIE (R/G: W/M, DOB: 03/19/1956) in the County of Marion, and the State of Florida, on or about the 25th day of October in the year of Our Lord, twenty-nineteen, in the County and State aforesaid did intentionally disclose or endeavor to disclose the wire, oral, or electronic communication of another person, to wit: Chonnie Phillips, knowing or having reason to know that the information was obtained through the interception of a wire, oral, or electronic communication in violation of Florida Statute 934.03(1)(c);

contrary to the form of the statute in such cases made and provided and against the peace and dignity of the State of Florida.

STATE OF FLORIDA, COUNTY OF MARION

'19DEC 5 9:02AM

CRIMINAL



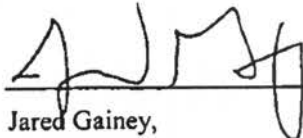
Certified A True Copy
of 2 page document
this 9 day of Oct 20 21
GREGORY C. HARRELL
Clerk of Court and Comptroller
By: [Signature] D.C.

M-2019-50323

Exhibit 2 Page 2 of 2

PAGE 2
STATE OF FLORIDA
VS
NEIL JOSEPH GILLESPIE
2019-CF-004193-A-Z

Personally appeared before me, BRAD KING, State Attorney for the Fifth Judicial Circuit, State of Florida, in and for Marion County, State of Florida, or his duly designated Assistant State Attorney, who first being sworn, says that the allegations as set forth in the foregoing information are based upon facts that have been sworn to as true, and which if true, would constitute the offense therein charged. Prosecution instituted in good faith and subscribed under oath, certifying he has received testimony under oath from the material witness or witnesses of the offense.



Jared Gainey,
Assistant to BRAD KING State Attorney,
Fifth Judicial Circuit of Florida
Florida Bar No. 1010232

Sworn to and subscribed before me this 4th day of December, 2019.

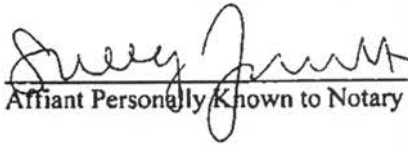

Affiant Personally Known to Notary Public

Exhibit 3 Page 1 of 2

NEIL JOSEPH GILLESPIE | 19CF004193AX

**IN THE CIRCUIT COURT OF THE FIFTH JUDICIAL CIRCUIT
IN AND FOR MARION COUNTY, FLORIDA**

STATE OF FLORIDA

vs.

Case Number: 19CF004193AX

NEIL JOSEPH GILLESPIE
Defendant.

BENCH WARRANT

TO ALL AND SINGULAR THE SHERIFFS OF THE STATE OF FLORIDA:

This is to command you to take the Defendant, NEIL JOSEPH GILLESPIE, into custody if found in your county, and safely keep him so you have said Defendant before a judge of this Court to answer the State of Florida for FTA HEARING for

| Count # | | | | Bond Amount(s) |
|--------------------|------------------------------------|-----------|------------------------|----------------|
| 1 | INTERCEPTION OF ORAL COMMUNICATION | 934.03.1a | NO BOND/HOLD FOR JUDGE | \$ 0.00 |
| 2 | INTERCEPTION OF ORAL COMMUNICATION | 934.03.1a | NO BOND/HOLD FOR JUDGE | \$ 0.00 |
| Total Bond Amount: | | | | \$ 0.00 |

and have then and there this writ with due return of your action endorsed thereon.

THE STATE OF FLORIDA WILL EXTRADITE AW YES _____ NO

The undersigned hereby endorses bail as indicated above and ~~does~~ does not authorize modification of this bail by the Judge presiding at first appearance.

WITNESS my hand and official seal of said Court at Ocala, Marion County, Florida, on

1/21/21

DONE AND ORDERED on 01-20-21

Gregory C. Harrell
Clerk of Court and Comptroller

Gary L Sanders
GARY L SANDERS

K. Hagood
Deputy Clerk



Certified A True Copy
of 2 page document
this 9 day of Feb 2021
GREGORY C. HARRELL
Clerk of Court and Comptroller
By [Signature] D.C.

Exhibit 3 Page 2 of 2

NEIL JOSEPH GILLESPIE | 19CF004193AX

DEFENDANT INFORMATION

| | | | |
|---------------------------------|-------|--------------------------|---------------|
| AKA: | | DOB: | 03/19/1956 |
| | | Driver's License Number: | G421630560990 |
| Distinguishing Characteristics: | | Address: | |
| GENDER SEX: | Male | 8092 SW 115TH LOOP | |
| RACE ORIGIN: | White | OCALA, FL 344810000 | |
| HEIGHT: | 5'9" | | |
| WEIGHT: | 280 | | |
| HAIR COLOR: | BROWN | Agency Case #: | S1928054 |
| EYE COLOR: | HAZEL | Booking #: | S1928054 |
| | | Agency Case #: | S1928054 |
| | | Booking #: | S1928054 |

SHERIFF'S RETURN

Received this capias on _____, and returned it executed on _____.

Sheriff, MARION County, Florida

By: _____
Deputy Sheriff

Exhibit 4 Page 1 of 8

| | |
|---------------------------------------|---|
| WARRANT | STATE OF Florida vs. NEIL JOSEPH GILLESPIE |
| Court Case Number 21CF286 W | In the (Circuit/County) Court of the State of Florida |

In the name of the State of Florida, to all and singular the Sheriffs of the State of Florida
Whereas BURLESON, B has made an oath or affidavit that on the 24th day of
November, 2020 and the 19th day of January, 2021 in the County of Marion.

NEIL JOSEPH GILLESPIE, WHITE, MALE, 3/19/1956, FL G421-630-56-099-0; SSN [REDACTED], 8092 SW 115TH
LOOP OCALA, FL, 34481

did unlawfully violate

- 934.03.1c INVADE PRIVACY ILLEGAL DISCLOSURE OF COMMUNICATION
- 934.03.1a EAVESDROPPING ILLEGAL INTERCEPTION OF COMMUNICATION

contrary to the law in such case and provided, and against the peace and dignity of the State of Florida. The Court finds probable cause exists to issue this warrant and the affidavit is incorporated herein by reference.

Bond Set By Judge

No Bond

Special Condition

Arrest Affidavit - This Warrant is a command to ARREST instantly the above named
NEIL JOSEPH GILLESPIE

and bring said person before the court to be dealt with according to law.

Given under my hand and seal this 21st day of January A.D., 2021 in Marion County, Florida

(seal)

R. Guy Judd
Circuit/County Judge

MCCC - CASE INTAKE
JAN 22 '21 AM 8:04



Certified A True Copy
of 8 page document
this 9 day of Feb 2021
GREGORY C. HARRELL
Clerk of Court and Comptroller
By *[Signature]* D.C.

Exhibit 4 Page 2 of 8

MCSO21OFF001350

NEIL JOSEPH GILLESPIE

PLEASE PLACE THIS WARRANT/CAPIAS IN: (CHECK APPROPRIATE LINES)

1- FCIC

2- NCIC

IF FCIC ONLY:

STATEWIDE

SURROUNDING COUNTIES ONLY

MARION COUNTY ONLY

OTHER _____

WE WILL EXTRADITE SUBJECT FROM THE FOLLOWING REGION(S) IF PLACED IN NCIC:

REGION A REGION B

REGION B REGION F

REGION C REGION G


REGION D REGION H

CONTINENTAL U.S.

INTERNATIONAL

WILLIAM "BILLY" WOODS
SHERIFF OF MARION COUNTY

BY: /s/ Billy Burleson



Signature

BURLESON, B
Printed Name

5542
ID #

Exhibit 4 Page 4 of 8



Arrest Affidavit

ORIGINAL

MARION COUNTY SHERIFF'S OFFICE
692 NW 30TH AVE
OCALA, FL 34475

21CF286

| | | | |
|--|--|---|--|
| Report Date / Time 1/20/2021 01:00 PM | Report Number MCSO55ARR00431S | Case Number/Cad Number MCSO21OFF001350 / 2101200637 | Reporting Officer Name BURLESON, B. |
| Originating Agency ORI FL0420000 | Occur Date Time Range 11/24/2020 17:59:00 - | OBTS | Clearance |

Location of Occurrence

| | | | | | | |
|-----------------------|-------------------------|----------------------|---------------|-------------|-------------------|--|
| County MARION | Location Type | Location Description | | | | |
| Street Number 8092 | Street SW 115TH LOOP | Apt/Lot/Bldg | City OCALA | State FL | Zip Code 34481 | |

Suspect

| | | | | | | | | | |
|--------------------------|-----------------------|-----------------------------|-----------|----------------|--|-------------|---------|--|------|
| First Name NEIL | Middle Name JOSEPH | Last Name GILLESPIE | Suffix | Race WHITE | Sex MALE | Height | Weight | Hair | Eyes |
| MNI # MCSO20MNI018026 | SSN | Date of Birth 03/19/1956 | Age 64 | Place of Birth | Drivers License or other ID G421-630-56-099-0 | State FL | ID Type | Address * / 8092 SW 115TH LOOP, OCALA, FL 34481 / | |

Arrest Affidavit Data

| | |
|---------------------------------------|--------|
| Question Primary Language | Answer |
| Question Immigration Status | Answer |
| Question Vehicle Company / Address | Answer |

Arrest

| | | | | | | |
|------------------|----------------------|-----------------------------|--------|------|-------|----------|
| Arrest Date/Time | Arrest Location Type | Arrest Location Description | | | | |
| Street Number | Street | Apt/Lot/Bldg | County | City | State | Zip Code |

Warrant Affidavit

| | | | |
|--|------------------|-----------------------|---------------------------------|
| Sent to Court Date/Time 1/21/2021 12:00:00 AM | Affidavit Status | Affidavit Disposition | Affidavit Disposition Date/Time |
| Court County | Court | Court Location | |
| Comments | | | |

Charge :

| | | | |
|-------------|---------------------|-------------|---|
| Counts 1 | Charge 934.03.1c | Bond Amount | <input checked="" type="checkbox"/> No Bond |
|-------------|---------------------|-------------|---|

Exhibit 4 Page 5 of 8

| | | | |
|---|--|--|--|
| Report Date / Time 1/20/2021 01:00 PM | Report Number MCSO55ARR00431S | Case Number/Cad Number MCSO21OFF001350 / 2101200637 | Reporting Office Name BURLESON, B ORIGINAL |
| Originating Agency ORI FL0420000 | Occur Date Time Range 11/24/2020 17:59:00 - | OBTS | Clearance |
| Charge Degree T | Charge Level FELONY | General Offense Code INVADE PRIVACY | |
| Charge Description ILLEGAL DISCLOSURE OF COMMUNICATION | | | |
| Charge : | | | |
| Counts 1 | Charge 934.03.1a | Bond Amount | <input checked="" type="checkbox"/> No Bond |
| Charge Degree T | Charge Level FELONY | General Offense Code EAVESDROPPING | |
| Charge Description ILLEGAL INTERCEPTION OF COMMUNICATION | | | |
| Bond Set by Court | | | |
| Bond Amount | <input checked="" type="checkbox"/> No Bond | | |
| Bond Type(s) | | | |

Probable Cause

Before Me, the undersigned authority personally appeared Billy Burleson who being duly sworn, alleges, on information and belief, that on the 24 day of November 2020 in Marion County, Florida, the defendant did:

Commit the offenses of Illegal Interception of Communication and Illegal Disclosure of Communication to wit:

On January 20, 2021, while assigned to the Major Crimes, I was requested to investigate some emails that were sent by the suspect, Neil Gillespie. Sergeant Tingue provided me with a USB drive that had been provided to the Marion County Sheriff's Office by the Fifth District State Attorney's Office. I was informed the emails sent by the suspect had gone to numerous entities to include the FBI, DOJ, and numerous other people.

I was informed that there were recorded phone calls in the emails that were sent by the suspect of him, recording conversations between him and other people. I reviewed the documents, most of which had to do with ongoing court proceedings that were not related to the messages. I discovered there were nine recorded phone calls, eight of which were to Sarah Thompson and one to "Jeanine", which I later identified as victim Janine Luker.

The email the suspect sent with his recorded phone call from the victim was sent on January 19, 2021, at 1841 hours. The suspect's email was listed as neilgillespie@mfi.net. He sent the email to Assistant State Attorneys Jared Gainey and Alicia Winterkorn, DOJ personnel, personal associated with the City of

Exhibit 4 Page 6 of 8

ORIGINAL

| | | | |
|--|---|--|---------------------------------------|
| Report Date / Time 1/20/2021 01:00 PM | Report Number MCSO55ARR004313 | Case Number/Cad Number MCSO21OFF001350/ 2101200637 | Reporting Officer Name BURLESON, B |
| Originating Agency ORI FL0420000 | Occur Date Time Range 11/24/2020 17:59:00- | OBTS | Clearance |

Ocala, Marion County Attorneys Office, and The Florida Attorney General's Office.

The phone call with the victim that the suspect sent to the Fifth District State Attorney's Office was labeled as "2020, 11-24-20, 5.59pm, called 352-433-3513 spoke to Jeanine, SARAH THOMPSON used Jeanine's phone to call me (ID Carlos Rodriguez)"

This phone call consisted of the suspect trying to get into contact with Sarah Thompson and the recording was 19 minutes and 26 seconds long. The victim advised she did not know Sarah Thompson, she had just let her use her phone. The suspect told her that he had been driving around looking for Sarah and couldn't find her. The victim told the suspect, Sarah called another number and provided the phone number to the suspect, The suspect continued to talk to the victim about different things such as his medical issues and needed a ride to Gainesville for a doctor's appointment. The suspect never told the victim that the phone call was being recorded during the phone call. The suspect advised the phone that he was calling her from was a house phone.

I called the victim and after identifying myself I requested that she come in for an interview due to me having her phone number in a case that I was working. I did not tell her about the recorded phone call so I could verify if she recalled the information and then have her verify that she was the female in the phone call.

On January 21, 2021, I conducted a recorded interview with the victim at Central Operations. I asked the victim if she recalled a female borrowing her phone. She recalled letting a female borrow her phone when she left the UPS store. She advised she recalled the female making two phone calls and "oussing" people out.

The victim advised the suspect called her back and she had a long conversation with him and she described feeling bad for the suspect. She provided me with details that were in the phone call. I asked the victim if she knew she was being recorded during that phone call and she advised no. I asked if she had given consent for her phone call to be recorded and she advised no. I then played the phone call for the victim and she verified that it was her voice on the phone call.

The victim checked her phone and in her call history, she was able to find the call from the suspect after I provided her with the date of the call, November 24, 2020. There was an outgoing call at 1719, and incoming call at 1958, and an outgoing call at 1819. The victim advised she called the suspect back to inform him she had given his information to her parents to try to help him out with a ride to the doctor. The phone number that called the victim was 352-854-7807.

Once completed with the interview with the victim, I reviewed previous body camera with the suspect in it to verify that his voice was the same/consistent. I reviewed body camera video from June 7, 2020, and the suspect sounded the same in the video and recorded phone call. I also confirmed that the phone number the victim provided to me was listed at the suspect phone number in MCSO20OFF011411 (June 7, 2020).

Exhibit 4 Page 7 of 8

| | | | |
|--|--|---|---------------------------------------|
| Report Date / Time 1/20/2021 01:00 PM | Report Number MCSO55ARR00431S | Case Number/Cad Number MCSO21OFF001350 / 2101200637 | Reporting Officer Name BURLESON, B |
| Originating Agency ORI FL0420000 | Occur Date Time Range 11/24/2020 17:59:00 - | OBTS | Clearance |

Based on the facts of this case the suspect committed the offense of Interception of Communication by recording a phone call with the victim without her consent and Illegal Disclosure of Communication by sending the recorded phone call to numerous people via email.

I request the Court hold the Defendant on "no bond," as at the time he committed these offenses he was on pretrial offense for Unlawful Interception of Oral Communications and Unlawful Disclosure of Oral Communication (Marion County Case 2019-CF-4193), the same offenses for which this warrant is sought. He was also on pretrial release for Robbery by Sudden Snatching and Battery (Marion County Case 2020-CF-2417), which he committed while on pretrial release in 2019-CF-4193. Sarah Thompson, the person who he was attempting to contact when he made and recorded this phone call, is the victim in 2020-CF-2417 and the Defendant is prohibited from contacting her pursuant to the first appearance order entered on July 14, 2020. Based on other recorded telephone calls sent by the Defendant to the aforementioned persons, the Defendant was also having contact with Thompson in violation of his conditions of pretrial release.

Additionally, in the aforementioned criminal cases, the Defendant had failure to appear warrant issued in each case on January 20, 2021, by Judge Sanders; he is required to be held on "no bond" in those cases pursuant to the FTA warrants. In light of the Defendant's continued commission of multiple felony offenses while on pretrial release for felonies, his violation of pretrial release conditions requiring he have no contact with a victim, and his failure to appear in court, there are no bond conditions that would reasonably assure the Defendant will appear in court on this case and protect the community. For those reason, I request that at first appearances, the Court order the Defendant held on "no bond" on these charges.

| Officer Name Rank / ID # | Involvement On Report / Reporting Role | Officer Agency Org/Unit |
|-----------------------------|---|---|
| BURLESON, B CORPORAL | 5542 REPORTING OFFICER | MARION COUNTY SHERIFF'S OFFICE MAJOR CRIMES DEPARTMENT |

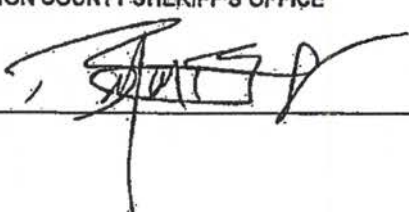

Exhibit 4 Page 8 of 8

ORIGINAL

| | | | |
|--|--|---|---------------------------------------|
| Report Date / Time 1/20/2021 01:00 PM | Report Number MCSO55ARR00431S | Case Number/Cad Number MCSO21OFF001350 / 2101200637 | Reporting Officer Name BURLESON, B |
| Originating Agency ORI FL0420000 | Occur Date Time Range 11/24/2020 17:59:00 - | OBTS | Clearance |

The undersigned certifies and swears that he/she has just and reasonable grounds to believe that the above named Defendant, committed violation(s), of law, on the below date(s) and time(s), as listed in the probable cause associated with this report:

Reporting Officer

| | | | |
|--|--|-----------------------|---|
| Officer Name BURLESON, B | Office Rank CORPORAL | Officer ID No 5542 | Sworn and subscribed before me, the undersigned authority This the <u>21</u> day of <u>January</u> , <u>2021</u> DEPUTY OF THE COURT, NOTARY OR LAW ENFORCEMENT |
| Officer Agency MARION COUNTY SHERIFF'S OFFICE | | | |
| Officer Signature  | Notary Signature #5817  | | |

COUNTY / CIRCUIT JUDGE

Exhibit 5, Page 10F3

IN THE CIRCUIT COURT OF THE FIFTH JUDICIAL CIRCUIT,
OF THE STATE OF FLORIDA, IN AND FOR MARION COUNTY.

APPLICATION FOR REQUISITION

STATE OF FLORIDA

VS

NEIL JOSEPH GILLESPIE/

TO HIS EXCELLENCY, HONORABLE RON DESANTIS, GOVERNOR OF FLORIDA

The undersigned, WILLIAM M GLADSON, State Attorney, hereby makes application for requisition to be issued by the Governor of Florida, to the Governor of Pennsylvania, for the extradition of one NEIL JOSEPH GILLESPIE(A) charged with the crime(s) of

Unlawful Interception of Oral Communication (two counts), alleged to have been committed on or about the 16th day of October, 2019,

Robbery by Sudden Snatching and Battery alleged to have been committed on or about the 6th day of June, 2020, and

Unlawful Interception of Oral Communications (two counts), alleged to have been committed on or about the 24th day of November, 2020 and the 19th day of January, 2021,

in the County of Marion, State of Florida, as is shown by certified copy of the Capias' and Informations attached hereto and made a part of this application, and in support of said application hereby certifies:

1. That the name of the person for whom extradition is asked is NEIL JOSEPH GILLESPIE and he was actually present in Marion County in this State at the time he committed the alleged crime, and the name of the Agent whom it is proposed to be appointed to represent the State of

Exhibit 5, Page 2 of 3

Florida in bringing said fugitive from the State of Pennsylvania is the Honorable WILLIAM MICHAEL WOODS, Sheriff of Marion County or his Agent.

2. That your applicant is of the opinion that the ends of public justice require the arrest and return of the alleged criminal to this state for trial at public expense.

3. That your applicant believes that he has sufficient evidence to secure conviction of the fugitive.

4. That the person named as Agent, WILLIAM MICHAEL WOODS, Sheriff of Marion County, or his agent, is the proper person, and that he has no private interest in the arrest of the fugitive.

5. That no former application for requisition for the same person growing out of the same transaction has been made.

6. That it is not known by the undersigned that the fugitive is under either civil or criminal arrest for any crime alleged to have been committed in the State of Pennsylvania, to which he has fled, but the undersigned is informed and believes that the said fugitive has been arrested under a fugitive warrant and is now in the custody of the Sheriff of Bucks County, Doylestown, Pennsylvania.

That the undersigned is further informed and believes that the police authorities in the said City and State are willing to surrender said fugitive to the proper authorities of the State of Florida.

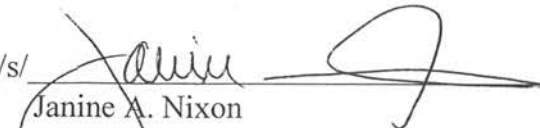
7. That this application is not made for the purpose enforcing the collection of a debt, or for any private purpose whatsoever, but for the purpose alleged in said Capias and Information, and that if the requisition applied for be granted, the criminal proceedings shall not be used for any of said objects.

Exhibit 5, Page 3 of 3

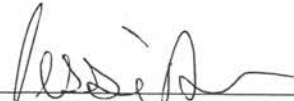
AFFIDAVIT

I, JANINE A. NIXON, duly sworn, qualified and acting Assistant State Attorney of the Fifth Judicial Circuit of Florida, in and for Marion County, do hereby aver that I am said an official Assistant State Attorney and that the facts stated in the accompanying Application for Requisition are true and correct to the best of my knowledge.

Respectfully submitted, this 9 day of February, 2021.

/s/ 
Janine A. Nixon
Assistant State Attorney
Fifth Circuit
State of Florida
Florida Bar number 0027669

Sworn to and subscribed before me this 19th day of February, 2021.

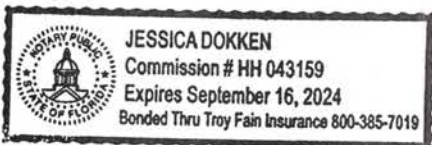


NOTARY PUBLIC

9/16/24

MY COMMISSION EXPIRES:

Affiant Personally Known to Notary Public.



Bucks County Court of Common Pleas

23 APR 2021

Extradition Case No. CP-09-MD-319-2021

Habeas Corpus Petition No.

Commonwealth of Pennsylvania

ex rel. Neil Joseph Gillespie v. Robert Galione, Warden Bucks County Jail

PETITION FOR WRIT OF HABEAS CORPUS

To the Honorable Clyde W. Waite, Judge of Said Court:

Relator, Neil Joseph Gillespie, appearing pro se, respectfully represents:

1. Relator is incarcerated in the Bucks County Jail.
2. The Respondent is Robert Galione, Warden of the Bucks County Jail.
3. Relator was arrested on February 4, 2021, and charged with being a fugitive from justice from the State of Florida.
4. The Relator is not a fugitive from justice in the usual sense, but a person with disabilities, including partial blindness, and was denied accommodation by the Florida courts under the Americans with Disabilities Act. (ADA), a 60 day stay for eye surgery.
5. On January 28, 2021, Relator had surgery at Wills Eye Hospital in Philadelphia to correct a detached retina. This is the only reason the Relator left Florida. Relator was unable to obtain competent and timely eye surgery where he lives in Ocala, Florida in his home of the past 16 years.
6. Relator was arrested February 4, 2021, while recovering from retina surgery at the Red Roof Inn, Langhorne, PA.
7. Relator is age 65 and never convicted of a crime.
8. The relator's incarceration is unlawful because the requisition papers as issued are not in order.
9. All requirements must be met under the Uniform Criminal Extradition Act.
10. The Florida Application for Requisition, in the Fifth Judicial Circuit, Florida, was made for a private purpose against the relator.
11. One private purpose of the Florida Application for Requisition is to obstruct justice in the relator's case no: 2018-CA-2640 against the Fifth Judicial Circuit, to dismiss the relator's lawsuit against the Fifth Judicial Circuit, and Judge Ann Melinda Craggs.
12. On December 31, 2018, long before being charged with a crime, the relator sued the Florida Fifth Judicial Circuit, sued Judge Ann Melinda Craggs, and others, in case no.: 2018-CA-2640 for deprivation of civil rights and denial of disability accommodation under the Americans Disability Act (ADA), in home foreclosure of a Home Equity Conversion Mortgage, also called a HECM reverse mortgage, in case no.: 2013-CA-115.
13. Relator provided the following documents in 2018-CA-2640, Neil J. Gillespie v. Fifth Judicial Circuit, Judge Craggs, et al.

Dec-31-2018 Complaint (document 5)

Oct-29-2020 Answer Motion to Dismiss (document 74)

Dec-01-2020 Order Granting Leave for Amended Complaint (document 81)

Feb-23-2021 Order Granting 60 Day Stay For Eye Surgery (document 90) (relator incarcerated)

Apr-14-2021 Order of Dismissal (document 94) (relator incarcerated)

14. Relator's cases in Marion County/Fifth Judicial Circuit are as follows:

2013-CA-115, RMS v. Gillespie, home foreclosure, Jan-2013

2016-CA-712, SECO v. Gillespie, electric cooperative money, Apr-2016

2018-CA-2640, Gillespie v. Fifth Judicial Circuit, Judge Craggs, civil rights/disability, Dec-2018

2019-CF-4193, State v. Gillespie, telephone recording, Nov-2019

2020-CA-934, Gillespie v. Sarah Thompson, et al, unlawful detainer, Jun-2020

2020-CF-2417, State v. Gillespie, sudden snatching/battery, Jun-2020

15. U.S. Supreme Court Petition No. 20-929 shows relator's arrest in 2019-CF-4193 by Marion County Sheriff William Woods was for a private purpose, to benefit him as vice president of Marion Senior Services, Inc., to benefit the Marion County Bar Association, Inc., and to benefit the State Attorney's Office of the Florida Fifth Judicial Circuit.

16. U.S. Supreme Court Petition No. 20-929 has been filed in relator's Extradition Case No. CP-09-MD-319-2021.

17. Relator's petition letter of April 1, 2021 to Pennsylvania Governor Tom Wolf has been filed in relator's Extradition Case No. CP-09-MD-319-2021 with the following attachments:

1. Transcript of hearing Feb-05-2021 (Judge Gilman)
2. Criminal docket 21MM171 for Sarah Thompson
3. Document 22 Notice of Claim of Immunity F.S. 776.02 (2020-CF-2417)
4. Document 35 Rule 3.133 Pretrial Probable Cause Determinations (2020-CF-2417)
5. Document 110 Rule 3.133 Pretrial Probable Cause Determinations (2019-CF-4193)
6. Motion to Reconsider Order Denying 60 Day Stay For Eye Surgery (2020-CF-2417)
7. Response to Order Granting 60 Day Stay for Eye Surgery (2018-CA-2640)
8. Motion to Drop Defendants and Conclude Case (2020-CA-934)
9. Letter to Chief Justice John Roberts in USSC Petition No. 20-929
10. My medical records with Wills Eye Hospital

18. Relator's petition letter to Governor Wolf states this extradition is political in nature over my 18-CA-2640 civil rights and disability lawsuit against the Florida Fifth Judicial Circuit for deprivation of rights under color of law against Judge Ann Melinda Craggs in my home foreclosure case, who later signed my arrest affidavit in 20CF2417, and my presidential campaign critical of the judiciary, at <https://neil2020.blogspot.com/>

19. The relator is charged with an "infamous crime" in 20-CF-2417 and under the FIFTH AMENDMENT to the U.S. Constitution relator is entitled to a presentment or indictment of a grand jury, not the signature of Judge Craggs on an arrest affidavit by the judge relator sued.

20. An extradition arrest in an asylum state made pursuant to a governor's warrant is an arrest subject to the Fourth and Fourteenth Amendments to the U.S. Constitution. Commonwealth ex Rel Knowles v. Lester, 456 PA 432, 321 A.2d 637 (1974)

21. Relator's arrest in 2020-CF-2417 on June 13, 2020 shows a private interest by Marion County Sheriff William Woods who was named as a defendant on June 8, 2020 in case 2020CA934 for unlawful detainer and civil rights violations.

22. On November 19, 2020, Marion County Clerk of Courts and Comptroller David Ellspermann entered a default against Defendant Sarah May Thompson in 2020-CA-934 at document 78 (enclosed) for unlawful detainer which negated Sheriff Wood's case against relator in 2020-CF-2417 because it established Ms. Thompson did not live with relator.

23. On November 18, 2020 relator filed a "Second Notice Pursuant to F.S. sec 768.28 Waiver of Immunity" in case 2020-CA-934 for unlawful detainer and civil rights, document 79 attached hereto, showing a private purpose for this extradition by the Fifth Judicial Circuit and State Attorney's Office establishing tort liability, inter alia, for relator's detached retina.

24. On January 20, 2021 relator filed a Section 768.28 Notice of Waiver of Sovereign Immunity in case 2020-CF-2417 establishing tort liability at document 173, attached hereto, for, inter alia, denial of disability accommodation against Judge Sanders, the State Attorney's Office, Fifth Judicial Circuit, State Attorney William Gladson, ASA Alicia Winterkorn, and ASA Jared Gainey, each of whom failed to agree to a motion for a 60 day stay for eye surgery, which was denied (see document 153 enclosed) for a warrant to extradite and/or arrest the relator for a private purpose, to harm relator with malice aforethought.

25. On April 20, 2021 relator submitted a Motion To Strike Certificate Of Exemplification in case no. CP-09-MD-319-2021 to be considered in this petition for habeas corpus.

26. On April 21, 2021, relator submitted a motion to strike Florida Executive Extradition Documents in case no. CP-09-MD-319-2021 because Ron DeSantis and Laurel M. Lee are each members of The Florida Bar (attached) and Officers of the Court, members of the judicial branch of government, and not legally allowed to execute Executive Extradition Documents under Extradition Law. Furthermore, relator's extradition is for the private purpose of Sheriff William Woods (et al) appointed to take the relator into custody and transport him to Florida.

27. Relator was served on April 6, 2021, the Requisition papers which are not in order. Apparently Judge Sander's hearing on January 20, 2021, was a trap to lure the relator to court to arrest him for new telephone recording crimes.

28. It appears the relator was charged with new "infamous crimes" on January 20, 2021, for the private purpose of Sheriff William Woods, et al, and to block relator's eye surgery needed.

29. Ironically Judge Sanders accepted my transcript of a recorded phone call with attorney Zachery Phipps, OCCRC, and granted Dr. Warner's motion at document 270 (enclosed) in case 2019-CF-4193 because it impeached a falsehood by Phipps who claimed the relator needed a psychological exam.

30. Under the FIFTH AMENDMENT to the U.S. Constitution the relator is entitled to a presentment or indictment of a grand jury on any new "infamous crime" and not a corrupt affidavit of Sheriff Woods and his gang appointed for a private purpose in this extradition.

31. The Fifth Judicial Circuit, et al, is opposed to relator regarding civil rights, see enclosed relator's letter to President Obama, which got no response concerning white supremacy in Ocala, Florida.

32. The relator received in the U.S. mail 3 postcards from Sarah May Thompson (enclosed) mailed while she was incarcerated in the Marion County Jail from Jan-08-2021 through Mar-25-2021. Ms. Thompson wrote she misses relator and "I must love you". Ms. Thompson also wrote "I now have 70 days sobriety and have no desire to ever go back to that life again!!".

33. Relator recorded phone calls received FROM Ms. Thompson requesting his help and protection. Sheriff Woods and his gang misrepresented those calls to arrest relator.

34. Relator received 3 letters from the U.S. Supreme Court, see enclosed.

35. The ORDER OF DISMISSAL in case no. 2018-CA-2640 by Judge Edward Scott agrees with relator that "Jurisdiction and venue in this case is in the United States District Court, Ocala Division, under 42 U.S.C. 1983 and the Federal Americans With Disabilities Act 2008".

36. Wherefore, the relator/petitioner respectfully requests this Honorable Court discharge him from custody and dismiss the extradition proceedings instituted by the Commonwealth with prejudice.

Respectfully submitted April 23, 2021.

/signed/

Neil Gillespie, BCP131166

Bucks County Jail E18

1730 S Easton Rd

Doylestown, PA 18901

CC: Brian Munroe, Clerk of Courts

Matthew Weintraub, District Attorney

Exhibit 7, Page 1 of 11

VIA Email to: tampa.division@ic.fbi.gov

May 23, 2014

Paul Wysopal Special Agent in Charge
Federal Bureau of Investigation, Tampa
5525 West Gray Street
Tampa, FL 33609

Dear Special Agent Wysopal:

Today at 6:20 PM I received a telephone call from 813-253-1000 from a man who identified himself as the Tampa FBI. The caller did not provide his name. The caller asked to speak with Neil Gillespie, that's me. The caller asked "is this call being recorded" and I said yes. The caller was responding to the Telephone Recording Announcer informing him *all calls are recorded for quality assurance purposes*. The caller said it is against Florida law to record someone without the consent of both parties. I replied that the caller provided consent if he continued to talk. The caller responded "have a nice day, sir" and hung up. That's okay, the telephone is not compatible with certain disabilities of mine. I prefer email or written communication.

On information and belief, my long-standing practice of recording telephone calls on a land line is permitted. I am not a lawyer, and I did not attend law school. This is my understanding of the law as it applies to me. This does not constitute legal advice. If you have specific questions related to the information in this letter, you are encouraged to consult an attorney who can investigate the particular circumstances of your concern.

Florida Statutes, Chapter 934, Security of Communications; Surveillance, sometimes called the wiretapping statute, governs the unlawful interception and disclosure of wire, oral, or electronic communications. F.S. § 934.03. There is a significant difference between wiretapping and one or two party consent. Wiretapping is the covert monitoring or recording of telephone conversations by a third party government agency, such as by law enforcement with a court order.

In contrast, one or two party consent is essentially enhanced note-taking by private persons not affiliated with the government. From Wikipedia:

"Under the law of the United States and most state laws, there is nothing illegal about one of the parties to a telephone call recording the conversation, or giving permission for calls to be recorded or permitting their telephone line to be tapped. However the telephone recording laws in most U.S. states require only one party to be aware of the recording, while 12 states require both parties to be aware."

http://en.wikipedia.org/wiki/Telephone_tapping

Federal law permits one-party consent to record calls [18 USC § 2511]. One party consent is the law in 38 states. Twelve states, including Florida, require two party consent. On its face, two party consent is unconstitutional under the Equal Protection Clause of the Fourteenth Amendment to the United States Constitution. The clause, which took effect in 1868, provides that no state shall deny to any person within its jurisdiction "the equal protection of the laws". http://en.wikipedia.org/wiki/Equal_Protection_Clause

Exhibit 1, Page 2 of 11

Paul Wysopal Special Agent in Charge
Federal Bureau of Investigation, Tampa

May 23-2014
Page - 2

Two party consent is also unconstitutional under the Supremacy Clause, the provision in Article Six, Clause 2 of the U.S. Constitution that establishes the U.S. Constitution, federal statutes, and U.S. treaties as "the supreme law of the land". It provides that these are the highest form of law in the U.S. legal system, and mandates that all state judges must follow federal law when a conflict arises between federal law and either the state constitution or state law of any state.
http://en.wikipedia.org/wiki/Supremacy_Clause

I rely on the holding in Royal Health Care Servs., Inc. v. Jefferson-Pilot Life Ins. Co., 924 F.2d 215 (11th Cir. 1991). In my view Florida law prohibits "interception" of certain communication, but not all recording. The U.S. Eleventh Circuit Court of Appeals has held that because only interceptions made through an "electronic, mechanical or other device" are illegal under Florida law, telephones used in the ordinary course of business to record conversations do not violate the law. In other words, the telephone set "intercepts" the call, not the recording device, and the phone call is lawfully recorded after lawful interception. This is in contrast to a court-ordered wiretap where a call is "intercepted" before it reaches the telephone set. The land-line home office telephone that I use lawfully intercepts a call before lawfully recording the call.

Please find enclosed a copy of Royal Health Care Servs., Inc. v. Jefferson-Pilot Life Ins. Co.

Also enclosed are pages 29 and 30 from Petition No. 12-7747 for writ of certiorari to the Supreme Court of the United States, Neil J. Gillespie v. Thirteenth Judicial Circuit Florida et al. My petition was denied February 19, 2013, rehearing denied April 15, 2013, see the docket, <http://www.supremecourt.gov/Search.aspx?FileName=/docketfiles/12-7747.htm>

Supreme Court review is discretionary. Less than 100 of the approximately 10,000 petitions per Term are granted review. Denial of review is not a judgment on the legal merits of a petition.

The foregoing is only a brief introduction to telephone recording law as it applies to me. Other documents and court filings are available upon request.

I also received the attached letter from Brian J. Nadeau referring me to the Tampa Field Office. I regret that my initial letter to the FBI March 5, 2014 was limited to public corruption. There is a lot more to consider, which I plan to submit shortly. Thank you for your consideration.

Sincerely,



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

Telephone: 352-854-7807
Email: neilgillespie@mfi.net

attachments/enclosures

Exhibit 7, Page 3 of 11

Westlaw

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C

United States Court of Appeals,
Eleventh Circuit.
ROYAL HEALTH CARE SERVICES, INCORPORATED, d/b/a Best Care, Plaintiff-Appellant,
v.
JEFFERSON-PILOT LIFE INSURANCE COMPANY, Defendant-Appellee.
Nos. 90-5204, 90-5514.

Feb. 21, 1991.

Health care provider filed diversity suit against insurer pursuant to Florida Security of Communications Act for unauthorized recording of telephone conversation. The United States District Court for the Southern District of Florida, No. 88-959-CIV-SM, Stanley Marcus, J., granted insurer's motion for summary judgment. On appeal, the Court of Appeals held that "business extension" exception applied to telephone call so no "interception" occurred as defined in Act and insurer could not be held liable.

Affirmed.

West Headnotes

[1] Federal Courts 170B ↪ 433

170B Federal Courts
170BVI State Laws as Rules of Decision
170BVI(C) Application to Particular Matters
170Bk433 k. Other Particular Matters.

Most Cited Cases
In diversity suit pursuant to Florida Security of Communications Act, proper interpretation of Act was question of Florida law and federal court was therefore required to construe Act as would the Supreme Court of Florida. West's F.S.A. §§ 934.01-934.43.

[2] Telecommunications 372 ↪ 1440

372 Telecommunications
372X Interception or Disclosure of Electronic Communications; Electronic Surveillance
372X(A) In General
372k1435 Acts Constituting Interception or Disclosure
372k1440 k. Persons Concerned; Consent. Most Cited Cases
(Formerly 372k494.1, 372k494)

To satisfy "business extension" or "extension phone" exception to Florida Security of Communications Act, communication must be intercepted by equipment furnished by provider of wire or electronic communication service in ordinary course of its business and call must be intercepted in ordinary course of business. West's F.S.A. § 934.02(4)(a).

[3] Telecommunications 372 ↪ 1440

372 Telecommunications
372X Interception or Disclosure of Electronic Communications; Electronic Surveillance
372X(A) In General
372k1435 Acts Constituting Interception or Disclosure
372k1440 k. Persons Concerned; Consent. Most Cited Cases
(Formerly 372k494.1, 372k494)

For purposes of determining whether "business extension" exception to Florida Security of Communications Act was met in connection with unauthorized recording of telephone conversation, telephone extension, not tape recorder, intercepted call. West's F.S.A. § 934.02(4)(a).

[4] Telecommunications 372 ↪ 1440

372 Telecommunications
372X Interception or Disclosure of Electronic Communications; Electronic Surveillance
372X(A) In General
372k1435 Acts Constituting Interception or Disclosure
372k1440 k. Persons Concerned; Con-

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sent. Most Cited Cases

(Formerly 372k494.1, 372k494)

Telephone call by insurer's employee to employees of health care provider was intercepted in ordinary course of business, for purposes of determining applicability of "business extension" exception to Florida Security of Communications Act; entire call concerned charges by provider for services provided to insured patient. West's F.S.A. § 934.02(4)(a).

[5] Telecommunications 372 ⇌ 1440

372 Telecommunications

372X Interception or Disclosure of Electronic Communications; Electronic Surveillance

372X(A) In General

372k1435 Acts Constituting Interception or Disclosure

372k1440 k. Persons Concerned; Consent.

sent. Most Cited Cases

(Formerly 372k498)

Insurer was not liable under Florida Security of Communications Act for unauthorized tape recording of telephone conversation with health care provider's employees where "business extension" exception to Act applied, and thus no "interception" as defined by Act occurred. West's F.S.A. §§ 934.02(3), (4)(a), 934.10.

*215 Arnold R. Ginsberg, Perse & Ginsberg, Miami, Fla., for plaintiff-appellant.

Carol A. Fenello, Kimbrell & Hamman, Miami, Fla., for defendant-appellee.

Appeals from the United States District Court for the Southern District of Florida.

Before COX and BIRCH, Circuit Judges, and GIBSON^{FN*}, Senior Circuit Judge.

FN* Honorable Floyd R. Gibson, Senior U.S. Circuit Judge for the Eighth Circuit, sitting by designation.

PER CURIAM:

This is a diversity case in which plaintiff Royal Health Care Services, Inc. (Royal Health) sued defendant Jefferson-Pilot *216 Life Insurance Company (JP Life) pursuant to the Florida Security of Communications Act (the Act)^{FN1} for the unauthorized recording of a telephone conversation. JP Life moved for summary judgment and the district court granted the motion. Royal Health appeals that determination.

FN1. Fla.Stat. Ann. §§ 934.01-934.43 (West Supp.1990).

I. FACTS

In September 1987 a JP Life employee who was in North Carolina called Royal Health's Miami, Florida office. The ensuing conversation was recorded pursuant to a JP Life policy that all outgoing calls from its case management department (which is responsible for ensuring that services to JP Life's insured are rendered in a cost-effective manner) be automatically recorded on a double-reeled tape recorder. The Royal Health employees who spoke with the JP Life employee were never told they were being recorded, and they never consented to such recording. JP Life's telephone system did, however, emit a periodic beep during the call. The call concerned a bill submitted to JP Life for a patient under the care of Royal Health.

II. PROCEDURAL HISTORY

Royal Health sued JP Life for unauthorized interception of an oral communication under section 934.10 of the Act. Royal Health sought compensatory and punitive damages. JP Life moved for summary judgment, contending that no interception took place. The district court granted JP Life's motion, holding that Royal Health had not established a genuine issue of material fact regarding an essential element of its case, that an interception took place.

Exhibit 1, Page 5 of 11

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III. CONTENTIONS AND ISSUE ON APPEAL

Royal Health argues that Florida law requires the consent of both parties to a telephone conversation before that conversation may be recorded and that because Royal Health's employees did not consent to being recorded, JP Life violated Florida law. Royal Health asserts that the Supreme Court of Florida's decision in *State v. Tsavaris*, 394 So.2d 418 (Fla.1981), controls the outcome of this case. JP Life asserts that because the business extension exception^{FN2} applies to the phone call in question, no interception occurred under the Act, and therefore JP Life cannot be held liable.^{FN3} We must decide if the district court was correct in its determination that no interception occurred in this case.

FN2. Fla.Stat. Ann. § 934.02(4)(a) (West Supp.1990).

FN3. JP Life makes other arguments we need not address because we will affirm on the issue of whether an interception took place under Florida law.

IV. DISCUSSION

Summary judgment is appropriate "if the pleadings, depositions, answers to interrogatories, and admissions on file, together with the affidavits, if any, show that there is no genuine issue as to any material fact and that the moving party is entitled to judgment as a matter of law." Fed.R.Civ.P. 56(c). There are no disputed issues of material fact here. The only controversy concerns the proper application of Florida law to those facts.

[1] The proper interpretation of the Act is a question of Florida law. Therefore, federal courts are required to construe the Act as would the Supreme Court of Florida. *Madara v. Hall*, 916 F.2d 1510, 1514 (11th Cir.1990); *Oriental Imports & Exports, Inc. v. Maduro and Curiel's Bank, N.V.*, 701 F.2d 889, 890-91 (11th Cir.1983). We begin with an examination of the statutory scheme, and then proceed to a review of the relevant case law.

[2] Royal Health alleges a claim under section 934.10 of the Act. That provision creates a civil remedy for "[a]ny person whose wire, oral, or electronic communication is intercepted ... in violation of [sections] 934.03-934.09." Fla.Stat. Ann. § 934.10 (West Supp.1990). To be liable to Royal Health, therefore, JP Life must have intercepted the phone call. "Intercept" is *217 defined as "the aural or other acquisition of the contents of any wire, electronic, or oral communication through the use of any electronic, mechanical, or other device." Fla.Stat. Ann. § 934.02(3) (West Supp.1990). To intercept a communication, then, an "electronic, mechanical or other device" must be used. "Electronic, mechanical, or other device" is defined as:

(4) ... any device or apparatus which can be used to intercept a wire, electronic, or oral communication other than:

(a) Any telephone or telegraph instrument, equipment or facility or any component there-of:

1. Furnished to the subscriber or user by a provider of wire or electronic communication service in the ordinary course of its business and being used by the subscriber or user in the ordinary course of its business or furnished by such subscriber or user for connection to the facilities of such service and used in the ordinary course of its business....

Fla.Stat. Ann. § 934.02(4)(a) (West Supp.1990) (emphasis added).

The exception to the definition of "electronic, mechanical, or other device" is commonly referred to as the business extension exception or the extension phone exception. Under the plain meaning of the statute, if this exception is met, then no interception occurred and there can be no liability under section 934.10. The exception has two prongs. First, the communication must be intercepted by equipment furnished by a provider of wire or elec-

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tronic communication service in the ordinary course of its business. Second, the call must be intercepted in the ordinary course of business.

[3] Royal Health concedes that the telephone used by the JP Life employee was supplied by a provider of wire or electronic communication service (Southern Bell) in the ordinary course of its business.^{FN4} Royal Health contends, however, that the interception was actually made by the tape recorder, not the telephone.^{FN5} We disagree. We believe the telephone extension intercepted the call,^{FN6} while the tape recorder recorded it. *State v. Nova*, 361 So.2d 411 (Fla.1978), supports our conclusion. There, the Supreme Court of Florida reviewed a case in which an employee's supervisor listened in to one of the employee's phone calls, but did not record the conversation. The court assumed that under the statute an interception could occur without the call being recorded and focused on the question of whether the call was made in the ordinary course of business. *Id.* at 413. Therefore, since a call need not be recorded to be intercepted, the phone extension must be the device that intercepts the call.^{FN7} Federal case law interpreting the Federal Wiretap Act^{FN8} lends further support to this conclusion. In *Epps v. St. Mary's Hospital, Inc.*, 802 F.2d 412 (11th Cir.1986), our circuit rejected the precise argument Royal Health advances here. In *Epps*, a hospital employee recorded a phone call between Epps and another hospital employee. The call was received through a telephone console and recorded by a double-reeled tape recorder. The court decided that the console, not the recorder, intercepted the call. *Id.* at 415. See also *United States v. Harpel*, 493 F.2d 346, 350 (10th Cir.1974) (where phone call is recorded by attaching suction cup to telephone receiver and connecting it to a tape recorder, telephone receiver is intercepting device, not recorder).

FN4. See Appellant's Brief at 9.

FN5. Royal Health made this argument to the district court, but timidly pursues it on appeal. See Appellant's Brief at 26-27.

Nevertheless, we have a practice of reading briefs liberally to ascertain the issues on appeal, *United States v. Milam*, 855 F.2d 739 (11th Cir.1988), and we will therefore address the argument.

FN6. Our use of the term "intercepted" here is in accordance with its common meaning, not as it is defined by the Florida statute we are examining. We conclude later in this opinion that under the statute, no interception took place.

FN7. See also *State v. Keaton*, 371 So.2d 86, 91 n. 7 (Fla.1979) (in dicta, Supreme Court of Florida indicated prosecution could be based on testimony of a person not a party to a telephone conversation, if the complainant listened in in the ordinary course of business).

FN8. 18 U.S.C.A. §§ 2510-2521 (West Supp.1990).

*218 [4][5] Having concluded that the telephone extension intercepted the call in this case, we next decide whether the call in question was intercepted in the ordinary course of business. That determination is an easy one. The recording occurred pursuant to a standard JP Life policy; Royal Health does not dispute this. Nor does Royal Health contend the call was personal in nature. A review of the transcript of the call reveals that the entire call concerned charges by Royal Health for services provided to a patient insured by JP Life. The only conclusion that may be drawn is that the call was intercepted in the ordinary course of business.

We conclude, therefore, that both prongs of the business extension exception are satisfied and that the exception applies. No interception, as defined by the Act, occurred and the district court was correct in granting JP Life's motion for summary judgment.

Once again *State v. Nova*, 361 So.2d 411 (Fla.1978)

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, supports our overall method of analysis. In that case, the court had to decide whether the trial court's determination that testimony of a murder victim's supervisor should not be suppressed was correct. The supervisor had listened in on a phone call that the victim received from the murderer while at work. The court proceeded exactly as we have in deciding whether an interception took place, first noting the definition of "intercept," then setting out the definition of "electronic, mechanical, or other device," and the business extension exception. The court then decided the call was intercepted in the ordinary course of business because the supervisor used the phone "for the benefit of her employer." *Id.* at 413. Therefore, the exception applied, no interception took place, and the trial court's decision not to suppress the testimony was vindicated.

Likewise, federal cases interpreting the Federal Wiretap Act have reached similar results. In *Briggs v. American Air Filter Co.*, 630 F.2d 414 (5th Cir.1980),^{FN9} a supervisor listened in on a telephone extension to an employee's phone conversation. The employee sued under the Federal Wiretap Act provision that corresponds to the provision in the Florida Act that Royal Health sued under. The court affirmed the district court's determination that summary judgment should be granted in favor of the defendants because the business extension exception to the federal act was applicable. The analysis employed was the same common-sense analysis we employ in this case, beginning with the statutory definitions of the key terms and proceeding to a discussion of the business extension exception. The court concluded that because the act of listening in was in the ordinary course of business, the exception applied, and no interception took place.

FN9. In *Bonner v. City of Prichard*, 661 F.2d 1206, 1209 (11th Cir.1981) (*en banc*), this court adopted as binding precedent all decisions of the former Fifth Circuit handed down prior to October 1, 1981.

Royal Health, of course, takes issue with the district court's conclusion that under Florida law no interception took place. Royal Health's brief almost completely ignores the applicability of the business extension exception and instead calls our attention to the Supreme Court of Florida's decision in *State v. Tsavaris*, 394 So.2d 418 (Fla.1981). Royal Health contends that Florida law evinces a strong interest in the protection of the privacy of telephone calls and that this interest is evidenced by Florida's two-party consent rule.^{FN10} Royal Health further argues that because federal law contains a single-party consent rule,^{FN11} federal case law is inapposite in analyzing the Florida statute at issue.

FN10. Assuming no exception applies, under Florida law both parties to a phone call must consent before that call may be recorded. Fla.Stat. Ann. § 934.03(2)(d) (West Supp.1990). See also *Tsavaris*, 394 So.2d at 422-23.

FN11. See 18 U.S.C.A. § 2511(2)(d) (West Supp.1990).

We are convinced that *Tsavaris* does not require a different result than the one we reach. We agree that *Tsavaris* says that the Florida statute "evinces a greater concern for the protection of one's privacy interests in a conversation than does the *219 [Federal Wiretap Act]." *Tsavaris*, 394 So.2d at 422. We also agree that Florida does indeed have a two-party consent rule. But we disagree with Royal Health's contention that all federal case law dealing with the Federal Wiretap Act is inapposite. The Historical Note that follows the legislative findings section of the Act^{FN12} indicates that, "[w]ith one exception^{FN13} the state law follows closely the federal act." In addition, the language of the Florida Act's business extension exception is **identical** to the language of the business extension exception in the federal Act.^{FN14} Finally, were we to agree with Royal Health's contention that the call in question was intercepted because only one party consented to the recording, we would write the business extension exception out of the Florida Act. We see

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no reason to assume the Florida Legislature intended the exception to be meaningless when the plain language of the Act indicates otherwise.^{FN15} For these reasons, we find Royal Health's arguments unconvincing.

C.A.11 (Fla.),1991.
Royal Health Care Services, Inc. v. Jefferson-Pilot Life Ins. Co.
924 F.2d 215

END OF DOCUMENT

FN12. Fla.Stat. Ann. § 934.01 (West 1985).

FN13. The exception noted is not relevant to our discussion.

FN14. See *Horn v. State*, 298 So.2d 194, 198 (Fla. 1st Dist.Ct.App.1974) (noting similarity of Florida Security of Communications Act and Federal Wiretap Act).

FN15. Cf. *Briggs v. American Air Filter Co.*, 630 F.2d 414, 419 (5th Cir.1980) ("We do not believe Congress intended the exception to be superfluous, and therefore there must be some circumstances under which non-consensual interception falls within the 'ordinary course of business' exception.").

V. CONCLUSION

We therefore AFFIRM the district court's grant of summary judgment in favor of defendant Jefferson-Pilot Life Insurance Company.^{FN16}

FN16. Royal Health's appeal of the district court's summary judgment decision is assigned case number 90-5204 in this court. Royal Health also appeals the district court's award of costs to JP Life, and that appeal is assigned case number 90-5514. In its Motion to Consolidate, appellant acknowledges that an affirmance in case number 90-5204 should prompt an affirmance in case number 90-5514. The judgment of the district court awarding costs to JP Life is therefore affirmed.

AFFIRMED.

Exhibit 7, Page 9 of 11

Telephone Recording

This petition challenges the constitutionality of Fla. Stat. 934.01 et seq., Security of Communications, and its requirement for two-party consent to record telephone calls, which conflicts with federal one-party consent in 18 USC § 2511, and the laws of most states.

Gillespie purchased a \$15 *Telephone Handset Recording Control* from Radio Shack on December 20, 2005 to record phone calls from doctors treating his Mother who was hospitalized. It was a form of enhanced note-taking. On March 3, 2006 Gillespie partially recorded a phone call from Mr. Rodems, who argued with Gillespie, and misquoted him in an affidavit Rodems submitted to the court March 6, 2006. Mr. Rodems requested a bailiff be present at an upcoming hearing, alleging a threat of violent physical attack in Judge Nielsen's chambers. A subsequent investigation by Tampa Police lawyer Kirby Rainesburger concluded February 22, 2010:

I'm not suggesting that Mr. Rodems was right or accurate in representing to the court as an "exact quote" language that clearly was not an exact quote. I'm only concluding that his misrepresentation does not, in my judgment, rise to the level of criminal perjury. No further action is contemplated by this agency at this time.

Gillespie realized the need to record any future calls from Mr. Rodems to avoid a repeat of this problem, and found online and purchased a DynaMetric Call Saver kit that recorded and saved telephone phone calls to .wav files rather than clunky cassette tapes. He also installed a voice announcer: "This call is being recorded for quality assurance purposes". Gillespie relied on the holding of Royal Health Care Servs., Inc. v. Jefferson-Pilot Life Ins. Co.

On July 25, 2012 attorney Eugene P. Castagliuolo accused Gillespie of wrongfully recording a phone call June 14, 2011 where he admitted to mental problems. Mr. Castagliuolo threatened to sue Gillespie under chapter 934 Fla. Stat., and also threatened Michael Borseth, a court reporter who made the transcript. Gillespie reported Mr. Castagliuolo's threat to Florida

Exhibit 7, Page 10 of 11

Attorney General Pam Bondi by letter August 1, 2012. Mr. Castagliuolo has been threatening Gillespie for the past year over a number of issues related to his representation of Gillespie at Mr. Rodems' deposition. Gillespie's letter to the Attorney General stated on page 2, in part:

I believe Mr. Castagliuolo is misinformed about Chapter 934, Florida Statutes as interpreted by Royal Health Care Servs., Inc., 924 F.2d 215 (11th Cir. 1991). In my personal opinion Florida law prohibits the "interception" of certain communications, not all recording. The U.S. Eleventh Circuit Court of Appeals has held that because only interceptions made through an "electronic, mechanical or other device" are illegal under Florida law, telephones used in the ordinary course of business to record conversations do not violate the law. In other words, the telephone set "intercepts" the call, not the recording device, and the phone call is lawfully recorded after lawful interception. This is in contrast to a court-ordered wiretap where a call is "intercepted" before it reaches the telephone set. A land-line home office telephone, really any land-line home phone, is the type that intercepts a call before it is recorded.

On August 10, 2012 Gillespie received an email response from Samantha Santana of the Florida Attorney General's Office. Ms. Santana wrote in part:

It appears that you provided a copy of your complaint about Attorney Eugene Castagliuolo to The Florida Bar, which is the appropriate agency to address this matter. Please follow up with The Bar directly for further assistance.

Gillespie submitted a Bar complaint the next day, August 11, 2012.

Notice of Telephone Recording

Gillespie provided notice¹ in Gillespie v. Barker, Rodems & Cook, 05-CA-7205,

Plaintiff's Notice of Telephone Recording, December 30, 2009: (after Mr. Bauer's withdrawal)

All calls on plaintiff's home office business telephone extension are recorded for quality assurance purposes pursuant to the business use exemption of Florida Statutes chapter 934, section 934.02(4)(a)(1) and the holding of Royal Health Care Servs., Inc. v. Jefferson-Pilot Life Ins. Co., 924 F.2d 215 (11th Cir. 1991).

¹ Notice of Mr. Rodems' Written Consent to Record, December 29, 2006. The Florida Bar, by certified letter to Paul Hill, General Counsel, October 30, 2008. The Tampa Police Department, during Mr. Rainesburger's investigation of Mr. Rodems. Gainesville Florida Police Dept./City Attorney Thomas B. Arden, by letter November 4, 2011. The Florida Attorney General, by letter August 1, 2012, and perhaps at other times.

EXHIBIT 7, PAGE 11 OF 11



U.S. Department of Justice

Federal Bureau of Investigation

Washington, D.C. 20535-0001

April 11, 2014

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

Dear Mr. Gillespie:

Your recent communication to the Federal Bureau of Investigation, Public Corruption Unit (PCU), has been received.

The primary function of FBI Headquarters is the administration of program management, policy formulation, training and other administrative duties. The review of complaint letters involving potential public corruption and related allegations is the responsibility of the appropriate FBI field office.

Accordingly, the PCU has forwarded your complaint information to the appropriate local FBI Field Office. Should you wish to provide any additional information related to this matter, please furnish the specific details directly to the below address.

Sincerely,

A handwritten signature in black ink, appearing to read "Brian J. Nadeau", is written over the typed name.

Brian J. Nadeau
Unit Chief
Public Corruption Unit

Cc/Enc:
FBI Tampa
5525 West Gray Street
Tampa, FL 33609

Exhibit 8, Page 1 of 13

IN THE CIRCUIT COURT OF THE FIFTH JUDICIAL CIRCUIT
OF THE STATE OF FLORIDA, IN AND FOR MARION COUNTY

THE STATE OF FLORIDA,

vs.

CASE NO. 2019-CF-004193-A-Z
42-2019-CF-004193-CFAXXX

NEIL JOSEPH GILLESPIE

JURY TRIAL DEMANDED
APPOINTMENT OF COUNSEL DEMANDED

DEFENDANT'S NOTICE OF CONSTITUTIONAL CHALLENGE
CHAPTER 934 SECURITY OF COMMUNICATIONS; SURVEILLANCE

COMES NOW the Defendant, NEIL JOSEPH GILLESPIE, age 63 and suffering the infirmities of aging, an indigent nonlawyer, unable to obtain adequate counsel, a person with disabilities, and a vulnerable adult, henceforth in the first person, gives Defendant's Notice of Constitutional Challenge, Chapter 934 Security of Communications; Surveillance, and states:

1. Pursuant to federal and state rules and statutes, including but not limited to,

Fla. R. Civ. Pro. 1.071 Constitutional Challenge
Fla. Stat. § 86.091 Parties. declaratory relief

Rule 5.1(a)(2) Constitutional Challenge, Federal Rules of Civil Procedure
28 U.S.C. § 2403 Intervention by United States or a State; constitutional question

I hereby give notice of a Constitutional Challenge to Chapter 934 Security of Communications; Surveillance, including but not limited to Fla. Stat. §§ 934.03.1a Interception of Oral Communication; 934.03.1c Disclosure of Communication.

2. I believe Chapter 934 is unconstitutional, *inter alia*, as set forth in my attached letter May 23, 2014 to Paul Wysopal Special Agent in Charge, Federal Bureau of Investigation, Tampa.

Filed in the Office of Clerk of Circuit Court
Marion County, Florida
On February 20 20 20
David B. Ellermann, Clerk



Exhibit 8, Page 2 of 13

STATE OF FLORIDA VS NEIL JOSEPH GILLESPIE 2019-CF-004193-A-Z

RESPECTFULLY SUBMITTED February 20, 2020



Neil J. Gillespie
8092 SW 115th Loop Tel. 352-854-7807
Ocala, FL 34481 Email: neilgillespie@mfi.net

CERTIFICATE OF SERVICE

I HEREBY CERTIFY the names below were served by email, on the Portal, by U.S. mail, and/or by UPS, today February 20, 2020 or as soon thereafter as possible.

Zachary Glenn Phipps Kristina Belanger, Assistant Public Defender
OCCCRC for 5th D.C.A. Email: kbelanger@pdo5.org
307 NW 3rd St Marion County Public Defenders Office
Ocala, FL 34475-6638 204 NW 3rd Ave., Ocala, FL 34474
Email: zhipps@rc5state.com Michael Graves, Public Defender, mgraves@pdo5.org
Jeffrey Deen, jdeen@rc5state.com

Chief Frank Talbot, DOJ-MDFL Assistant U.S. Attorney Deputy Chief Kelly S. Karase
U.S. Attorney's Office, 300 N. Hogan Street, Suite 700 Jacksonville Division
Jacksonville, FL 32202, frank.m.talbot@usdoj.gov kelly.karase@usdoj.gov

Sheriff William Woods, Marion County Sheriff's Office (MCSO)
Email: wwoods@marionso.com
Timothy McCourt, General Counsel for the MCSO, Email: Tmccourt@marionso.com

The Hon. Brad King, State Attorney, Fifth Judicial Circuit, Florida
Email: bking@sao5.org

The Hon. David Ellspermann, Clerk and Comptroller, Marion County Florida
Email: Ellspermann@marioncountyclerk.org
Greg Harrell, General Counsel for the Clerk, Email: GHarrell@marioncountyclerk.org

Certified and signed February 20, 2020



Neil J. Gillespie

Exhibit 8, Page 3 of 13

VIA Email to: tampa.division@ic.fbi.gov

May 23, 2014

Paul Wysopal Special Agent in Charge
Federal Bureau of Investigation, Tampa
5525 West Gray Street
Tampa, FL 33609

Dear Special Agent Wysopal:

Today at 6:20 PM I received a telephone call from 813-253-1000 from a man who identified himself as the Tampa FBI. The caller did not provide his name. The caller asked to speak with Neil Gillespie, that's me. The caller asked "is this call being recorded" and I said yes. The caller was responding to the Telephone Recording Announcer informing him *all calls are recorded for quality assurance purposes*. The caller said it is against Florida law to record someone without the consent of both parties. I replied that the caller provided consent if he continued to talk. The caller responded "have a nice day, sir" and hung up. That's okay, the telephone is not compatible with certain disabilities of mine. I prefer email or written communication.

On information and belief, my long-standing practice of recording telephone calls on a land line is permitted. I am not a lawyer, and I did not attend law school. This is my understanding of the law as it applies to me. This does not constitute legal advice. If you have specific questions related to the information in this letter, you are encouraged to consult an attorney who can investigate the particular circumstances of your concern.

Florida Statutes, Chapter 934, Security of Communications; Surveillance, sometimes called the wiretapping statute, governs the unlawful interception and disclosure of wire, oral, or electronic communications. F.S. § 934.03. There is a significant difference between wiretapping and one or two party consent. Wiretapping is the covert monitoring or recording of telephone conversations by a third party government agency, such as by law enforcement with a court order.

In contrast, one or two party consent is essentially enhanced note-taking by private persons not affiliated with the government. From Wikipedia:

"Under the law of the United States and most state laws, there is nothing illegal about one of the parties to a telephone call recording the conversation, or giving permission for calls to be recorded or permitting their telephone line to be tapped. However the telephone recording laws in most U.S. states require only one party to be aware of the recording, while 12 states require both parties to be aware."

http://en.wikipedia.org/wiki/Telephone_tapping

Federal law permits one-party consent to record calls [18 USC § 2511]. One party consent is the law in 38 states. Twelve states, including Florida, require two party consent. On its face, two party consent is unconstitutional under the Equal Protection Clause of the Fourteenth Amendment to the United States Constitution. The clause, which took effect in 1868, provides that no state shall deny to any person within its jurisdiction "the equal protection of the laws".
http://en.wikipedia.org/wiki/Equal_Protection_Clause

EXHIBITS, PAGE 4 OF 13

Paul Wysopal Special Agent in Charge
Federal Bureau of Investigation, Tampa

May 23-2014
Page - 2

Two party consent is also unconstitutional under the Supremacy Clause, the provision in Article Six, Clause 2 of the U.S. Constitution that establishes the U.S. Constitution, federal statutes, and U.S. treaties as "the supreme law of the land". It provides that these are the highest form of law in the U.S. legal system, and mandates that all state judges must follow federal law when a conflict arises between federal law and either the state constitution or state law of any state.
http://en.wikipedia.org/wiki/Supremacy_Clause

I rely on the holding in Royal Health Care Servs., Inc. v. Jefferson-Pilot Life Ins. Co., 924 F.2d 215 (11th Cir. 1991). In my view Florida law prohibits "interception" of certain communication, but not all recording. The U.S. Eleventh Circuit Court of Appeals has held that because only interceptions made through an "electronic, mechanical or other device" are illegal under Florida law, telephones used in the ordinary course of business to record conversations do not violate the law. In other words, the telephone set "intercepts" the call, not the recording device, and the phone call is lawfully recorded after lawful interception. This is in contrast to a court-ordered wiretap where a call is "intercepted" before it reaches the telephone set. The land-line home office telephone that I use lawfully intercepts a call before lawfully recording the call.

Please find enclosed a copy of Royal Health Care Servs., Inc. v. Jefferson-Pilot Life Ins. Co.

Also enclosed are pages 29 and 30 from Petition No. 12-7747 for writ of certiorari to the Supreme Court of the United States, Neil J. Gillespie v. Thirteenth Judicial Circuit Florida et al. My petition was denied February 19, 2013, rehearing denied April 15, 2013, see the docket, <http://www.supremecourt.gov/Search.aspx?FileName=/docketfiles/12-7747.htm>

Supreme Court review is discretionary. Less than 100 of the approximately 10,000 petitions per Term are granted review. Denial of review is not a judgment on the legal merits of a petition.

The foregoing is only a brief introduction to telephone recording law as it applies to me. Other documents and court filings are available upon request.

I also received the attached letter from Brian J. Nadeau referring me to the Tampa Field Office. I regret that my initial letter to the FBI March 5, 2014 was limited to public corruption. There is a lot more to consider, which I plan to submit shortly. Thank you for your consideration.

Sincerely,



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

Telephone: 352-854-7807
Email: neilgillespie@mfi.net

attachments/enclosures

Exhibit 8, Page 50F13

Westlaw.

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(Cite as: 924 F.2d 215)**C**

United States Court of Appeals,
Eleventh Circuit.
ROYAL HEALTH CARE SERVICES, INCORPORATED, d/b/a Best Care, Plaintiff-Appellant,
v.
JEFFERSON-PILOT LIFE INSURANCE COMPANY, Defendant-Appellee.
Nos. 90-5204, 90-5514.

Feb. 21, 1991.

Health care provider filed diversity suit against insurer pursuant to Florida Security of Communications Act for unauthorized recording of telephone conversation. The United States District Court for the Southern District of Florida, No. 88-959-CIV-SM, Stanley Marcus, J., granted insurer's motion for summary judgment. On appeal, the Court of Appeals held that "business extension" exception applied to telephone call so no "interception" occurred as defined in Act and insurer could not be held liable.

Affirmed.

West Headnotes

[1] Federal Courts 170B ↪433

170B Federal Courts

170BVI State Laws as Rules of Decision
170BVI(C) Application to Particular Matters
170Bk433 k. Other Particular Matters.

Most Cited Cases

In diversity suit pursuant to Florida Security of Communications Act, proper interpretation of Act was question of Florida law and federal court was therefore required to construe Act as would the Supreme Court of Florida. West's F.S.A. §§ 934.01-934.43.

[2] Telecommunications 372 ↪1440

372 Telecommunications

372X Interception or Disclosure of Electronic Communications; Electronic Surveillance

372X(A) In General

372k1435 Acts Constituting Interception or Disclosure

372k1440 k. Persons Concerned; Consent. Most Cited Cases

(Formerly 372k494.1, 372k494)

To satisfy "business extension" or "extension phone" exception to Florida Security of Communications Act, communication must be intercepted by equipment furnished by provider of wire or electronic communication service in ordinary course of its business and call must be intercepted in ordinary course of business. West's F.S.A. § 934.02(4)(a).

[3] Telecommunications 372 ↪1440

372 Telecommunications

372X Interception or Disclosure of Electronic Communications; Electronic Surveillance

372X(A) In General

372k1435 Acts Constituting Interception or Disclosure

372k1440 k. Persons Concerned; Consent. Most Cited Cases

(Formerly 372k494.1, 372k494)

For purposes of determining whether "business extension" exception to Florida Security of Communications Act was met in connection with unauthorized recording of telephone conversation, telephone extension, not tape recorder, intercepted call. West's F.S.A. § 934.02(4)(a).

[4] Telecommunications 372 ↪1440

372 Telecommunications

372X Interception or Disclosure of Electronic Communications; Electronic Surveillance

372X(A) In General

372k1435 Acts Constituting Interception or Disclosure

372k1440 k. Persons Concerned; Con-

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sent. Most Cited Cases

(Formerly 372k494.1, 372k494)

Telephone call by insurer's employee to employees of health care provider was intercepted in ordinary course of business, for purposes of determining applicability of "business extension" exception to Florida Security of Communications Act; entire call concerned charges by provider for services provided to insured patient. West's F.S.A. § 934.02(4)(a).

[5] Telecommunications 372 ↪ 1440

372 Telecommunications

372X Interception or Disclosure of Electronic Communications; Electronic Surveillance

372X(A) In General

372k1435 Acts Constituting Interception or Disclosure

372k1440 k. Persons Concerned; Consent. Most Cited Cases

(Formerly 372k498)

Insurer was not liable under Florida Security of Communications Act for unauthorized tape recording of telephone conversation with health care provider's employees where "business extension" exception to Act applied, and thus no "interception" as defined by Act occurred. West's F.S.A. §§ 934.02(3), (4)(a), 934.10.

*215 Arnold R. Ginsberg, Perse & Ginsberg, Miami, Fla., for plaintiff-appellant.

Carol A. Fenello, Kimbrell & Hamman, Miami, Fla., for defendant-appellee.

Appeals from the United States District Court for the Southern District of Florida.

Before COX and BIRCH, Circuit Judges, and GIBSON^{FN*}, Senior Circuit Judge.

FN* Honorable Floyd R. Gibson, Senior U.S. Circuit Judge for the Eighth Circuit, sitting by designation.

PER CURIAM:

This is a diversity case in which plaintiff Royal Health Care Services, Inc. (Royal Health) sued defendant Jefferson-Pilot *216 Life Insurance Company (JP Life) pursuant to the Florida Security of Communications Act (the Act)^{FN1} for the unauthorized recording of a telephone conversation. JP Life moved for summary judgment and the district court granted the motion. Royal Health appeals that determination.

FN1. Fla.Stat. Ann. §§ 934.01-934.43 (West Supp.1990).

I. FACTS

In September 1987 a JP Life employee who was in North Carolina called Royal Health's Miami, Florida office. The ensuing conversation was recorded pursuant to a JP Life policy that all outgoing calls from its case management department (which is responsible for ensuring that services to JP Life's insured are rendered in a cost-effective manner) be automatically recorded on a double-reeled tape recorder. The Royal Health employees who spoke with the JP Life employee were never told they were being recorded, and they never consented to such recording. JP Life's telephone system did, however, emit a periodic beep during the call. The call concerned a bill submitted to JP Life for a patient under the care of Royal Health.

II. PROCEDURAL HISTORY

Royal Health sued JP Life for unauthorized interception of an oral communication under section 934.10 of the Act. Royal Health sought compensatory and punitive damages. JP Life moved for summary judgment, contending that no interception took place. The district court granted JP Life's motion, holding that Royal Health had not established a genuine issue of material fact regarding an essential element of its case, that an interception took place.

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(Cite as: 924 F.2d 215)

III. CONTENTIONS AND ISSUE ON APPEAL

Royal Health argues that Florida law requires the consent of both parties to a telephone conversation before that conversation may be recorded and that because Royal Health's employees did not consent to being recorded, JP Life violated Florida law. Royal Health asserts that the Supreme Court of Florida's decision in *State v. Tsavaris*, 394 So.2d 418 (Fla.1981), controls the outcome of this case. JP Life asserts that because the business extension exception^{FN2} applies to the phone call in question, no interception occurred under the Act, and therefore JP Life cannot be held liable.^{FN3} We must decide if the district court was correct in its determination that no interception occurred in this case.

FN2. Fla.Stat. Ann. § 934.02(4)(a) (West Supp.1990).

FN3. JP Life makes other arguments we need not address because we will affirm on the issue of whether an interception took place under Florida law.

IV. DISCUSSION

Summary judgment is appropriate "if the pleadings, depositions, answers to interrogatories, and admissions on file, together with the affidavits, if any, show that there is no genuine issue as to any material fact and that the moving party is entitled to judgment as a matter of law." Fed.R.Civ.P. 56(c). There are no disputed issues of material fact here. The only controversy concerns the proper application of Florida law to those facts.

[1] The proper interpretation of the Act is a question of Florida law. Therefore, federal courts are required to construe the Act as would the Supreme Court of Florida. *Madara v. Hall*, 916 F.2d 1510, 1514 (11th Cir.1990); *Oriental Imports & Exports, Inc. v. Maduro and Curiel's Bank, N.V.*, 701 F.2d 889, 890-91 (11th Cir.1983). We begin with an examination of the statutory scheme, and then proceed to a review of the relevant case law.

[2] Royal Health alleges a claim under section 934.10 of the Act. That provision creates a civil remedy for "[a]ny person whose wire, oral, or electronic communication is intercepted ... in violation of [sections] 934.03-934.09." Fla.Stat. Ann. § 934.10 (West Supp.1990). To be liable to Royal Health, therefore, JP Life must have intercepted the phone call. "Intercept" is *217 defined as "the aural or other acquisition of the contents of any wire, electronic, or oral communication through the use of any electronic, mechanical, or other device." Fla.Stat. Ann. § 934.02(3) (West Supp.1990). To intercept a communication, then, an "electronic, mechanical or other device" must be used. "Electronic, mechanical, or other device" is defined as:

(4) ... any device or apparatus which can be used to intercept a wire, electronic, or oral communication other than:

(a) Any telephone or telegraph instrument, equipment or facility or any component there- of:

1. Furnished to the subscriber or user by a provider of wire or electronic communication service in the ordinary course of its business and being used by the subscriber or user in the ordinary course of its business or furnished by such subscriber or user for connection to the facilities of such service and used in the ordinary course of its business....

Fla.Stat. Ann. § 934.02(4)(a) (West Supp.1990) (emphasis added).

The exception to the definition of "electronic, mechanical, or other device" is commonly referred to as the business extension exception or the extension phone exception. Under the plain meaning of the statute, if this exception is met, then no interception occurred and there can be no liability under section 934.10. The exception has two prongs. First, the communication must be intercepted by equipment furnished by a provider of wire or elec-

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(Cite as: 924 F.2d 215)

tronic communication service in the ordinary course of its business. Second, the call must be intercepted in the ordinary course of business.

[3] Royal Health concedes that the telephone used by the JP Life employee was supplied by a provider of wire or electronic communication service (Southern Bell) in the ordinary course of its business.^{FN4} Royal Health contends, however, that the interception was actually made by the tape recorder, not the telephone.^{FN5} We disagree. We believe the telephone extension intercepted the call,^{FN6} while the tape recorder recorded it. *State v. Nova*, 361 So.2d 411 (Fla.1978), supports our conclusion. There, the Supreme Court of Florida reviewed a case in which an employee's supervisor listened in to one of the employee's phone calls, but did not record the conversation. The court assumed that under the statute an interception could occur without the call being recorded and focused on the question of whether the call was made in the ordinary course of business. *Id.* at 413. Therefore, since a call need not be recorded to be intercepted, the phone extension must be the device that intercepts the call.^{FN7} Federal case law interpreting the Federal Wiretap Act^{FN8} lends further support to this conclusion. In *Epps v. St. Mary's Hospital, Inc.*, 802 F.2d 412 (11th Cir.1986), our circuit rejected the precise argument Royal Health advances here. In *Epps*, a hospital employee recorded a phone call between Epps and another hospital employee. The call was received through a telephone console and recorded by a double-reeled tape recorder. The court decided that the console, not the recorder, intercepted the call. *Id.* at 415. See also *United States v. Harpel*, 493 F.2d 346, 350 (10th Cir.1974) (where phone call is recorded by attaching suction cup to telephone receiver and connecting it to a tape recorder, telephone receiver is intercepting device, not recorder).

FN4. See Appellant's Brief at 9.

FN5. Royal Health made this argument to the district court, but timidly pursues it on appeal. See Appellant's Brief at 26-27.

Nevertheless, we have a practice of reading briefs liberally to ascertain the issues on appeal, *United States v. Milam*, 855 F.2d 739 (11th Cir.1988), and we will therefore address the argument.

FN6. Our use of the term "intercepted" here is in accordance with its common meaning, not as it is defined by the Florida statute we are examining. We conclude later in this opinion that under the statute, no interception took place.

FN7. See also *State v. Keaton*, 371 So.2d 86, 91 n. 7 (Fla.1979) (in dicta, Supreme Court of Florida indicated prosecution could be based on testimony of a person not a party to a telephone conversation, if the complainant listened in in the ordinary course of business).

FN8. 18 U.S.C.A. §§ 2510-2521 (West Supp.1990).

*218 [4][5] Having concluded that the telephone extension intercepted the call in this case, we next decide whether the call in question was intercepted in the ordinary course of business. That determination is an easy one. The recording occurred pursuant to a standard JP Life policy; Royal Health does not dispute this. Nor does Royal Health contend the call was personal in nature. A review of the transcript of the call reveals that the entire call concerned charges by Royal Health for services provided to a patient insured by JP Life. The only conclusion that may be drawn is that the call was intercepted in the ordinary course of business.

We conclude, therefore, that both prongs of the business extension exception are satisfied and that the exception applies. No interception, as defined by the Act, occurred and the district court was correct in granting JP Life's motion for summary judgment.

Once again *State v. Nova*, 361 So.2d 411 (Fla.1978)

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, supports our overall method of analysis. In that case, the court had to decide whether the trial court's determination that testimony of a murder victim's supervisor should not be suppressed was correct. The supervisor had listened in on a phone call that the victim received from the murderer while at work. The court proceeded exactly as we have in deciding whether an interception took place, first noting the definition of "intercept," then setting out the definition of "electronic, mechanical, or other device," and the business extension exception. The court then decided the call was intercepted in the ordinary course of business because the supervisor used the phone "for the benefit of her employer." *Id.* at 413. Therefore, the exception applied, no interception took place, and the trial court's decision not to suppress the testimony was vindicated.

Likewise, federal cases interpreting the Federal Wiretap Act have reached similar results. In *Briggs v. American Air Filter Co.*, 630 F.2d 414 (5th Cir.1980),^{FN9} a supervisor listened in on a telephone extension to an employee's phone conversation. The employee sued under the Federal Wiretap Act provision that corresponds to the provision in the Florida Act that Royal Health sued under. The court affirmed the district court's determination that summary judgment should be granted in favor of the defendants because the business extension exception to the federal act was applicable. The analysis employed was the same common-sense analysis we employ in this case, beginning with the statutory definitions of the key terms and proceeding to a discussion of the business extension exception. The court concluded that because the act of listening in was in the ordinary course of business, the exception applied, and no interception took place.

FN9. In *Bonner v. City of Prichard*, 661 F.2d 1206, 1209 (11th Cir.1981) (*en banc*), this court adopted as binding precedent all decisions of the former Fifth Circuit handed down prior to October 1, 1981.

Royal Health, of course, takes issue with the district court's conclusion that under Florida law no interception took place. Royal Health's brief almost completely ignores the applicability of the business extension exception and instead calls our attention to the Supreme Court of Florida's decision in *State v. Tsavaris*, 394 So.2d 418 (Fla.1981). Royal Health contends that Florida law evinces a strong interest in the protection of the privacy of telephone calls and that this interest is evidenced by Florida's two-party consent rule.^{FN10} Royal Health further argues that because federal law contains a single-party consent rule,^{FN11} federal case law is inapposite in analyzing the Florida statute at issue.

FN10. Assuming no exception applies, under Florida law both parties to a phone call must consent before that call may be recorded. Fla.Stat. Ann. § 934.03(2)(d) (West Supp.1990). See also *Tsavaris*, 394 So.2d at 422-23.

FN11. See 18 U.S.C.A. § 2511(2)(d) (West Supp.1990).

We are convinced that *Tsavaris* does not require a different result than the one we reach. We agree that *Tsavaris* says that the Florida statute "evinces a greater concern for the protection of one's privacy interests in a conversation than does the *219 [Federal Wiretap Act]." *Tsavaris*, 394 So.2d at 422. We also agree that Florida does indeed have a two-party consent rule. But we disagree with Royal Health's contention that all federal case law dealing with the Federal Wiretap Act is inapposite. The Historical Note that follows the legislative findings section of the Act^{FN12} indicates that, "[w]ith one exception^{FN13} the state law follows closely the federal act." In addition, the language of the Florida Act's business extension exception is **identical** to the language of the business extension exception in the federal Act.^{FN14} Finally, were we to agree with Royal Health's contention that the call in question was intercepted because only one party consented to the recording, we would write the business extension exception out of the Florida Act. We see

Exhibit 8, Page 10 of 13

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(Cite as: 924 F.2d 215)

no reason to assume the Florida Legislature intended the exception to be meaningless when the plain language of the Act indicates otherwise.^{FN15} For these reasons, we find Royal Health's arguments unconvincing.

C.A.11 (Fla.),1991.
Royal Health Care Services, Inc. v. Jefferson-Pilot Life Ins. Co.
924 F.2d 215

END OF DOCUMENT

FN12. Fla.Stat. Ann. § 934.01 (West 1985).

FN13. The exception noted is not relevant to our discussion.

FN14. See *Horn v. State*, 298 So.2d 194, 198 (Fla. 1st Dist.Ct.App.1974) (noting similarity of Florida Security of Communications Act and Federal Wiretap Act).

FN15. Cf. *Briggs v. American Air Filter Co.*, 630 F.2d 414, 419 (5th Cir.1980) ("We do not believe Congress intended the exception to be superfluous, and therefore there must be some circumstances under which non-consensual interception falls within the 'ordinary course of business' exception.").

V. CONCLUSION

We therefore AFFIRM the district court's grant of summary judgment in favor of defendant Jefferson-Pilot Life Insurance Company.^{FN16}

FN16. Royal Health's appeal of the district court's summary judgment decision is assigned case number 90-5204 in this court. Royal Health also appeals the district court's award of costs to JP Life, and that appeal is assigned case number 90-5514. In its Motion to Consolidate, appellant acknowledges that an affirmance in case number 90-5204 should prompt an affirmance in case number 90-5514. The judgment of the district court awarding costs to JP Life is therefore affirmed.

AFFIRMED.

Exhibit 8, Page 11 of 13

Telephone Recording

This petition challenges the constitutionality of Fla. Stat. 934.01 et seq., Security of Communications, and its requirement for two-party consent to record telephone calls, which conflicts with federal one-party consent in 18 USC § 2511, and the laws of most states.

Gillespie purchased a \$15 *Telephone Handset Recording Control* from Radio Shack on December 20, 2005 to record phone calls from doctors treating his Mother who was hospitalized. It was a form of enhanced note-taking. On March 3, 2006 Gillespie partially recorded a phone call from Mr. Rodems, who argued with Gillespie, and misquoted him in an affidavit Rodems submitted to the court March 6, 2006. Mr. Rodems requested a bailiff be present at an upcoming hearing, alleging a threat of violent physical attack in Judge Nielsen's chambers. A subsequent investigation by Tampa Police lawyer Kirby Rainesburger concluded February 22, 2010:

I'm not suggesting that Mr. Rodems was right or accurate in representing to the court as an "exact quote" language that clearly was not an exact quote. I'm only concluding that his misrepresentation does not, in my judgment, rise to the level of criminal perjury. No further action is contemplated by this agency at this time.

Gillespie realized the need to record any future calls from Mr. Rodems to avoid a repeat of this problem, and found online and purchased a DynaMetric Call Saver kit that recorded and saved telephone phone calls to .wav files rather than clunky cassette tapes. He also installed a voice announcer: "This call is being recorded for quality assurance purposes". Gillespie relied on the holding of Royal Health Care Servs., Inc. v. Jefferson-Pilot Life Ins. Co.

On July 25, 2012 attorney Eugene P. Castagliuolo accused Gillespie of wrongfully recording a phone call June 14, 2011 where he admitted to mental problems. Mr. Castagliuolo threatened to sue Gillespie under chapter 934 Fla. Stat., and also threatened Michael Borseth, a court reporter who made the transcript. Gillespie reported Mr. Castagliuolo's threat to Florida

Attorney General Pam Bondi by letter August 1, 2012. Mr. Castagliuolo has been threatening Gillespie for the past year over a number of issues related to his representation of Gillespie at Mr. Rodems' deposition. Gillespie's letter to the Attorney General stated on page 2, in part:

I believe Mr. Castagliuolo is misinformed about Chapter 934, Florida Statutes as interpreted by Royal Health Care Servs., Inc., 924 F.2d 215 (11th Cir. 1991). In my personal opinion Florida law prohibits the "interception" of certain communications, not all recording. The U.S. Eleventh Circuit Court of Appeals has held that because only interceptions made through an "electronic, mechanical or other device" are illegal under Florida law, telephones used in the ordinary course of business to record conversations do not violate the law. In other words, the telephone set "intercepts" the call, not the recording device, and the phone call is lawfully recorded after lawful interception. This is in contrast to a court-ordered wiretap where a call is "intercepted" before it reaches the telephone set. A land-line home office telephone, really any land-line home phone, is the type that intercepts a call before it is recorded.

On August 10, 2012 Gillespie received an email response from Samantha Santana of the Florida Attorney General's Office. Ms. Santana wrote in part:

It appears that you provided a copy of your complaint about Attorney Eugene Castagliuolo to The Florida Bar, which is the appropriate agency to address this matter. Please follow up with The Bar directly for further assistance.

Gillespie submitted a Bar complaint the next day, August 11, 2012.

Notice of Telephone Recording

Gillespie provided notice¹ in Gillespie v. Barker, Rodems & Cook, 05-CA-7205, Plaintiff's Notice of Telephone Recording, December 30, 2009: (after Mr. Bauer's withdrawal)

All calls on plaintiff's home office business telephone extension are recorded for quality assurance purposes pursuant to the business use exemption of Florida Statutes chapter 934, section 934.02(4)(a)(1) and the holding of *Royal Health Care Servs., Inc. v. Jefferson-Pilot Life Ins. Co.*, 924 F.2d 215 (11th Cir. 1991).

¹ Notice of Mr. Rodems' Written Consent to Record, December 29, 2006. The Florida Bar, by certified letter to Paul Hill, General Counsel, October 30, 2008. The Tampa Police Department, during Mr. Rainesburger's investigation of Mr. Rodems. Gainesville Florida Police Dept./City Attorney Thomas B. Arden, by letter November 4, 2011. The Florida Attorney General, by letter August 1, 2012, and perhaps at other times.

Exhibit 8, Page 13 of 13



U.S. Department of Justice

Federal Bureau of Investigation

Washington, D.C. 20535-0001

April 11, 2014

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

Dear Mr. Gillespie:

Your recent communication to the Federal Bureau of Investigation, Public Corruption Unit (PCU), has been received.

The primary function of FBI Headquarters is the administration of program management, policy formulation, training and other administrative duties. The review of complaint letters involving potential public corruption and related allegations is the responsibility of the appropriate FBI field office.

Accordingly, the PCU has forwarded your complaint information to the appropriate local FBI Field Office. Should you wish to provide any additional information related to this matter, please furnish the specific details directly to the below address.

Sincerely,

A handwritten signature in black ink, appearing to read "Brian J. Nadeau", is written over the typed name.

Brian J. Nadeau
Unit Chief
Public Corruption Unit

Cc/Enc:
FBI Tampa
5525 West Gray Street
Tampa, FL 33609

IN THE CIRCUIT COURT OF THE FIFTH JUDICIAL CIRCUIT
OF THE STATE OF FLORIDA, IN AND FOR MARION COUNTY

THE STATE OF FLORIDA,

CASE NO. 2019-CF-4193

vs.

NEIL JOSEPH GILLESPIE

DEFENDANT'S MOTION FOR RULE 3.133 PRETRIAL PROBABLE CAUSE
DETERMINATIONS AND ADVERSARY PRELIMINARY HEARINGS

Defendant NEIL JOSEPH GILLESPIE, a nonlawyer appearing *pro se*, in the first person, files *Defendant's Motion For Rule 3.133 Pretrial Probable Cause Determinations and Adversary Preliminary Hearings*, and states,

1. I am the only person legally authorized to represent myself, Neil Joseph Gillespie, in this case. This Court's prior appointment of substitute counsel was based on an unsigned and incomplete *Application For Criminal Indigent Status*. On July 22, 2020 the Clerk found I was NOT INDIGENT on my application submitted per F.S. § 27.52. I am not entitled to appointed counsel. Therefore the appointment of counsel must be immediately revoked.

2. This is a motion under Rule 3.133(b)(1) for an adversary preliminary hearing:

**RULE 3.133. PRETRIAL PROBABLE CAUSE DETERMINATIONS AND
ADVERSARY PRELIMINARY HEARINGS**

(b) Adversary Preliminary Hearing.

(1) When Applicable. A defendant who is not charged in an information or indictment within 21 days from the date of arrest or service of the *capias* on him or her shall have a right to an adversary preliminary hearing on any felony charge then pending against the defendant. The subsequent filing of an information or indictment shall not eliminate a defendant's entitlement to this proceeding.

I was arrested on November 10, 2019 and charged with two felony crimes:

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

DEFENDANT'S MOTION FOR RULE 3.133 PRETRIAL PROBABLE CAUSE DETERMINATIONS AND ADVERSARY PRELIMINARY HEARINGS

Exhibit 9, Page 2 of 17

I was not charged in an information or indictment within 21 days from the date of my arrest, which date was December 1, 2019. (Arrest November 10, 2019+ 21 days = December 1, 2019). The Information in this case was filed December 5, 2019, 4 days past the deadline established by Rule 3.133(b)(1) for an adversary preliminary hearing.

3. On February 20, 2020 I gave notice, by email to Judge Tatti of, inter alia,

DEFENDANT'S NOTICE OF CONSTITUTIONAL CHALLENGE
CHAPTER 934 SECURITY OF COMMUNICATIONS; SURVEILLANCE

which the Clerk docketed as DOC-043. (Exhibit 1). My challenge was properly brought under,

Fla. R. Civ. Pro. 1.071 Constitutional Challenge
Fla. Stat. § 86.091 Parties. declaratory relief

Rule 5.1(a)(2) Constitutional Challenge, Federal Rules of Civil Procedure
28 U.S.C. § 2403 Intervention by United States or a State; constitutional question

4. In response, the Court entered ORDER STRIKING DEFENDANT'S JURY TRIAL DEMANDED (DOC-048). The Order is a nullity that failed to address the merits of my Constitutional Challenge that impeaches this malicious prosecution.

5. On July 21, 2020 I informed Brittany Quinlan, Assistant Attorney General, Tampa Civil Litigation Bureau, Florida Office of the Attorney General, about my Constitutional Challenge. Ms. Quinlan represents Judge Craggs and the Fifth Judicial Circuit in my lawsuit 18-CA-2640, and has agreed to accept service of process for the Fifth Judicial Circuit. I emailed Ms. Quinlan:

Ms. Quinlan, thank you. Let me know how you want to proceed, i.e., if a new subpoena is needed. Also, in 2019-CF-4193 I gave notice of a Constitutional Challenge to Chapter 934 Security of Communications; Surveillance, see attached. Neil Gillespie

Today I am giving notice of my Constitutional Challenge to Attorney General Ashley Moody and the Office of the Attorney General by email to oag.civil.eserve@myfloridalegal.com, see, <http://www.myfloridalegal.com/pages.nsf/Main/9EBC46A978828D8A85257A7E004DF2D1>

DEFENDANT'S MOTION FOR RULE 3.133 PRETRIAL PROBABLE CAUSE DETERMINATIONS AND ADVERSARY PRELIMINARY HEARINGS

Exhibit 9, Page 3 of 17

6. Fla. R. Crim. P. 3.133(b) also provides for:

(2) Process. The judge shall issue such process as may be necessary to secure attendance of witnesses within the state for the state or the defendant.

(3) Witnesses. All witnesses shall be examined in the presence of the defendant and may be cross-examined. Either party may request that the witnesses be sequestered. At the conclusion of the testimony for the prosecution, the defendant who so elects shall be sworn and testify in his or her own behalf, and in such cases the defendant shall be warned in advance of testifying that anything he or she may say can be used against him or her at a subsequent trial. The defendant may be cross-examined in the same manner as other witnesses, and any witnesses offered by the defendant shall be sworn and examined.

(4) Record. At the request of either party, the entire preliminary hearing, including all testimony, shall be recorded verbatim stenographically or by mechanical means and at the request of either party shall be transcribed. If the record of the proceedings, or any part thereof, is transcribed at the request of the prosecuting attorney, a copy of this transcript shall be furnished free of cost to the defendant or the defendant's counsel.

(5) Action on Hearing. If from the evidence it appears to the judge that there is probable cause to believe that an offense has been committed and that the defendant has committed it, the judge shall cause the defendant to be held to answer to the circuit court; otherwise, the judge shall release the defendant from custody unless an information or indictment has been filed, in which event the defendant shall be released on recognizance subject to the condition that he or she appear at all court proceedings or shall be released under a summons to appear before the appropriate court at a time certain.

7. I request 30 days to prepare for the Rule 3.133(b)(1) adversary preliminary hearing and/or to find private counsel to represent me.

WHEREFORE, I move the Court to grant *Defendant's Motion For Rule 3.133 Pretrial Probable Cause Determinations and Adversary Preliminary Hearings*.

RESPECTFULLY SUBMITTED July 24, 2020.



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

Tel. 352-854-7807
Email: neilgillespie@mfi.net

DEFENDANT'S MOTION FOR RULE 3.133 PRETRIAL PROBABLE CAUSE
DETERMINATIONS AND ADVERSARY PRELIMINARY HEARINGS

Exhibit 9, Page 4 of 17

CERTIFICATE OF SERVICE

I HEREBY CERTIFY that on July 22, 2020 a copy of the foregoing was furnished by e-service:

- State Attorney's Office, 110 North West 1st Avenue, Suite 5000 Ocala, FL 34475. (Eservicemarion@Sao5.Org),
- Notice of Constitutional Challenge to Attorney General Ashley Moody and the Office of the Attorney General by email to oag.civil.eserve@myfloridalegal.com,
- Zachary Glenn Phipps, OCCRC for 5th D.C.A., 307 NW 3rd St., Ocala, FL 34475-6638 at RCCMarion@rc5state.com

UNOFFICIAL
DOCUMENT

IN THE CIRCUIT COURT OF THE FIFTH JUDICIAL CIRCUIT
OF THE STATE OF FLORIDA, IN AND FOR MARION COUNTY



THE STATE OF FLORIDA,

vs.

CASE NO. 2019-CF-004193-A-Z
42-2019-CF-004193-CFAXXX

NEIL JOSEPH GILLESPIE

JURY TRIAL DEMANDED
APPOINTMENT OF COUNSEL DEMANDED

DEFENDANT'S NOTICE OF CONSTITUTIONAL CHALLENGE
CHAPTER 934 SECURITY OF COMMUNICATIONS; SURVEILLANCE

COMES NOW the Defendant, NEIL JOSEPH GILLESPIE, age 63 and suffering the infirmities of aging, an indigent nonlawyer, unable to obtain adequate counsel, a person with disabilities, and a vulnerable adult, henceforth in the first person, gives Defendant's Notice of Constitutional Challenge, Chapter 934 Security of Communications; Surveillance, and states:

1. Pursuant to federal and state rules and statutes, including but not limited to,
 - Fla. R. Civ. Pro. 1.071 Constitutional Challenge
 - Fla. Stat. § 86.091 Parties. declaratory relief
 - Rule 5.1(a)(2) Constitutional Challenge, Federal Rules of Civil Procedure
 - 28 U.S.C. § 2403 Intervention by United States or a State; constitutional question

I hereby give notice of a Constitutional Challenge to Chapter 934 Security of Communications; Surveillance, including but not limited to Fla. Stat. §§ 934.03.1a Interception of Oral Communication; 934.03.1c Disclosure of Communication.

2. I believe Chapter 934 is unconstitutional, *inter alia*, as set forth in my attached letter May 23, 2014 to Paul Wysopal Special Agent in Charge, Federal Bureau of Investigation, Tampa.

Filed in the Office of Clerk of Circuit Court
Marion County, Florida
On February 20 20 20
David B. Ellspermann, Clerk

STATE OF FLORIDA VS NEIL JOSEPH GILLESPIE 2019-CF-004193-A-Z

RESPECTFULLY SUBMITTED February 20, 2020



Neil J. Gillespie
8092 SW 115th Loop Tel. 352-854-7807
Ocala, FL 34481 Email: neilgillespie@mfi.net

CERTIFICATE OF SERVICE

I HEREBY CERTIFY the names below were served by email, on the Portal, by U.S. mail, and/or by UPS, today February 20, 2020 or as soon thereafter as possible.

| | |
|--|---|
| Zachary Glenn Phipps OCCCRC for 5th D.C.A. 307 NW 3rd St Ocala, FL 34475-6638 Email: zhipps@rc5state.com Jeffrey Deen, jdeen@rc5state.com | Kristina Belanger, Assistant Public Defender Email: kbelanger@pdo5.org Marion County Public Defenders Office 204 NW 3rd Ave., Ocala, FL 34474 Michael Graves, Public Defender, mgraves@pdo5.org |
|--|---|


| | |
|--|---|
| Chief Frank Talbot, DOJ-MDFL Assistant U.S. Attorney U.S. Attorney's Office, 300 N. Hogan Street, Suite 700 Jacksonville, FL 32202, frank.m.talbot@usdoj.gov | Deputy Chief Kelly S. Karase Jacksonville Division kelly.karase@usdoj.gov |
|--|---|

Sheriff William Woods, Marion County Sheriff's Office (MCSO)
Email: wwoods@marionso.com
Timothy McCourt, General Counsel for the MCSO, Email: Tmccourt@marionso.com

The Hon. Brad King, State Attorney, Fifth Judicial Circuit, Florida
Email: bking@sao5.org

The Hon. David Ellspermann, Clerk and Comptroller, Marion County Florida
Email: Ellspermann@marioncountyclerk.org
Greg Harrell, General Counsel for the Clerk, Email: GHarrell@marioncountyclerk.org

Certified and signed February 20, 2020



Neil J. Gillespie

VIA Email to: tampa.division@ic.fbi.gov

May 23, 2014

Paul Wysopal Special Agent in Charge
Federal Bureau of Investigation, Tampa
5525 West Gray Street
Tampa, FL 33609

Dear Special Agent Wysopal:

Today at 6:20 PM I received a telephone call from 813-253-1000 from a man who identified himself as the Tampa FBI. The caller did not provide his name. The caller asked to speak with Neil Gillespie, that's me. The caller asked "is this call being recorded" and I said yes. The caller was responding to the Telephone Recording Announcer informing him *all calls are recorded for quality assurance purposes*. The caller said it is against Florida law to record someone without the consent of both parties. I replied that the caller provided consent if he continued to talk. The caller responded "have a nice day, sir" and hung up. That's okay, the telephone is not compatible with certain disabilities of mine. I prefer email or written communication.

On information and belief, my long-standing practice of recording telephone calls on a land line is permitted. I am not a lawyer, and I did not attend law school. This is my understanding of the law as it applies to me. This does not constitute legal advice. If you have specific questions related to the information in this letter, you are encouraged to consult an attorney who can investigate the particular circumstances of your concern.

Florida Statutes, Chapter 934, Security of Communications; Surveillance, sometimes called the wiretapping statute, governs the unlawful interception and disclosure of wire, oral, or electronic communications. F.S. § 934.03. There is a significant difference between wiretapping and one or two party consent. Wiretapping is the covert monitoring or recording of telephone conversations by a third party government agency, such as by law enforcement with a court order.

In contrast, one or two party consent is essentially enhanced note-taking by private persons not affiliated with the government. From Wikipedia:

"Under the law of the United States and most state laws, there is nothing illegal about one of the parties to a telephone call recording the conversation, or giving permission for calls to be recorded or permitting their telephone line to be tapped. However the telephone recording laws in most U.S. states require only one party to be aware of the recording, while 12 states require both parties to be aware."
http://en.wikipedia.org/wiki/Telephone_tapping

Federal law permits one-party consent to record calls [18 USC § 2511]. One party consent is the law in 38 states. Twelve states, including Florida, require two party consent. On its face, two party consent is unconstitutional under the Equal Protection Clause of the Fourteenth Amendment to the United States Constitution. The clause, which took effect in 1868, provides that no state shall deny to any person within its jurisdiction "the equal protection of the laws".
http://en.wikipedia.org/wiki/Equal_Protection_Clause

Paul Wysopal Special Agent in Charge
Federal Bureau of Investigation, Tampa

Exhibit 9, Page 8 of 17

May 23-2014
Page - 2

Two party consent is also unconstitutional under the Supremacy Clause, the provision in Article Six, Clause 2 of the U.S. Constitution that establishes the U.S. Constitution, federal statutes, and U.S. treaties as "the supreme law of the land". It provides that these are the highest form of law in the U.S. legal system, and mandates that all state judges must follow federal law when a conflict arises between federal law and either the state constitution or state law of any state.
http://en.wikipedia.org/wiki/Supremacy_Clause

I rely on the holding in Royal Health Care Servs., Inc. v. Jefferson-Pilot Life Ins. Co., 924 F.2d 215 (11th Cir. 1991). In my view Florida law prohibits "interception" of certain communication, but not all recording. The U.S. Eleventh Circuit Court of Appeals has held that because only interceptions made through an "electronic, mechanical or other device" are illegal under Florida law, telephones used in the ordinary course of business to record conversations do not violate the law. In other words, the telephone set "intercepts" the call, not the recording device, and the phone call is lawfully recorded after lawful interception. This is in contrast to a court-ordered wiretap where a call is "intercepted" before it reaches the telephone set. The land-line home office telephone that I use lawfully intercepts a call before lawfully recording the call.

Please find enclosed a copy of Royal Health Care Servs., Inc. v. Jefferson-Pilot Life Ins. Co.

Also enclosed are pages 29 and 30 from Petition No. 12-7747 for writ of certiorari to the Supreme Court of the United States, Neil J. Gillespie v. Thirteenth Judicial Circuit Florida et al. My petition was denied February 19, 2013, rehearing denied April 15, 2013, see the docket, <http://www.supremecourt.gov/Search.aspx?FileName=/docketfiles/12-7747.htm>

Supreme Court review is discretionary. Less than 100 of the approximately 10,000 petitions per Term are granted review. Denial of review is not a judgment on the legal merits of a petition.

The foregoing is only a brief introduction to telephone recording law as it applies to me. Other documents and court filings are available upon request.

I also received the attached letter from Brian J. Nadeau referring me to the Tampa Field Office. I regret that my initial letter to the FBI March 5, 2014 was limited to public corruption. There is a lot more to consider, which I plan to submit shortly. Thank you for your consideration.

Sincerely,



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

Telephone: 352-854-7807
Email: neilgillespie@mfi.net

attachments/enclosures

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Westlaw

Page 1

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(Cite as: 924 F.2d 215)**C**

United States Court of Appeals,
Eleventh Circuit.
ROYAL HEALTH CARE SERVICES, INCORPORATED, d/b/a Best Care, Plaintiff-Appellant,
v.
JEFFERSON-PILOT LIFE INSURANCE COMPANY, Defendant-Appellee.
Nos. 90-5204, 90-5514.

Feb. 21, 1991.

Health care provider filed diversity suit against insurer pursuant to Florida Security of Communications Act for unauthorized recording of telephone conversation. The United States District Court for the Southern District of Florida, No. 88-959-CIV-SM, Stanley Marcus, J., granted insurer's motion for summary judgment. On appeal, the Court of Appeals held that "business extension" exception applied to telephone call so no "interception" occurred as defined in Act and insurer could not be held liable.

Affirmed.

West Headnotes

[1] Federal Courts 170B ↪ 433

170B Federal Courts
170BVI State Laws as Rules of Decision
170BVI(C) Application to Particular Matters
170Bk433 k. Other Particular Matters.

Most Cited Cases

In diversity suit pursuant to Florida Security of Communications Act, proper interpretation of Act was question of Florida law and federal court was therefore required to construe Act as would the Supreme Court of Florida. West's F.S.A. §§ 934.01-934.43.

[2] Telecommunications 372 ↪ 1440

372 Telecommunications

372X Interception or Disclosure of Electronic Communications; Electronic Surveillance

372X(A) In General

372k1435 Acts Constituting Interception or Disclosure

372k1440 k. Persons Concerned; Consent. Most Cited Cases

(Formerly 372k494.1, 372k494)

To satisfy "business extension" or "extension phone" exception to Florida Security of Communications Act, communication must be intercepted by equipment furnished by provider of wire or electronic communication service in ordinary course of its business and call must be intercepted in ordinary course of business. West's F.S.A. § 934.02(4)(a).

[3] Telecommunications 372 ↪ 1440

372 Telecommunications

372X Interception or Disclosure of Electronic Communications; Electronic Surveillance

372X(A) In General

372k1435 Acts Constituting Interception or Disclosure

372k1440 k. Persons Concerned; Consent. Most Cited Cases

(Formerly 372k494.1, 372k494)

For purposes of determining whether "business extension" exception to Florida Security of Communications Act was met in connection with unauthorized recording of telephone conversation, telephone extension, not tape recorder, intercepted call. West's F.S.A. § 934.02(4)(a).

[4] Telecommunications 372 ↪ 1440

372 Telecommunications

372X Interception or Disclosure of Electronic Communications; Electronic Surveillance

372X(A) In General

372k1435 Acts Constituting Interception or Disclosure

372k1440 k. Persons Concerned; Con-

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(Cite as: 924 F.2d 215)

sent. Most Cited Cases

(Formerly 372k494.1, 372k494)

Telephone call by insurer's employee to employees of health care provider was intercepted in ordinary course of business, for purposes of determining applicability of "business extension" exception to Florida Security of Communications Act; entire call concerned charges by provider for services provided to insured patient. West's F.S.A. § 934.02(4)(a).

[5] Telecommunications 372 1440

372 Telecommunications

372X Interception or Disclosure of Electronic Communications; Electronic Surveillance

372X(A) In General

372k1435 Acts Constituting Interception or Disclosure

372k1440 k. Persons Concerned; Con-

sent. Most Cited Cases

(Formerly 372k498)

Insurer was not liable under Florida Security of Communications Act for unauthorized tape recording of telephone conversation with health care provider's employees where "business extension" exception to Act applied, and thus no "interception" as defined by Act occurred. West's F.S.A. §§ 934.02(3), (4)(a), 934.10.

*215 Arnold R. Ginsberg, Perse & Ginsberg, Miami, Fla., for plaintiff-appellant.

Carol A. Fenello, Kimbrell & Hamman, Miami, Fla., for defendant-appellee.

Appeals from the United States District Court for the Southern District of Florida.

Before COX and BIRCH, Circuit Judges, and GIBSON^{FN*}, Senior Circuit Judge.

FN* Honorable Floyd R. Gibson, Senior U.S. Circuit Judge for the Eighth Circuit, sitting by designation.

PER CURIAM:

This is a diversity case in which plaintiff Royal Health Care Services, Inc. (Royal Health) sued defendant Jefferson-Pilot *216 Life Insurance Company (JP Life) pursuant to the Florida Security of Communications Act (the Act)^{FN1} for the unauthorized recording of a telephone conversation. JP Life moved for summary judgment and the district court granted the motion. Royal Health appeals that determination.

FN1. Fla.Stat. Ann. §§ 934.01-934.43 (West Supp.1990).

I. FACTS

In September 1987 a JP Life employee who was in North Carolina called Royal Health's Miami, Florida office. The ensuing conversation was recorded pursuant to a JP Life policy that all outgoing calls from its case management department (which is responsible for ensuring that services to JP Life's insured are rendered in a cost-effective manner) be automatically recorded on a double-reeled tape recorder. The Royal Health employees who spoke with the JP Life employee were never told they were being recorded, and they never consented to such recording. JP Life's telephone system did, however, emit a periodic beep during the call. The call concerned a bill submitted to JP Life for a patient under the care of Royal Health.

II. PROCEDURAL HISTORY

Royal Health sued JP Life for unauthorized interception of an oral communication under section 934.10 of the Act. Royal Health sought compensatory and punitive damages. JP Life moved for summary judgment, contending that no interception took place. The district court granted JP Life's motion, holding that Royal Health had not established a genuine issue of material fact regarding an essential element of its case, that an interception took place.

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III. CONTENTIONS AND ISSUE ON APPEAL

Royal Health argues that Florida law requires the consent of both parties to a telephone conversation before that conversation may be recorded and that because Royal Health's employees did not consent to being recorded, JP Life violated Florida law. Royal Health asserts that the Supreme Court of Florida's decision in *State v. Tsavaris*, 394 So.2d 418 (Fla.1981), controls the outcome of this case. JP Life asserts that because the business extension exception ^{FN2} applies to the phone call in question, no interception occurred under the Act, and therefore JP Life cannot be held liable.^{FN3} We must decide if the district court was correct in its determination that no interception occurred in this case.

FN2. Fla.Stat. Ann. § 934.02(4)(a) (West Supp.1990).

FN3. JP Life makes other arguments we need not address because we will affirm on the issue of whether an interception took place under Florida law.

IV. DISCUSSION

Summary judgment is appropriate "if the pleadings, depositions, answers to interrogatories, and admissions on file, together with the affidavits, if any, show that there is no genuine issue as to any material fact and that the moving party is entitled to judgment as a matter of law." Fed.R.Civ.P. 56(c). There are no disputed issues of material fact here. The only controversy concerns the proper application of Florida law to those facts.

[1] The proper interpretation of the Act is a question of Florida law. Therefore, federal courts are required to construe the Act as would the Supreme Court of Florida. *Madara v. Hall*, 916 F.2d 1510, 1514 (11th Cir.1990); *Oriental Imports & Exports, Inc. v. Maduro and Curiel's Bank, N.V.*, 701 F.2d 889, 890-91 (11th Cir.1983). We begin with an examination of the statutory scheme, and then proceed to a review of the relevant case law.

[2] Royal Health alleges a claim under section 934.10 of the Act. That provision creates a civil remedy for "[a]ny person whose wire, oral, or electronic communication is intercepted ... in violation of [sections] 934.03-934.09." Fla.Stat. Ann. § 934.10 (West Supp.1990). To be liable to Royal Health, therefore, JP Life must have intercepted the phone call. "Intercept" is ^{*217} defined as "the aural or other acquisition of the contents of any wire, electronic, or oral communication through the use of any electronic, mechanical, or other device." Fla.Stat. Ann. § 934.02(3) (West Supp.1990). To intercept a communication, then, an "electronic, mechanical or other device" must be used. "Electronic, mechanical, or other device" is defined as:

(4) ... any device or apparatus which can be used to intercept a wire, electronic, or oral communication other than:

(a) Any telephone or telegraph instrument, equipment or facility or any component there- of:

1. Furnished to the subscriber or user by a provider of wire or electronic communication service in the ordinary course of its business and being used by the subscriber or user in the ordinary course of its business or furnished by such subscriber or user for connection to the facilities of such service and used in the ordinary course of its business....

Fla.Stat. Ann. § 934.02(4)(a) (West Supp.1990) (emphasis added).

The exception to the definition of "electronic, mechanical, or other device" is commonly referred to as the business extension exception or the extension phone exception. Under the plain meaning of the statute, if this exception is met, then no interception occurred and there can be no liability under section 934.10. The exception has two prongs. First, the communication must be intercepted by equipment furnished by a provider of wire or elec-

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tronic communication service in the ordinary course of its business. Second, the call must be intercepted in the ordinary course of business.

[3] Royal Health concedes that the telephone used by the JP Life employee was supplied by a provider of wire or electronic communication service (Southern Bell) in the ordinary course of its business.^{FN4} Royal Health contends, however, that the interception was actually made by the tape recorder, not the telephone.^{FN5} We disagree. We believe the telephone extension intercepted the call,^{FN6} while the tape recorder recorded it. *State v. Nova*, 361 So.2d 411 (Fla.1978), supports our conclusion. There, the Supreme Court of Florida reviewed a case in which an employee's supervisor listened in to one of the employee's phone calls, but did not record the conversation. The court assumed that under the statute an interception could occur without the call being recorded and focused on the question of whether the call was made in the ordinary course of business. *Id.* at 413. Therefore, since a call need not be recorded to be intercepted, the phone extension must be the device that intercepts the call.^{FN7} Federal case law interpreting the Federal Wiretap Act ^{FN8} lends further support to this conclusion. In *Epps v. St. Mary's Hospital, Inc.*, 802 F.2d 412 (11th Cir.1986), our circuit rejected the precise argument Royal Health advances here. In *Epps*, a hospital employee recorded a phone call between Epps and another hospital employee. The call was received through a telephone console and recorded by a double-reeled tape recorder. The court decided that the console, not the recorder, intercepted the call. *Id.* at 415. See also *United States v. Harpel*, 493 F.2d 346, 350 (10th Cir.1974) (where phone call is recorded by attaching suction cup to telephone receiver and connecting it to a tape recorder, telephone receiver is intercepting device, not recorder).

FN4. See Appellant's Brief at 9.

FN5. Royal Health made this argument to the district court, but timidly pursues it on appeal. See Appellant's Brief at 26-27.

Nevertheless, we have a practice of reading briefs liberally to ascertain the issues on appeal, *United States v. Milam*, 855 F.2d 739 (11th Cir.1988), and we will therefore address the argument.

FN6. Our use of the term "intercepted" here is in accordance with its common meaning, not as it is defined by the Florida statute we are examining. We conclude later in this opinion that under the statute, no interception took place.

FN7. See also *State v. Keaton*, 371 So.2d 86, 91 n. 7 (Fla.1979) (in dicta, Supreme Court of Florida indicated prosecution could be based on testimony of a person not a party to a telephone conversation, if the complainant listened in in the ordinary course of business).

FN8. 18 U.S.C.A. §§ 2510-2521 (West Supp.1990).

*218 [4][5] Having concluded that the telephone extension intercepted the call in this case, we next decide whether the call in question was intercepted in the ordinary course of business. That determination is an easy one. The recording occurred pursuant to a standard JP Life policy; Royal Health does not dispute this. Nor does Royal Health contend the call was personal in nature. A review of the transcript of the call reveals that the entire call concerned charges by Royal Health for services provided to a patient insured by JP Life. The only conclusion that may be drawn is that the call was intercepted in the ordinary course of business.

We conclude, therefore, that both prongs of the business extension exception are satisfied and that the exception applies. No interception, as defined by the Act, occurred and the district court was correct in granting JP Life's motion for summary judgment.

Once again *State v. Nova*, 361 So.2d 411 (Fla.1978)

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, supports our overall method of analysis. In that case, the court had to decide whether the trial court's determination that testimony of a murder victim's supervisor should not be suppressed was correct. The supervisor had listened in on a phone call that the victim received from the murderer while at work. The court proceeded exactly as we have in deciding whether an interception took place, first noting the definition of "intercept," then setting out the definition of "electronic, mechanical, or other device," and the business extension exception. The court then decided the call was intercepted in the ordinary course of business because the supervisor used the phone "for the benefit of her employer." *Id.* at 413. Therefore, the exception applied, no interception took place, and the trial court's decision not to suppress the testimony was vindicated.

Likewise, federal cases interpreting the Federal Wiretap Act have reached similar results. In *Briggs v. American Air Filter Co.*, 630 F.2d 414 (5th Cir.1980),^{FN9} a supervisor listened in on a telephone extension to an employee's phone conversation. The employee sued under the Federal Wiretap Act provision that corresponds to the provision in the Florida Act that Royal Health sued under. The court affirmed the district court's determination that summary judgment should be granted in favor of the defendants because the business extension exception to the federal act was applicable. The analysis employed was the same common-sense analysis we employ in this case, beginning with the statutory definitions of the key terms and proceeding to a discussion of the business extension exception. The court concluded that because the act of listening in was in the ordinary course of business, the exception applied, and no interception took place.

FN9. In *Bonner v. City of Prichard*, 661 F.2d 1206, 1209 (11th Cir.1981) (*en banc*), this court adopted as binding precedent all decisions of the former Fifth Circuit handed down prior to October 1, 1981.

Royal Health, of course, takes issue with the district court's conclusion that under Florida law no interception took place. Royal Health's brief almost completely ignores the applicability of the business extension exception and instead calls our attention to the Supreme Court of Florida's decision in *State v. Tsavaris*, 394 So.2d 418 (Fla.1981). Royal Health contends that Florida law evinces a strong interest in the protection of the privacy of telephone calls and that this interest is evidenced by Florida's two-party consent rule.^{FN10} Royal Health further argues that because federal law contains a single-party consent rule,^{FN11} federal case law is inapposite in analyzing the Florida statute at issue.

FN10. Assuming no exception applies, under Florida law both parties to a phone call must consent before that call may be recorded. Fla.Stat. Ann. § 934.03(2)(d) (West Supp.1990). See also *Tsavaris*, 394 So.2d at 422-23.

FN11. See 18 U.S.C.A. § 2511(2)(d) (West Supp.1990).

We are convinced that *Tsavaris* does not require a different result than the one we reach. We agree that *Tsavaris* says that the Florida statute "evinces a greater concern for the protection of one's privacy interests in a conversation than does the *219 [Federal Wiretap Act]." *Tsavaris*, 394 So.2d at 422. We also agree that Florida does indeed have a two-party consent rule. But we disagree with Royal Health's contention that all federal case law dealing with the Federal Wiretap Act is inapposite. The Historical Note that follows the legislative findings section of the Act^{FN12} indicates that, "[w]ith one exception^{FN13} the state law follows closely the federal act." In addition, the language of the Florida Act's business extension exception is **identical** to the language of the business extension exception in the federal Act.^{FN14} Finally, were we to agree with Royal Health's contention that the call in question was intercepted because only one party consented to the recording, we would write the business extension exception out of the Florida Act. We see

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no reason to assume the Florida Legislature intended the exception to be meaningless when the plain language of the Act indicates otherwise.^{FN15} For these reasons, we find Royal Health's arguments unconvincing.

C.A.11 (Fla.),1991.
Royal Health Care Services, Inc. v. Jefferson-Pilot Life Ins. Co.
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END OF DOCUMENT

FN12. Fla.Stat. Ann. § 934.01 (West 1985).

FN13. The exception noted is not relevant to our discussion.

FN14. See *Horn v. State*, 298 So.2d 194, 198 (Fla. 1st Dist.Ct.App.1974) (noting similarity of Florida Security of Communications Act and Federal Wiretap Act).

FN15. Cf. *Briggs v. American Air Filter Co.*, 630 F.2d 414, 419 (5th Cir.1980) ("We do not believe Congress intended the exception to be superfluous, and therefore there must be some circumstances under which non-consensual interception falls within the 'ordinary course of business' exception.").

V. CONCLUSION

We therefore AFFIRM the district court's grant of summary judgment in favor of defendant Jefferson-Pilot Life Insurance Company.^{FN16}

FN16. Royal Health's appeal of the district court's summary judgment decision is assigned case number 90-5204 in this court. Royal Health also appeals the district court's award of costs to JP Life, and that appeal is assigned case number 90-5514. In its Motion to Consolidate, appellant acknowledges that an affirmance in case number 90-5204 should prompt an affirmance in case number 90-5514. The judgment of the district court awarding costs to JP Life is therefore affirmed.

AFFIRMED.

Telephone Recording

This petition challenges the constitutionality of Fla. Stat. 934.01 et seq., Security of Communications, and its requirement for two-party consent to record telephone calls, which conflicts with federal one-party consent in 18 USC § 2511, and the laws of most states.

Gillespie purchased a \$15 *Telephone Handset Recording Control* from Radio Shack on December 20, 2005 to record phone calls from doctors treating his Mother who was hospitalized. It was a form of enhanced note-taking. On March 3, 2006 Gillespie partially recorded a phone call from Mr. Rodems, who argued with Gillespie, and misquoted him in an affidavit Rodems submitted to the court March 6, 2006. Mr. Rodems requested a bailiff be present at an upcoming hearing, alleging a threat of violent physical attack in Judge Nielsen's chambers. A subsequent investigation by Tampa Police lawyer Kirby Rainesburger concluded February 22, 2010:

I'm not suggesting that Mr. Rodems was right or accurate in representing to the court as an "exact quote" language that clearly was not an exact quote. I'm only concluding that his misrepresentation does not, in my judgment, rise to the level of criminal perjury. No further action is contemplated by this agency at this time.

Gillespie realized the need to record any future calls from Mr. Rodems to avoid a repeat of this problem, and found online and purchased a DynaMetric Call Saver kit that recorded and saved telephone phone calls to .wav files rather than clunky cassette tapes. He also installed a voice announcer: "This call is being recorded for quality assurance purposes". Gillespie relied on the holding of Royal Health Care Servs., Inc. v. Jefferson-Pilot Life Ins. Co.

On July 25, 2012 attorney Eugene P. Castagliuolo accused Gillespie of wrongfully recording a phone call June 14, 2011 where he admitted to mental problems. Mr. Castagliuolo threatened to sue Gillespie under chapter 934 Fla. Stat., and also threatened Michael Borseth, a court reporter who made the transcript. Gillespie reported Mr. Castagliuolo's threat to Florida

Exhibit 9, Page 16 of 11

Attorney General Pam Bondi by letter August 1, 2012. Mr. Castagliuolo has been threatening Gillespie for the past year over a number of issues related to his representation of Gillespie at Mr. Rodems' deposition. Gillespie's letter to the Attorney General stated on page 2, in part:

I believe Mr. Castagliuolo is misinformed about Chapter 934, Florida Statutes as interpreted by Royal Health Care Servs., Inc., 924 F.2d 215 (11th Cir. 1991). In my personal opinion Florida law prohibits the "interception" of certain communications, not all recording. The U.S. Eleventh Circuit Court of Appeals has held that because only interceptions made through an "electronic, mechanical or other device" are illegal under Florida law, telephones used in the ordinary course of business to record conversations do not violate the law. In other words, the telephone set "intercepts" the call, not the recording device, and the phone call is lawfully recorded after lawful interception. This is in contrast to a court-ordered wiretap where a call is "intercepted" before it reaches the telephone set. A land-line home office telephone, really any land-line home phone, is the type that intercepts a call before it is recorded.

On August 10, 2012 Gillespie received an email response from Samantha Santana of the Florida Attorney General's Office. Ms. Santana wrote in part:

It appears that you provided a copy of your complaint about Attorney Eugene Castagliuolo to The Florida Bar, which is the appropriate agency to address this matter. Please follow up with The Bar directly for further assistance.

Gillespie submitted a Bar complaint the next day, August 11, 2012.

Notice of Telephone Recording

Gillespie provided notice¹ in Gillespie v. Barker, Rodems & Cook, 05-CA-7205, Plaintiff's Notice of Telephone Recording, December 30, 2009: (after Mr. Bauer's withdrawal)

All calls on plaintiff's home office business telephone extension are recorded for quality assurance purposes pursuant to the business use exemption of Florida Statutes chapter 934, section 934.02(4)(a)(1) and the holding of *Royal Health Care Servs., Inc. v. Jefferson-Pilot Life Ins. Co.*, 924 F.2d 215 (11th Cir. 1991).

¹ Notice of Mr. Rodems' Written Consent to Record, December 29, 2006. The Florida Bar, by certified letter to Paul Hill, General Counsel, October 30, 2008. The Tampa Police Department, during Mr. Rainesburger's investigation of Mr. Rodems. Gainesville Florida Police Dept./City Attorney Thomas B. Arden, by letter November 4, 2011. The Florida Attorney General, by letter August 1, 2012, and perhaps at other times.

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U.S. Department of Justice

Federal Bureau of Investigation

Washington, D.C. 20535-0001

April 11, 2014

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

Dear Mr. Gillespie:

Your recent communication to the Federal Bureau of Investigation, Public Corruption Unit (PCU), has been received.

The primary function of FBI Headquarters is the administration of program management, policy formulation, training and other administrative duties. The review of complaint letters involving potential public corruption and related allegations is the responsibility of the appropriate FBI field office.

Accordingly, the PCU has forwarded your complaint information to the appropriate local FBI Field Office. Should you wish to provide any additional information related to this matter, please furnish the specific details directly to the below address.

Sincerely,

A handwritten signature in black ink, appearing to read "Brian J. Nadeau", is written over the typed name.

Brian J. Nadeau
Unit Chief
Public Corruption Unit

Cc/Enc:
FBI Tampa
5525 West Gray Street
Tampa, FL 33609

Exhibit 10, Page 1 of 40

IN THE CIRCUIT COURT OF THE FIFTH JUDICIAL CIRCUIT
OF THE STATE OF FLORIDA, IN AND FOR MARION COUNTY

THE STATE OF FLORIDA,

vs.

CASE NO. 2020-CF-2417

NEIL JOSEPH GILLESPIE

_____ /

DEFENDANT'S NOTICE OF CONSTITUTIONAL CHALLENGE
CHAPTER 934 SECURITY OF COMMUNICATIONS; SURVEILLANCE

Defendant NEIL JOSEPH GILLESPIE, a disabled nonlawyer appearing *pro se*, in the first person, files *Defendant's Notice Of Constitutional Challenge, Chapter 934 Security of Communications, Surveillance*, and states:

1. Pursuant to federal and state rules and statutes, including but not limited to,
 - Fla. R. Civ. Pro. 1.071 Constitutional Challenge
 - Fla. Stat. § 86.091 Parties. declaratory relief
 - Rule 5.1(a)(2) Constitutional Challenge, Federal Rules of Civil Procedure
 - 28 U.S.C. § 2403 Intervention by United States or a State; constitutional question

I hereby give notice of a Constitutional Challenge to Chapter 934 Security of Communications; Surveillance, including but not limited to Fla. Stat. §§ 934.03.1a Interception of Oral Communication; 934.03.1c Disclosure of Communication.

2. I believe Chapter 934 is unconstitutional, *inter alia*, as set forth in my letter May 23, 2014 to Paul Wysopal Special Agent in Charge, Federal Bureau of Investigation, Tampa. (Exhibit 1)

3. On January 09, 2021 I provided my record calls with the US Supreme Court to Chief Frank Talbot, DOJ-MDFL, Assistant U.S. Attorney, for the purpose of a *Constitutional Challenge, Chapter 934 Security of Communications, Surveillance*. (Exhibit 2)

DEFENDANT'S NOTICE OF CONSTITUTIONAL CHALLENGE
CHAPTER 934 SECURITY OF COMMUNICATIONS; SURVEILLANCE

4. On January 12, 2021 I provided my record to the SAO, for the purpose of a
Constitutional Challenge, Chapter 934 Security of Communications, Surveillance. (Exhibit 3)

RESPECTFULLY SUBMITTED January 20, 2021.

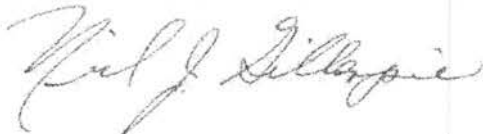


Neil Joseph Gillespie
8092 SW 115th Loop
Ocala, FL 34481
Tel. 352-854-7807
Email: neilgillespie@mfi.net

CERTIFICATE OF SERVICE

I HEREBY CERTIFY that on January 20, 2021 a copy of the foregoing was furnished on
the Portal to:

- Florida Attorney General, To provide notice of a constitutional challenge to a statute, charter, ordinance or franchise, pursuant to Section 86.091, Fla. Stat. (2012); Rule 1.071, Florida Rules of Civil Procedure; Rule 5.1(a)(2), Federal Rules of Civil Procedure; and Title 28 U.S.C. § 2403. oag.civil.eserve@myfloridalegal.com
- State Attorney's Office, 110 North West 1st Avenue, Suite 5000, Ocala, FL 34475. Eservicemari@Sao5.Org, (Cases 2019-CF-4193 and 2020-CF-2417)
- BRENDA H. SMITH, ESQUIRE, 871 S Central Ave. Ste A, Umatilla, FL 32784-9290 smith.brenda.atty@gmail.com; hartwright2002@yahoo.com (Case 2019-CF-4193 only)
- Names on the Florida Portal Notice of Service of Court Documents



Neil Joseph Gillespie

Exhibit 10, Page 3 of 40

VIA Email to: tampa.division@ic.fbi.gov

May 23, 2014

Paul Wysopal Special Agent in Charge
Federal Bureau of Investigation, Tampa
5525 West Gray Street
Tampa, FL 33609



Dear Special Agent Wysopal:

Today at 6:20 PM I received a telephone call from 813-253-1000 from a man who identified himself as the Tampa FBI. The caller did not provide his name. The caller asked to speak with Neil Gillespie, that's me. The caller asked "is this call being recorded" and I said yes. The caller was responding to the Telephone Recording Announcer informing him *all calls are recorded for quality assurance purposes*. The caller said it is against Florida law to record someone without the consent of both parties. I replied that the caller provided consent if he continued to talk. The caller responded "have a nice day, sir" and hung up. That's okay, the telephone is not compatible with certain disabilities of mine. I prefer email or written communication.

On information and belief, my long-standing practice of recording telephone calls on a land line is permitted. I am not a lawyer, and I did not attend law school. This is my understanding of the law as it applies to me. This does not constitute legal advice. If you have specific questions related to the information in this letter, you are encouraged to consult an attorney who can investigate the particular circumstances of your concern.

Florida Statutes, Chapter 934, Security of Communications; Surveillance, sometimes called the wiretapping statute, governs the unlawful interception and disclosure of wire, oral, or electronic communications. F.S. § 934.03. There is a significant difference between wiretapping and one or two party consent. Wiretapping is the covert monitoring or recording of telephone conversations by a third party government agency, such as by law enforcement with a court order.

In contrast, one or two party consent is essentially enhanced note-taking by private persons not affiliated with the government. From Wikipedia:

"Under the law of the United States and most state laws, there is nothing illegal about one of the parties to a telephone call recording the conversation, or giving permission for calls to be recorded or permitting their telephone line to be tapped. However the telephone recording laws in most U.S. states require only one party to be aware of the recording, while 12 states require both parties to be aware."

http://en.wikipedia.org/wiki/Telephone_tapping

Federal law permits one-party consent to record calls [18 USC § 2511]. One party consent is the law in 38 states. Twelve states, including Florida, require two party consent. On its face, two party consent is unconstitutional under the Equal Protection Clause of the Fourteenth Amendment to the United States Constitution. The clause, which took effect in 1868, provides that no state shall deny to any person within its jurisdiction "the equal protection of the laws". http://en.wikipedia.org/wiki/Equal_Protection_Clause

Exhibit 10, Page 4 of 40

Paul Wysopal Special Agent in Charge
Federal Bureau of Investigation, Tampa

May 23-2014
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Two party consent is also unconstitutional under the Supremacy Clause, the provision in Article Six, Clause 2 of the U.S. Constitution that establishes the U.S. Constitution, federal statutes, and U.S. treaties as "the supreme law of the land". It provides that these are the highest form of law in the U.S. legal system, and mandates that all state judges must follow federal law when a conflict arises between federal law and either the state constitution or state law of any state.
http://en.wikipedia.org/wiki/Supremacy_Clause

I rely on the holding in Royal Health Care Servs., Inc. v. Jefferson-Pilot Life Ins. Co., 924 F.2d 215 (11th Cir. 1991). In my view Florida law prohibits "interception" of certain communication, but not all recording. The U.S. Eleventh Circuit Court of Appeals has held that because only interceptions made through an "electronic, mechanical or other device" are illegal under Florida law, telephones used in the ordinary course of business to record conversations do not violate the law. In other words, the telephone set "intercepts" the call, not the recording device, and the phone call is lawfully recorded after lawful interception. This is in contrast to a court-ordered wiretap where a call is "intercepted" before it reaches the telephone set. The land-line home office telephone that I use lawfully intercepts a call before lawfully recording the call.

Please find enclosed a copy of Royal Health Care Servs., Inc. v. Jefferson-Pilot Life Ins. Co.

Also enclosed are pages 29 and 30 from Petition No. 12-7747 for writ of certiorari to the Supreme Court of the United States, Neil J. Gillespie v. Thirteenth Judicial Circuit Florida et al. My petition was denied February 19, 2013, rehearing denied April 15, 2013, see the docket, <http://www.supremecourt.gov/Search.aspx?FileName=/docketfiles/12-7747.htm>

Supreme Court review is discretionary. Less than 100 of the approximately 10,000 petitions per Term are granted review. Denial of review is not a judgment on the legal merits of a petition.

The foregoing is only a brief introduction to telephone recording law as it applies to me. Other documents and court filings are available upon request.

I also received the attached letter from Brian J. Nadeau referring me to the Tampa Field Office. I regret that my initial letter to the FBI March 5, 2014 was limited to public corruption. There is a lot more to consider, which I plan to submit shortly. Thank you for your consideration.

Sincerely,



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

Telephone: 352-854-7807
Email: neilgillespie@mfi.net

attachments/enclosures

Westlaw

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C

United States Court of Appeals,
Eleventh Circuit.
ROYAL HEALTH CARE SERVICES, INCORPORATED, d/b/a Best Care, Plaintiff-Appellant,
v.
JEFFERSON-PILOT LIFE INSURANCE COMPANY, Defendant-Appellee.
Nos. 90-5204, 90-5514.

Feb. 21, 1991.

Health care provider filed diversity suit against insurer pursuant to Florida Security of Communications Act for unauthorized recording of telephone conversation. The United States District Court for the Southern District of Florida, No. 88-959-CIV-SM, Stanley Marcus, J., granted insurer's motion for summary judgment. On appeal, the Court of Appeals held that "business extension" exception applied to telephone call so no "interception" occurred as defined in Act and insurer could not be held liable.

Affirmed.

West Headnotes

[1] Federal Courts 170B ↪ 433

170B Federal Courts

170BVI State Laws as Rules of Decision

170BVI(C) Application to Particular Matters

170Bk433 k. Other Particular Matters.

Most Cited Cases

In diversity suit pursuant to Florida Security of Communications Act, proper interpretation of Act was question of Florida law and federal court was therefore required to construe Act as would the Supreme Court of Florida. West's F.S.A. §§ 934.01-934.43.

[2] Telecommunications 372 ↪ 1440

372 Telecommunications

372X Interception or Disclosure of Electronic Communications; Electronic Surveillance

372X(A) In General

372k1435 Acts Constituting Interception or Disclosure

372k1440 k. Persons Concerned; Consent. Most Cited Cases

(Formerly 372k494.1, 372k494)

To satisfy "business extension" or "extension phone" exception to Florida Security of Communications Act, communication must be intercepted by equipment furnished by provider of wire or electronic communication service in ordinary course of its business and call must be intercepted in ordinary course of business. West's F.S.A. § 934.02(4)(a).

[3] Telecommunications 372 ↪ 1440

372 Telecommunications

372X Interception or Disclosure of Electronic Communications; Electronic Surveillance

372X(A) In General

372k1435 Acts Constituting Interception or Disclosure

372k1440 k. Persons Concerned; Consent. Most Cited Cases

(Formerly 372k494.1, 372k494)

For purposes of determining whether "business extension" exception to Florida Security of Communications Act was met in connection with unauthorized recording of telephone conversation, telephone extension, not tape recorder, intercepted call. West's F.S.A. § 934.02(4)(a).

[4] Telecommunications 372 ↪ 1440

372 Telecommunications

372X Interception or Disclosure of Electronic Communications; Electronic Surveillance

372X(A) In General

372k1435 Acts Constituting Interception or Disclosure

372k1440 k. Persons Concerned; Con-

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sent. Most Cited Cases

(Formerly 372k494.1, 372k494)

Telephone call by insurer's employee to employees of health care provider was intercepted in ordinary course of business, for purposes of determining applicability of "business extension" exception to Florida Security of Communications Act; entire call concerned charges by provider for services provided to insured patient. West's F.S.A. § 934.02(4)(a).

[5] Telecommunications 372 ↪1440

372 Telecommunications

372X Interception or Disclosure of Electronic Communications; Electronic Surveillance

372X(A) In General

372k1435 Acts Constituting Interception or Disclosure

372k1440 k. Persons Concerned; Consent. Most Cited Cases

(Formerly 372k498)

Insurer was not liable under Florida Security of Communications Act for unauthorized tape recording of telephone conversation with health care provider's employees where "business extension" exception to Act applied, and thus no "interception" as defined by Act occurred. West's F.S.A. §§ 934.02(3), (4)(a), 934.10.

*215 Arnold R. Ginsberg, Perse & Ginsberg, Miami, Fla., for plaintiff-appellant.

Carol A. Fenello, Kimbrell & Hamman, Miami, Fla., for defendant-appellee.

Appeals from the United States District Court for the Southern District of Florida.

Before COX and BIRCH, Circuit Judges, and GIBSON^{FN*}, Senior Circuit Judge.

FN* Honorable Floyd R. Gibson, Senior U.S. Circuit Judge for the Eighth Circuit, sitting by designation.

PER CURIAM:

This is a diversity case in which plaintiff Royal Health Care Services, Inc. (Royal Health) sued defendant Jefferson-Pilot *216 Life Insurance Company (JP Life) pursuant to the Florida Security of Communications Act (the Act)^{FN1} for the unauthorized recording of a telephone conversation. JP Life moved for summary judgment and the district court granted the motion. Royal Health appeals that determination.

FN1. Fla.Stat. Ann. §§ 934.01-934.43
(West Supp.1990).

I. FACTS

In September 1987 a JP Life employee who was in North Carolina called Royal Health's Miami, Florida office. The ensuing conversation was recorded pursuant to a JP Life policy that all outgoing calls from its case management department (which is responsible for ensuring that services to JP Life's insured are rendered in a cost-effective manner) be automatically recorded on a double-reeled tape recorder. The Royal Health employees who spoke with the JP Life employee were never told they were being recorded, and they never consented to such recording. JP Life's telephone system did, however, emit a periodic beep during the call. The call concerned a bill submitted to JP Life for a patient under the care of Royal Health.

II. PROCEDURAL HISTORY

Royal Health sued JP Life for unauthorized interception of an oral communication under section 934.10 of the Act. Royal Health sought compensatory and punitive damages. JP Life moved for summary judgment, contending that no interception took place. The district court granted JP Life's motion, holding that Royal Health had not established a genuine issue of material fact regarding an essential element of its case, that an interception took place.

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(Cite as: 924 F.2d 215)

III. CONTENTIONS AND ISSUE ON APPEAL

Royal Health argues that Florida law requires the consent of both parties to a telephone conversation before that conversation may be recorded and that because Royal Health's employees did not consent to being recorded, JP Life violated Florida law. Royal Health asserts that the Supreme Court of Florida's decision in *State v. Tsavaris*, 394 So.2d 418 (Fla.1981), controls the outcome of this case. JP Life asserts that because the business extension exception^{FN2} applies to the phone call in question, no interception occurred under the Act, and therefore JP Life cannot be held liable.^{FN3} We must decide if the district court was correct in its determination that no interception occurred in this case.

FN2. Fla.Stat. Ann. § 934.02(4)(a) (West Supp.1990).

FN3. JP Life makes other arguments we need not address because we will affirm on the issue of whether an interception took place under Florida law.

IV. DISCUSSION

Summary judgment is appropriate "if the pleadings, depositions, answers to interrogatories, and admissions on file, together with the affidavits, if any, show that there is no genuine issue as to any material fact and that the moving party is entitled to judgment as a matter of law." Fed.R.Civ.P. 56(c). There are no disputed issues of material fact here. The only controversy concerns the proper application of Florida law to those facts.

[1] The proper interpretation of the Act is a question of Florida law. Therefore, federal courts are required to construe the Act as would the Supreme Court of Florida. *Madara v. Hall*, 916 F.2d 1510, 1514 (11th Cir.1990); *Oriental Imports & Exports, Inc. v. Maduro and Curiel's Bank, N.V.*, 701 F.2d 889, 890-91 (11th Cir.1983). We begin with an examination of the statutory scheme, and then proceed to a review of the relevant case law.

[2] Royal Health alleges a claim under section 934.10 of the Act. That provision creates a civil remedy for "[a]ny person whose wire, oral, or electronic communication is intercepted ... in violation of [sections] 934.03-934.09." Fla.Stat. Ann. § 934.10 (West Supp.1990). To be liable to Royal Health, therefore, JP Life must have intercepted the phone call. "Intercept" is *217 defined as "the aural or other acquisition of the contents of any wire, electronic, or oral communication through the use of any electronic, mechanical, or other device." Fla.Stat. Ann. § 934.02(3) (West Supp.1990). To intercept a communication, then, an "electronic, mechanical or other device" must be used. "Electronic, mechanical, or other device" is defined as:

(4) ... any device or apparatus which can be used to intercept a wire, electronic, or oral communication **other than:**

(a) Any telephone or telegraph instrument, equipment or facility or any component there- of:

1. Furnished to the subscriber or user by a provider of wire or electronic communication service in the ordinary course of its business and being used by the subscriber or user in the ordinary course of its business or furnished by such subscriber or user for connection to the facilities of such service and used in the ordinary course of its business....

Fla.Stat. Ann. § 934.02(4)(a) (West Supp.1990) (emphasis added).

The exception to the definition of "electronic, mechanical, or other device" is commonly referred to as the business extension exception or the extension phone exception. Under the plain meaning of the statute, if this exception is met, then no interception occurred and there can be no liability under section 934.10. The exception has two prongs. First, the communication must be intercepted by equipment furnished by a provider of wire or elec-

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tronic communication service in the ordinary course of its business. Second, the call must be intercepted in the ordinary course of business.

[3] Royal Health concedes that the telephone used by the JP Life employee was supplied by a provider of wire or electronic communication service (Southern Bell) in the ordinary course of its business.^{FN4} Royal Health contends, however, that the interception was actually made by the tape recorder, not the telephone.^{FN5} We disagree. We believe the telephone extension intercepted the call,^{FN6} while the tape recorder recorded it. *State v. Nova*, 361 So.2d 411 (Fla.1978), supports our conclusion. There, the Supreme Court of Florida reviewed a case in which an employee's supervisor listened in to one of the employee's phone calls, but did not record the conversation. The court assumed that under the statute an interception could occur without the call being recorded and focused on the question of whether the call was made in the ordinary course of business. *Id.* at 413. Therefore, since a call need not be recorded to be intercepted, the phone extension must be the device that intercepts the call.^{FN7} Federal case law interpreting the Federal Wiretap Act^{FN8} lends further support to this conclusion. In *Epps v. St. Mary's Hospital, Inc.*, 802 F.2d 412 (11th Cir.1986), our circuit rejected the precise argument Royal Health advances here. In *Epps*, a hospital employee recorded a phone call between Epps and another hospital employee. The call was received through a telephone console and recorded by a double-reeled tape recorder. The court decided that the console, not the recorder, intercepted the call. *Id.* at 415. See also *United States v. Harpel*, 493 F.2d 346, 350 (10th Cir.1974) (where phone call is recorded by attaching suction cup to telephone receiver and connecting it to a tape recorder, telephone receiver is intercepting device, not recorder).

FN4. See Appellant's Brief at 9.

FN5. Royal Health made this argument to the district court, but timidly pursues it on appeal. See Appellant's Brief at 26-27.

Nevertheless, we have a practice of reading briefs liberally to ascertain the issues on appeal, *United States v. Milam*, 855 F.2d 739 (11th Cir.1988), and we will therefore address the argument.

FN6. Our use of the term "intercepted" here is in accordance with its common meaning, not as it is defined by the Florida statute we are examining. We conclude later in this opinion that under the statute, no interception took place.

FN7. See also *State v. Keaton*, 371 So.2d 86, 91 n. 7 (Fla.1979) (in dicta, Supreme Court of Florida indicated prosecution could be based on testimony of a person not a party to a telephone conversation, if the complainant listened in in the ordinary course of business).

FN8. 18 U.S.C.A. §§ 2510-2521 (West Supp.1990).

*218 [4][5] Having concluded that the telephone extension intercepted the call in this case, we next decide whether the call in question was intercepted in the ordinary course of business. That determination is an easy one. The recording occurred pursuant to a standard JP Life policy; Royal Health does not dispute this. Nor does Royal Health contend the call was personal in nature. A review of the transcript of the call reveals that the entire call concerned charges by Royal Health for services provided to a patient insured by JP Life. The only conclusion that may be drawn is that the call was intercepted in the ordinary course of business.

We conclude, therefore, that both prongs of the business extension exception are satisfied and that the exception applies. No interception, as defined by the Act, occurred and the district court was correct in granting JP Life's motion for summary judgment.

Once again *State v. Nova*, 361 So.2d 411 (Fla.1978)

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, supports our overall method of analysis. In that case, the court had to decide whether the trial court's determination that testimony of a murder victim's supervisor should not be suppressed was correct. The supervisor had listened in on a phone call that the victim received from the murderer while at work. The court proceeded exactly as we have in deciding whether an interception took place, first noting the definition of "intercept," then setting out the definition of "electronic, mechanical, or other device," and the business extension exception. The court then decided the call was intercepted in the ordinary course of business because the supervisor used the phone "for the benefit of her employer." *Id.* at 413. Therefore, the exception applied, no interception took place, and the trial court's decision not to suppress the testimony was vindicated.

Likewise, federal cases interpreting the Federal Wiretap Act have reached similar results. In *Briggs v. American Air Filter Co.*, 630 F.2d 414 (5th Cir.1980),^{FN9} a supervisor listened in on a telephone extension to an employee's phone conversation. The employee sued under the Federal Wiretap Act provision that corresponds to the provision in the Florida Act that Royal Health sued under. The court affirmed the district court's determination that summary judgment should be granted in favor of the defendants because the business extension exception to the federal act was applicable. The analysis we employ in this case, beginning with the statutory definitions of the key terms and proceeding to a discussion of the business extension exception. The court concluded that because the act of listening in was in the ordinary course of business, the exception applied, and no interception took place.

FN9. In *Bonner v. City of Prichard*, 661 F.2d 1206, 1209 (11th Cir.1981) (*en banc*), this court adopted as binding precedent all decisions of the former Fifth Circuit handed down prior to October 1, 1981.

Royal Health, of course, takes issue with the district court's conclusion that under Florida law no interception took place. Royal Health's brief almost completely ignores the applicability of the business extension exception and instead calls our attention to the Supreme Court of Florida's decision in *State v. Tsavaris*, 394 So.2d 418 (Fla.1981). Royal Health contends that Florida law evinces a strong interest in the protection of the privacy of telephone calls and that this interest is evidenced by Florida's two-party consent rule.^{FN10} Royal Health further argues that because federal law contains a single-party consent rule,^{FN11} federal case law is inapposite in analyzing the Florida statute at issue.

FN10. Assuming no exception applies, under Florida law both parties to a phone call must consent before that call may be recorded. Fla.Stat. Ann. § 934.03(2)(d) (West Supp.1990). See also *Tsavaris*, 394 So.2d at 422-23.

FN11. See 18 U.S.C.A. § 2511(2)(d) (West Supp.1990).

We are convinced that *Tsavaris* does not require a different result than the one we reach. We agree that *Tsavaris* says that the Florida statute "evinces a greater concern for the protection of one's privacy interests in a conversation than does the *219 [Federal Wiretap Act]." *Tsavaris*, 394 So.2d at 422. We also agree that Florida does indeed have a two-party consent rule. But we disagree with Royal Health's contention that all federal case law dealing with the Federal Wiretap Act is inapposite. The Historical Note that follows the legislative findings section of the Act ^{FN12} indicates that, "[w]ith one exception ^{FN13} the state law follows closely the federal act." In addition, the language of the Florida Act's business extension exception is **identical** to the language of the business extension exception in the federal Act.^{FN14} Finally, were we to agree with Royal Health's contention that the call in question was intercepted because only one party consented to the recording, we would write the business extension exception out of the Florida Act. We see

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no reason to assume the Florida Legislature intended the exception to be meaningless when the plain language of the Act indicates otherwise.^{FN15} For these reasons, we find Royal Health's arguments unconvincing.

FN12. Fla.Stat.Ann. § 934.01 (West 1985).

FN13. The exception noted is not relevant to our discussion.

FN14. *See Horn v. State*, 298 So.2d 194, 198 (Fla. 1st Dist.Ct.App.1974) (noting similarity of Florida Security of Communications Act and Federal Wiretap Act).

FN15. *Cf. Briggs v. American Air Filter Co.*, 630 F.2d 414, 419 (5th Cir.1980) ("We do not believe Congress intended the exception to be superfluous, and therefore there must be some circumstances under which non-consensual interception falls within the 'ordinary course of business' exception.").

V. CONCLUSION

We therefore AFFIRM the district court's grant of summary judgment in favor of defendant Jefferson-Pilot Life Insurance Company.^{FN16}

FN16. Royal Health's appeal of the district court's summary judgment decision is assigned case number 90-5204 in this court. Royal Health also appeals the district court's award of costs to JP Life, and that appeal is assigned case number 90-5514. In its Motion to Consolidate, appellant acknowledges that an affirmance in case number 90-5204 should prompt an affirmance in case number 90-5514. The judgment of the district court awarding costs to JP Life is therefore affirmed.

AFFIRMED.

C.A.11 (Fla.),1991.
Royal Health Care Services, Inc. v. Jefferson-Pilot Life Ins. Co.
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END OF DOCUMENT

Telephone Recording

This petition challenges the constitutionality of Fla. Stat. 934.01 et seq., Security of Communications, and its requirement for two-party consent to record telephone calls, which conflicts with federal one-party consent in 18 USC § 2511, and the laws of most states.

Gillespie purchased a \$15 *Telephone Handset Recording Control* from Radio Shack on December 20, 2005 to record phone calls from doctors treating his Mother who was hospitalized. It was a form of enhanced note-taking. On March 3, 2006 Gillespie partially recorded a phone call from Mr. Rodems, who argued with Gillespie, and misquoted him in an affidavit Rodems submitted to the court March 6, 2006. Mr. Rodems requested a bailiff be present at an upcoming hearing, alleging a threat of violent physical attack in Judge Nielsen's chambers. A subsequent investigation by Tampa Police lawyer Kirby Rainesburger concluded February 22, 2010:

I'm not suggesting that Mr. Rodems was right or accurate in representing to the court as an "exact quote" language that clearly was not an exact quote. I'm only concluding that his misrepresentation does not, in my judgment, rise to the level of criminal perjury. No further action is contemplated by this agency at this time.

Gillespie realized the need to record any future calls from Mr. Rodems to avoid a repeat of this problem, and found online and purchased a DynaMetric Call Saver kit that recorded and saved telephone phone calls to .wav files rather than clunky cassette tapes. He also installed a voice announcer: "This call is being recorded for quality assurance purposes". Gillespie relied on the holding of Royal Health Care Servs., Inc. v. Jefferson-Pilot Life Ins. Co.

On July 25, 2012 attorney Eugene P. Castagliuolo accused Gillespie of wrongfully recording a phone call June 14, 2011 where he admitted to mental problems. Mr. Castagliuolo threatened to sue Gillespie under chapter 934 Fla. Stat., and also threatened Michael Borseth, a court reporter who made the transcript. Gillespie reported Mr. Castagliuolo's threat to Florida

Attorney General Pam Bondi by letter August 1, 2012. Mr. Castagliuolo has been threatening Gillespie for the past year over a number of issues related to his representation of Gillespie at Mr. Rodems' deposition. Gillespie's letter to the Attorney General stated on page 2, in part:

I believe Mr. Castagliuolo is misinformed about Chapter 934, Florida Statutes as interpreted by Royal Health Care Servs., Inc., 924 F.2d 215 (11th Cir. 1991). In my personal opinion Florida law prohibits the "interception" of certain communications, not all recording. The U.S. Eleventh Circuit Court of Appeals has held that because only interceptions made through an "electronic, mechanical or other device" are illegal under Florida law, telephones used in the ordinary course of business to record conversations do not violate the law. In other words, the telephone set "intercepts" the call, not the recording device, and the phone call is lawfully recorded after lawful interception. This is in contrast to a court-ordered wiretap where a call is "intercepted" before it reaches the telephone set. A land-line home office telephone, really any land-line home phone, is the type that intercepts a call before it is recorded.

On August 10, 2012 Gillespie received an email response from Samantha Santana of the Florida Attorney General's Office. Ms. Santana wrote in part:

It appears that you provided a copy of your complaint about Attorney Eugene Castagliuolo to The Florida Bar, which is the appropriate agency to address this matter. Please follow up with The Bar directly for further assistance.

Gillespie submitted a Bar complaint the next day, August 11, 2012.

Notice of Telephone Recording

Gillespie provided notice¹ in Gillespie v. Barker, Rodems & Cook, 05-CA-7205,

Plaintiff's Notice of Telephone Recording, December 30, 2009: (after Mr. Bauer's withdrawal)

All calls on plaintiff's home office business telephone extension are recorded for quality assurance purposes pursuant to the business use exemption of Florida Statutes chapter 934, section 934.02(4)(a)(1) and the holding of *Royal Health Care Servs., Inc. v. Jefferson-Pilot Life Ins. Co.*, 924 F.2d 215 (11th Cir. 1991).

¹ Notice of Mr. Rodems' Written Consent to Record, December 29, 2006.

The Florida Bar, by certified letter to Paul Hill, General Counsel, October 30, 2008.

The Tampa Police Department, during Mr. Rainesburger's investigation of Mr. Rodems.

Gainesville Florida Police Dept./City Attorney Thomas B. Arden, by letter November 4, 2011.

The Florida Attorney General, by letter August 1, 2012, and perhaps at other times.

Exhibit 10, Page 13 of 40



U.S. Department of Justice

Federal Bureau of Investigation

Washington, D.C. 20535-0001

April 11, 2014

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

Dear Mr. Gillespie:

Your recent communication to the Federal Bureau of Investigation, Public Corruption Unit (PCU), has been received.

The primary function of FBI Headquarters is the administration of program management, policy formulation, training and other administrative duties. The review of complaint letters involving potential public corruption and related allegations is the responsibility of the appropriate FBI field office.

Accordingly, the PCU has forwarded your complaint information to the appropriate local FBI Field Office. Should you wish to provide any additional information related to this matter, please furnish the specific details directly to the below address.

Sincerely,

A handwritten signature in black ink, appearing to read "Brian J. Nadeau", is written over a large, diagonal watermark that says "UNOFFICIAL DOCUMENT".

Brian J. Nadeau
Unit Chief
Public Corruption Unit

Cc/Enc:
FBI Tampa
5525 West Gray Street
Tampa, FL 33609

Neil Gillespie

From: "Neil Gillespie" <neilgillespie@mfi.net>
To: <frank.m.talbot@usdoj.gov>; <oag.civil.eserve@myfloridalegal.com>; <jgainey@sao5.org>; <Eservicemarion@Sao5.Org>; "Neil Gillespie" <neilgillespie@mfi.net>
Cc: <kelly.karase@usdoj.gov>; <USAFLM.Civil.Rights@usdoj.gov>; "FBI Jacksonville Division" <jacksonville@ic.fbi.gov>; "FBI Tampa Division" <tampa.division@ic.fbi.gov>; <pio@supremecourt.gov>; "Jeffrey Atkins" <jatkins@supremecourt.gov>; "Clayton Higgins" <chiggins@supremecourt.gov>; <Eservicemarion@Sao5.Org>; <jgainey@sao5.org>; "Alicia Winterkorn" <awinterkorn@sao5.org>; <oag.civil.eserve@myfloridalegal.com>; "Brittany Quinlan" <Brittany.Quinlan@myfloridalegal.com>; "Tyrell Daniel" <Tyrell.Daniel@myfloridalegal.com>; <Jehan.Azar@myfloridalegal.com>; <Russell.Ward@marioncountyfl.org>; <William.Harris@marioncountyfl.org>; "Decker, Sharon" <Sharon.Decker@marioncountyfl.org>; "Teachey, Debra" <Debra.Teachey@marioncountyfl.org>; "Christopher Anderson" <canderson@ocalalaw.com>; <peining@ocalalaw.com>
Sent: Saturday, January 09, 2021 10:59 PM
Attach: 2021, 01-06-21, 1.14PM, US SUPREME COURT LEFT MESSAGE.wav; 2021, 01-06-21, 1.20PM, USSC CLAYTON HIGGINS LEFT MESSAGE.wav; To SSA and FTC re Fraudulent Telephone Calls, Fla. Stat. ch 934 Unconstitutional.pdf
Subject: 2020-CF-2417, US Supreme Court, and Constitutional Challenge Fla. Stat. ch 934

Chief Frank Talbot, DOJ-MDFL
Assistant U.S. Attorney
U.S. Attorney's Office
300 N. Hogan Street, Suite 700
Jacksonville, FL 32202
frank.m.talbot@usdoj.gov



RE: Marion Co. FL 2020-CF-2417, US Supreme Court, and Constitutional Challenge Fla. Stat. ch 934
Neil Joseph Gillespie v. State of Florida, Florida Supreme Court Case No. FSC20-1255

Dear Chief Talbot,

Please find attached two wav audio files I am entering as evidence with ASA Gainey in Marion Co. FL 2020-CF-2417 for a Constitutional Challenge of Fla. Stat. ch 934. Florida Attorney General Ashley Moody is also provided notice at oag.civil.eserve@myfloridalegal.com of a constitutional challenge to a statute pursuant to Section 86.091, Fla. Stat. (2012); Rule 1.071, Florida Rules of Civil Procedure; Rule 5.1(a)(2), Federal Rules of Civil Procedure; and Title 28 U.S.C. § 2403.

- 2021, 01-06-21, 1.14PM, US SUPREME COURT LEFT MESSAGE
- 2021, 01-06-21, 1.20PM, USSC CLAYTON HIGGINS LEFT MESSAGE

Because I recorded the U.S. Supreme Court, part of the federal government, I believe any review of this matter lies with federal authorities.

The recorded calls are of myself leaving messages to recordings of the U.S. Supreme Court and Case Analyst Clayton Higgins. The calls concern my paid petition for writ of certiorari in Florida Supreme Court Case No. FSC20-1255, delivered to the Court on December 29, 2020, with my check for \$300. I called to learn the status of the case because I do not see the case docketed and the case has not been returned. As of the time of this email, nothing has changed.

Also attached is my letter January 3, 2021 to the Office of Inspector General, Social Security Administration, and the Office of Inspector General, Federal Trade Commission, that reference Fla. Stat.

Exhibit 10, Page 15 of 40

ch 934 as unconstitutional.

Thank you.

Sincerely,

/s/

NEIL J. GILLESPIE

8092 SW 115th Loop

Ocala, Florida 34481

Tel. 352-854-7807

Email: neilgillespie@mfi.net

Cc: Deputy Chief Kelly S. Karase

Jacksonville Division

kelly.karase@usdoj.gov

U.S. Department of Justice

Civil Rights Division, MDFL

USAFLM.Civil.Rights@usdoj.gov

Rachel Rojas

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Chief Justice John Roberts, c/o

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Jared R Gainey
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Email: awinterkorn@sao5.org

Florida Attorney General Ashley Moody
oag.civil.eserve@myfloridalegal.com

To provide notice of a constitutional challenge to a statute, charter, ordinance or franchise, pursuant to Section 86.091, Fla. Stat. (2012); Rule 1.071, Florida Rules of Civil Procedure; Rule 5.1(a)(2), Federal Rules of Civil Procedure; and Title 28 U.S.C. § 2403.

Brittany Quinlan, Assistant Attorney General
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Exhibit 10, Page 11 of 12

Neil Gillespie

From: "Neil Gillespie" <neilgillespie@mfi.net>
To: <Eservicemarion@Sao5.Org>; <jgainey@sao5.org>; "Alicia Winterkorn" <awinterkorn@sao5.org>; <oag.civil.eserve@myfloridalegal.com>; "Neil Gillespie" <neilgillespie@mfi.net>
Cc: "Brittany Quinlan" <Brittany.Quinlan@myfloridalegal.com>; "Tyrell Daniel" <Tyrell.Daniel@myfloridalegal.com>; <Jehan.Azar@myfloridalegal.com>; <Russell.Ward@marioncountyfl.org>; <William.Harris@marioncountyfl.org>; "Decker, Sharon" <Sharon.Decker@marioncountyfl.org>; "Teachey, Debra" <Debra.Teachey@marioncountyfl.org>; "Christopher Anderson" <canderson@ocalalaw.com>; <peining@ocalalaw.com>; <kelly.karase@usdoj.gov>; <USAFLM.Civil.Rights@usdoj.gov>; "FBI Jacksonville Division" <jacksonville@ic.fbi.gov>; "FBI Tampa Division" <tampa.division@ic.fbi.gov>; <frank.m.talbot@usdoj.gov>
Sent: Tuesday, January 12, 2021 10:46 AM
Attach: 2020_07-30-20_12.26p_NJG_called_Z.Phipps_OCCCRC_re_Competence.wav; ST.V.GILLESPIE,NEIL 7-30-20 Recorded Telephone Call.pdf; MOTION TO DETERMINE DEFENDANT'S COMPETENCY TO STAND TRIAL.pdf
Subject: Zachary Glenn Phipps; Recorded call July 30, 2020 and Transcript



Jared R Gainey
 Assistant State Attorney
 Fla. Bar # 1010232
 State Attorney's Office
 110 NW 1 Ave., Suite 5000
 Ocala, FL 34475
 (352) 671-5800
 ESERVICEMARION@sao5.org
 Email: Jared Gainey <jgainey@sao5.org>
 Cc: Alicia Winterkorn, Assistant State Attorney
 Email: awinterkorn@sao5.org

UNOFFICIAL DOCUMENT

RE: Zachary Glenn Phipps, OCCCRC for 5th D.C.A.
 Recorded call July 30, 2020 and Transcript

Mr. Gainey:

Please find attached a wav audio file of my conversation with Mr. Phipps July 30, 2020, and transcript thereof, that I am entering as evidence in 2020-CF-2417 and 2019-CF- 4193 regarding Phipps' failure to withdrawal his attached Motion To Determine Defendant's Competency To Stand Trial as he agreed.

This is also for a for a Constitutional Challenge of Fla. Stat. ch 934. Florida Attorney General Ashley Moody is also provided notice at oag.civil.eserve@myfloridalegal.com of a constitutional challenge to a statute pursuant to Section 86.091, Fla. Stat. (2012); Rule 1.071, Florida Rules of Civil Procedure; Rule 5.1(a)(2), Federal Rules of Civil Procedure; and Title 28 U.S.C. § 2403.

I plan to subpoena Mr. Phipps to appear before Judge Sanders January 20, 2021 in Courtroom 2B of the Marion County Judicial Center beginning at 3:00 p.m.

The hearing is before Judge Sanders January 20, 2021 unnecessary but for Phipps professional misconduct and legal malpractice.

Phipps also said, transcript, Page 5, line 3:

On top of that, I'm also looking into a motion to try and withdraw from your case based on the fact that you're not, by the clerk's definition, I guess, indigent anymore.

Evidence of Phipps' white supremacy, Page 7, line 19:

But as far as why I thought it was necessary, number one, your disclosure that you had a previous traumatic brain injury, okay? A lot of my cases where that's, you know, a lot of my clients who have had those in the past, I usually do that just to make sure.

My TBI was in 1988, 33 years ago, and I have substantially recovered by using my cognitive function as a rehabilitation tool, and with the prescription medication Nuvigil. This is also part of the judiciary's problem of failing to provide disability accommodation. As set forth in my petition for writ of certiorari in USSC No. 20-929, page 21:

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.

Congenital defects, including a congenital speech disorder, velopharyngeal insufficiency (VPI), alone place me outside the white supremacist paradigm of equality. And since I filed the petition for habeas corpus in Florida, I have a new disability, uncorrected detached retina resulting in partial blindness.

On page 8, line 2, Phipps recalls my motion in 5D19-3479, "to represent you on your foreclosure case". Here Phipps is confused. That motion was part of Appellant's Notice of Filing Civil Rights Violation 18 USC 242, for deprivation of rights under color of law, Filing # 104502278 E-Filed 03/06/2020 04:34:34 PM, specifically the Clerk Williams refused to docket my Initial Brief served Jan-31-2019, and refused to say why it was not docketed. Later I learned the refusal was based on improper page numbering of my appendices. I withdrew the motion less than a week later, see Filing # 104747438 E-Filed 03/11/2020 10:44:01 PM, because,

3. This foreclosure is over. I am entitled to a default judgment, a Rule 9.315 Summary Disposition, because no party has filed an Answer Brief.

There is a difference between "competency" as defined by Florida Bar Rule 4-1.1 Competence:

A lawyer shall provide competent representation to a client. Competent representation requires the legal knowledge, skill, thoroughness, and preparation reasonably necessary for the representation.

And medical competency to stand trial.

Exhibit 10, Page 11 of 70

Phipps also blames me for talking too much. I now agree; never say anything extraneous to your lawyer, let him or her figure out your case.

To clarify my comment on page 10, line 21,

As a person born
with congenital defects, okay, I've been poked and
prodded by these Goddamn state psychiatrists my whole
life, okay?

that is limited to times I sought state assistance with vocational rehabilitation as an adult, and during early exams as a child, where I cannot now identify the doctors involved.

Also see page 12, line 25 forward to page 13:

MR. PHIPPS: Mr. Gillespie, this is part of the reason why I'm going to withdraw my motion because obviously, I have seen now, you know, what's going on between you and the Marion County Sheriff's Office. And I am in agreement with you that this 2020 case is being pushed forward as a way, as retribution, I guess, for, you know, the things that you, you know, request from them and, you know, litigation and all that stuff. I agree with you there, okay? And that is part of the basis why I'll withdraw the motion.

You know, I've been part of those conversations too. I've seen, you know, Mr. McCourt's responses and then obviously, you know, you have an issue with certain, you know, officers there, so, you know, when that whole issue went down and all that stuff and it seemed at first that nothing was going to come of it, you know, they didn't assist you and you were the rightful homeowner and then all of a sudden you wind up being the one that's arrested, I thought that was, you know, I thought that was a, at the very least, abuse of their discretion.

Thank you.

Sincerely,

/s/

NEIL J. GILLESPIE
8092 SW 115th Loop
Ocala, Florida 34481
Tel. 352-854-7807
Email: neilgillespie@mfi.net

Exhibit 10 Page 30 of 40

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IN THE CIRCUIT COURT
OF THE FIFTH JUDICIAL CIRCUIT
IN AND FOR MARION COUNTY, FLORIDA

STATE OF FLORIDA,

Plaintiff,

v.

NEIL JOSEPH GILLESPIE,

Defendant.

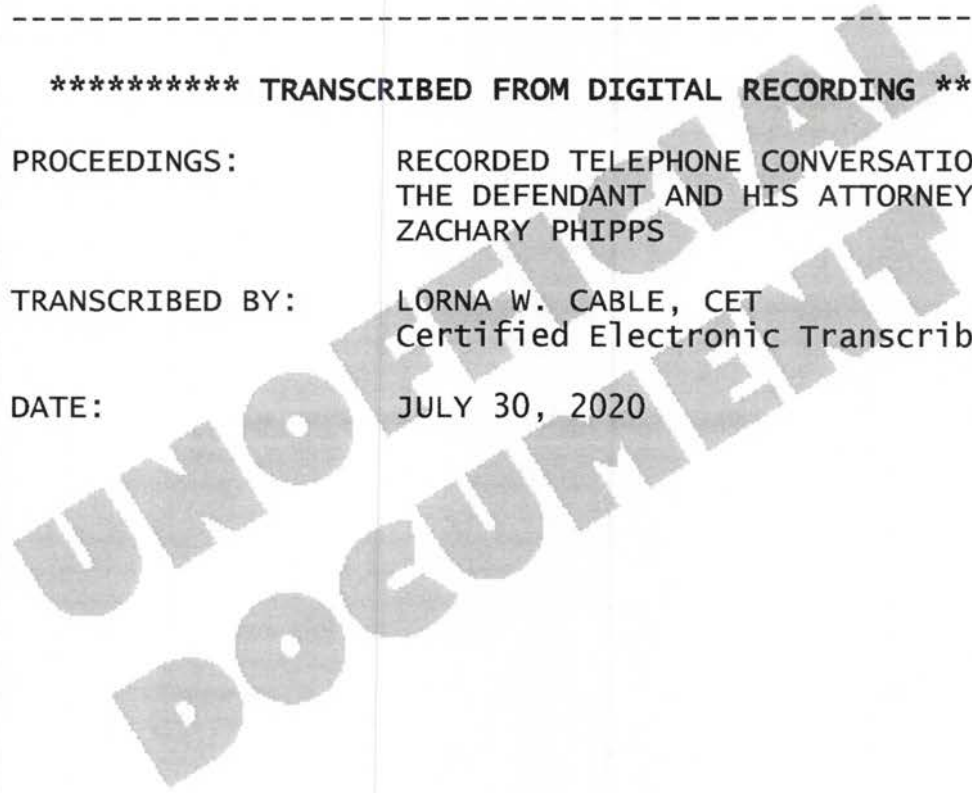
CASE NOS.: 19-CF-4193 and
20-CF-2417

***** TRANSCRIBED FROM DIGITAL RECORDING *****

PROCEEDINGS: RECORDED TELEPHONE CONVERSATION BETWEEN
THE DEFENDANT AND HIS ATTORNEY,
ZACHARY PHIPPS

TRANSCRIBED BY: LORNA W. CABLE, CET
Certified Electronic Transcriber

DATE: JULY 30, 2020



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RECORDED TELEPHONE CONVERSATION

OPERATOR: This call is being recorded for quality assurance purposes.

(Dialing.) (Redialing.)

RECORDING: Thank you for calling the office of criminal conflict and civil regional counsel. Someone will be with you shortly. While you wait, please make sure you have your case number, attorney's name and any other information that would allow us to help you find the information you need quickly. Thank you for holding.

(Music playing.)

ESTHER: Esther speaking, how may I help you?

MR. GILLESPIE: May I speak with Mr. Phipps?

ESTHER: Let me see if he's available. May I ask who's speaking?

MR. GILLESPIE: Neil Gillespie.

ESTHER: Hold just a moment, please.

(Music playing.)

MR. PHIPPS: Hello, this is Zack Phipps.

MR. GILLESPIE: Yeah, this is Neil Gillespie calling.

MR. PHIPPS: Hello, Mr. Gillespie.

MR. GILLESPIE: Yeah. I'm asking you to withdraw your Motion to Determine Defendant's Competency to

1 Stand Trial.

2 MR. PHIPPS: I have been looking into that. I'm
3 finding some issues in kind of, like, you can't unring
4 a bell type of situation. But I've got one of our
5 other attorneys who has handled stuff like that is
6 supposed to get back to me and let me know sometime
7 either, I don't know, but I was hoping by the end of
8 this week, if not early next week about doing something
9 along those lines.

10 MR. GILLESPIE: I believe you can unring a bell
11 when it comes down to an attorney's independent
12 professional judgment. And since you filed that
13 motion, you attended a hearing on my behalf to revoke
14 bond which you failed to prevail, and I essentially
15 attended the same hearing during the arraignment where
16 I did prevail.

17 So something is going on there. And I think we
18 need to get this Motion to Determine Defendant's
19 Competency to Stand Trial withdrawn because you don't
20 believe that anymore.

21 MR. PHIPPS: well, like I said, I am looking into
22 that. I can't do it today, all right? I need a little
23 bit more time on that, but I am with you on that
24 situation where I think we will go ahead and do that.
25 And I'm going to base it mainly on, you know, how can I

1 put this, I guess, to say, because the language, I
2 guess, is what I'm trying to find and that is that, you
3 know, over, I guess what you're kind of saying, over
4 the time since I made the motion until now, my
5 concerns, I guess, about, you know, whether or not you
6 can assist in your defense, have a, what's the word,
7 dissipated, I guess you might say.

8 So it's something that I've already thought about
9 and I'm looking into doing. I won't be filing it today
10 or tomorrow but I should be filing it by sometime next
11 week in order to do that, all right?

12 MR. GILLESPIE: All right. Because --

13 MR. PHIPPS: Now --

14 MR. GILLESPIE: Go ahead.

15 MR. PHIPPS: Now, okay, now, you know, be aware,
16 you know, that other people can make these, you know,
17 the judge and the state attorney can try and file
18 something as well in this. So I'm not saying they
19 will. I'm just saying that, you know, they, obviously
20 would have to put more in their motion than I did as to
21 why they think it's possible. But I know that they
22 have some concerns as well over the numerous e-mails
23 and pro se motions when you were still, you know, we're
24 technically still your attorney of record on that case.

25 So but like I said, I will withdraw my motion for

1 it. Okay? And if the court grants it then hopefully,
2 that will be the end of it.

3 On top of that, I'm also looking into a motion to
4 try and withdraw from your case based on the fact that
5 you're not, by the clerk's definition, I guess,
6 indigent anymore.

7 We used to have a template for a motion to do
8 that. I can't seem to find it right now. So I'm
9 wondering if, you know, there's something along the
10 lines that needs to be done a little bit more than what
11 we used to do on that situation. Like, I don't know if
12 you would have to provide financial records or if I
13 would have to try and show the court those financial
14 records to do it.

15 But we used to, like, back in the day, we would
16 have clients show up to our office driving, you know, a
17 \$60,000 Mercedes and we could just go to the court
18 based on that and withdraw from their case. Now, it's
19 going to be different.

20 **MR. GILLESPIE:** well, listen, my financials are
21 pretty simple. It's a tax return and it's a social
22 security 1099. And those show that my income exceeded
23 the limit. Now, the problem, though, is there was
24 never a signed application for criminal indigence in
25 this case. It wasn't signed and it wasn't completed.

Exhibit 1 of Page 137

1 MR. PHIPPS: You refused to sign it, right? And
2 then the court -- the court provisionally appointed us
3 and then for some reason, without you signing it, they
4 still kept the appointment.

5 MR. GILLESPIE: It wasn't only not signed, it was
6 incomplete. There was no financial information on it.

7 MR. PHIPPS: -- your signature and address, right?

8 MR. GILLESPIE: I'm sorry?

9 MR. PHIPPS: There was no financial information on
10 it?

11 MR. GILLESPIE: Nothing.

12 MR. PHIPPS: Okay. All right. Well, I will get
13 to work on both of those here. I'm not in my office
14 today or tomorrow but I will be there on Monday the
15 next week and I'll file them and we'll see where it
16 goes from there.

17 MR. GILLESPIE: Well, here's the problem that it's
18 creating with Tatti, okay?

19 MR. PHIPPS: Um-hum.

20 MR. GILLESPIE: Tatti is tying the two cases
21 together. Even though I attended a Faretta hearing
22 with Judge Craggs, Tatti said that doesn't count
23 because she's not a quote/unquote criminal judge, a
24 judge assigned to criminal cases, that she's in family
25 law. And they're both circuit court judges and they

1 can both conduct that hearing as far as I know. And I
2 don't think what he's claiming matters.

3 But he's saying right now that I can't represent
4 myself because of the cloud that you raised in your
5 motion, okay?

6 MR. PHIPPS: Oh, in the competency motion?

7 MR. GILLESPIE: Yes.

8 MR. PHIPPS: Okay. All right. Well, like I said,
9 I will file that motion to withdraw the -- for the
10 competency eval, okay?

11 MR. GILLESPIE: And what exactly were the grounds
12 that you felt that I was incompetent about?

13 MR. PHIPPS: Well, number one, and for starters,
14 it's not saying that you're incompetent, all right? I
15 tried to explain this to you. It was to determine
16 whether or not you were. It means that, you know, I
17 had some concerns. I didn't say that I thought you
18 were. I'm not a medical expert, okay?

19 But as far as why I thought it was necessary,
20 number one, your disclosure that you had a previous
21 traumatic brain injury, okay? A lot of my cases where
22 that's, you know, a lot of my clients who have had
23 those in the past, I usually do that just to make sure.

24 Number two were the voluminous e-mails that I was
25 attached to, you know, concerning things such as, you

1 know, Ms. Thompson and your insistence that we be
2 appointed to represent you on your foreclosure case and
3 I told you several times --

4 MR. GILLESPIE: I didn't insist that, sir. It was
5 a suggestion and then I withdrew it.

6 MR. PHIPPS: Okay. Well, no, you're right, you
7 did eventually get away from that and I'll put that as
8 part of my basis for the reasoning to withdraw this
9 motion, okay?

10 But I will file a motion to withdraw the -- I'll
11 withdraw the motion for the competency evaluation. I
12 can't guarantee that I can file anything about
13 withdrawing for the financial reasons.

14 MR. GILLESPIE: Okay. Well, I'm just going to
15 review again what you just said. That you have
16 concerns with the fact that I sustained a traumatic
17 brain injury in 1988?

18 MR. PHIPPS: Uh-huh. That was part of it. That
19 was what got me questioning --

20 MR. GILLESPIE: And I'm typing this so I'm kind of
21 slow, if you could just give me a moment.

22 MR. PHIPPS: All right.

23 MR. GILLESPIE: Concerns about TBI from 1988.

24 And the second one was a volume of e-mail.

25 MR. PHIPPS: Well, no, just the things that were

1 in these e-mails.

2 MR. GILLESPIE: Content.

3 MR. PHIPPS: And the third one -- I guess it would
4 be the most important one, Mr. Gillespie, was when we
5 talked about your case, at least the first couple times
6 that we met, it was hard to keep you on track for the
7 actual case. You wanted to talk about a lot of other
8 things. And, you know, sometimes people have issues,
9 in my opinion, assisting in their defense when they
10 can't focus on the issues at hand, okay?

11 MR. GILLESPIE: Uh-huh.

12 MR. PHIPPS: We talked about a lot of things, you
13 know, and, you know, I'm a listener, okay? I'll listen
14 to anything you want to talk about but, you know, when
15 it becomes, you know, problematic, you know, to
16 develop, you know, strategy for your defense and stuff
17 like that because we're talking about all kinds of
18 other things, you know, it was the totality of the
19 circumstances I guess you might say.

20 But, you know, as far as the bar is concerned,
21 when it comes to these things, we're supposed to have
22 the evaluation done if we have any kind of question
23 rather than try and push forward if we might have a
24 concern.

25 MR. GILLESPIE: Well, here's the problem with all

1 of that. The rule -- and I've spoken to private
2 counsel about this -- the rule states that you're
3 supposed to have three experts; one for the state picks
4 one, the defense counsel picks one and then there's one
5 that's sort of, you know, they both agree on. Judge
6 Tatti said, no, no, he's not going to do that. He says
7 that's a maximum. But he's always going to go with
8 one.

9 MR. PHIPPS: Right.

10 MR. GILLESPIE: He's going to go with one that's
11 going to say exactly what he wants them to say and
12 that's the problem.

13 MR. PHIPPS: Well, no, here's the way that it
14 works and here's what I would have done on it. And
15 that is if the first evaluation, whoever it would have
16 been, if it would have come back and said incompetent,
17 I would have insisted and demanded another evaluation.

18 MR. GILLESPIE: Yeah, but once you have that --
19 listen, I know how these work, okay? As a person born
20 with congenital defects, okay, I've been poked and
21 prodded by these Goddamn state psychiatrists my whole
22 life, okay? Once they find -- make one finding, they
23 all build on that. Just like a bad decision in a court
24 case. It gets repeated over and over again. That's
25 the problem with doing it that way, with getting one

1 bad evaluation and then trying to overturn that. It's
2 not going to happen.

3 MR. PHIPPS: Well, the only thing that -- the
4 evaluation, itself, does not make a legal finding of
5 incompetence. Only the judge can do that, okay? And
6 if we had another one come back, you know, that said
7 that you were incompetent as well, that would be two
8 out of three, then yeah, we probably wouldn't have to
9 go for the third one. But I have gone for the third
10 one in some instances if I didn't agree with the first
11 two, just so we have, you know, another expert's
12 opinion.

13 MR. GILLESPIE: Well, Tatti says he's not going to
14 do that. And he's the judge and that's that. So that
15 plan isn't going to work.

16 MR. PHIPPS: Well, I can file motions. I can file
17 motions that can compel him to do things whether he
18 wants to do them or not.

19 MR. GILLESPIE: Okay. So --

20 MR. PHIPPS: Mr. Gillespie, though, it's kind of
21 moot point at this point because I told you I'm going
22 to withdraw my motion.

23 MR. GILLESPIE: Yeah, you said that, but now the
24 seed is planted and my understanding of Tatti is that
25 he's going to hold onto this because he thinks he has

1 something, okay? And the state attorney is going --

2 MR. PHIPPS: Well, you know, if he were to try to
3 do something, he would have a much higher burden to
4 prove in order to have, you know, that question raised,
5 okay? He would have to, you know, state specific
6 instances which he's obviously not privy to our
7 conversation so he wouldn't know anything about that.
8 You know, you haven't, like, attacked somebody in
9 court.

10 which the only time that I've ever seen him on his
11 own motion for a competence evaluation is when, you
12 know, my client jumped out of, you know, the vestibule
13 there and tried to attack a witness, so and obviously
14 you've never done that.

15 MR. GILLESPIE: Well, here's the other thing.
16 Here's the other thing. You know, you claim that early
17 on, my references to Sarah Thompson were immaterial.
18 But actually, they're very material. And if you look
19 at the record in this, clearly, the police, the Marion
20 County Sheriff's Office are using her and defending her
21 criminality to get to me, okay? There's no reason that
22 they should have stood there and let her tear my house
23 apart. It was a home invasion, okay? And they're
24 making it out --

25 MR. PHIPPS: Mr. Gillespie, this is part of the

1 reason why I'm going to withdraw my motion because
2 obviously, I have seen now, you know, what's going on
3 between you and the Marion County Sheriff's Office.
4 And I am in agreement with you that this 2020 case is
5 being pushed forward as a way, as retribution, I guess,
6 for, you know, the things that you, you know, request
7 from them and, you know, litigation and all that stuff.
8 I agree with you there, okay? And that is part of the
9 basis why I'll withdraw the motion.

10 You know, I've been part of those conversations
11 too. I've seen, you know, Mr. McCourt's responses and
12 then obviously, you know, you have an issue with
13 certain, you know, officers there, so, you know, when
14 that whole issue went down and all that stuff and it
15 seemed at first that nothing was going to come of it,
16 you know, they didn't assist you and you were the
17 rightful homeowner and then all of a sudden you wind up
18 being the one that's arrested, I thought that was, you
19 know, I thought that was a, at the very least, abuse of
20 their discretion.

21 **MR. GILLESPIE:** And not only that, the judge that
22 signed the arrest warrant is Craggs. The judge that
23 appeared at the first appearance was Craggs. The judge
24 that granted my Faretta hearing is Craggs. And now
25 Tatti is saying, well, Craggs is no good, she's not in

1 criminal. well, she's up to her asshole in criminal in
2 this case.

3 MR. PHIPPS: well, the way that I've always seen
4 it done is whenever you have an open case and pick up
5 another case, they usually keep it in the same division
6 or whatever.

7 MR. GILLESPIE: Uh-huh.

8 MR. PHIPPS: Your first case being with Tatti, I
9 wasn't surprised that they put it with Tatti. I don't
10 know if there's any way to do that. I can file a
11 motion to recuse --

12 MR. GILLESPIE: You know, I moved to have the case
13 reassigned because he has not responded to my motions
14 to disqualify. Now, he says that he's not recognizing
15 them because of this cloud that you've created, okay,
16 from one case to the other. That's what he's saying.
17 And I'm getting a transcript of it, okay?

18 Now, he may not be right, but the problem is he is
19 a person -- any person that has an interest in a case,
20 can bring a motion to disqualify. And I would say even
21 an incompetent person if the motion, you know, is
22 competent.

23 MR. PHIPPS: well, yeah, competency is like guilt.
24 You know, you are competent until declared incompetent,
25 so --

1 MR. GILLESPIE: well, the thing is --

2 MR. PHIPPS: And in my opinion, I think you are in
3 a gray area because of what you raised about your --
4 the indigent affidavit that, you know, our appointment
5 might not be valid. So that's something, like, I said,
6 I don't have an answer for you right now, but --

7 MR. GILLESPIE: But you've defended Tatti not -- I
8 mean, you said he ruled on it or didn't rule on it. I
9 don't really understand exactly what your position was,
10 but you seem to claim that because you are the counsel
11 of record, you're the only one that can move to
12 disqualify. That's not true under the law. Anyone can
13 that has an interest in the case. So that's another
14 issue.

15 MR. PHIPPS: well, I mean, that's just -- that's
16 my interpretation of the law, you know. I kind of have
17 been doing this job for quite a long time. I've never
18 had anybody -- you know, believe me, I have a lot of
19 people, especially in Tatti's courtroom, file motions
20 to disqualify him or recuse him and if they have
21 court-appointed counsel, I've never seen anybody, you
22 know, prevail on any of those at a higher court or
23 lower or have not had anything recognized as long as
24 they had a court-appointed attorney.

25 MR. GILLESPIE: well, that may be so but that

1 doesn't mean it's right.

2 MR. PHIPPS: I'll agree with you there.

3 But Mr. Gillespie, I do have to go right now. I'm
4 about to miss my plane here.

5 MR. GILLESPIE: Thank you. I'll talk to you
6 later.

7 MR. PHIPPS: I can schedule another -- all right,
8 do you want to schedule something tomorrow or on
9 Tuesday?

10 MR. GILLESPIE: You can let me know. You can
11 e-mail me.

12 MR. PHIPPS: Okay. I'll send you an e-mail.

13 MR. GILLESPIE: Thank you.

14 MR. PHIPPS: All right. I'll send you an e-mail.
15 All right. Have a good day.

16 (The phone call was concluded.)
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TRANSCRIBER'S CERTIFICATE

STATE OF FLORIDA)
COUNTY OF MARION)

I, LORNA W. CABLE, Certified Electronic Transcriber, do hereby certify that I was authorized to and did transcribe the foregoing recorded telephone conversation on July 30, 2020 as digitally recorded in the case of STATE OF FLORIDA vs. NEIL GILLESPIE, Case Numbers 19-CF-4193 and 20-CF-2417; and that the foregoing pages numbered 1 through 16 inclusive, constitute a true and correct record of the requested recorded telephone conversation to the best of my ability.

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' attorney or counsel connected with the action, nor am I financially interested in the action.

DATED this 7th day of September, 2020, at Ocala, Marion County, Florida.

/s/ Lorna W. Cable
LORNA W. CABLE, CET
Certified Electronic Transcriber
AAERT CET-518

IN THE CIRCUIT COURT,
FIFTH JUDICIAL CIRCUIT,
IN AND FOR MARION COUNTY, FLORIDA

STATE OF FLORIDA,

CASE NUMBER: 2019-CF-4193-A

Plaintiff,

vs.

NEIL JOSEPH GILLESPIE,

Defendant.

MOTION TO DETERMINE DEFENDANT'S COMPETENCY TO STAND TRIAL

COMES NOW Counsel for the Defendant and moves, pursuant to Florida Rules of Criminal Procedure 3.210(b), that this Honorable Court order the examination of the Defendant to determine the Defendant's competence to stand trial.

Counsel requests that a mental health expert from this circuit's approved list be appointed to conduct such examination. Counsel further requests that this Court set a time for a hearing to determine whether Defendant is competent to stand trial and that such time be not later than twenty (20) days after the date of the filing of this motion. As grounds for this Motion, Counsel would state that:

Counsel spoke in person with Defendant on February 20, 2020 and on March 11, 2020. Based on these conversations, Counsel has reason to believe Defendant may not be competent to stand trial.

COUNSEL certifies that this Motion is made in good faith and that Counsel has reasonable grounds to believe Defendant is not presently competent to stand trial.

Exhibit 10, Page 38 of 40

WHEREFORE, Defendant respectfully requests that this Honorable Court enter an Order appointing said experts for examination of the Defendant.

CERTIFICATE OF SERVICE

I HEREBY CERTIFY that the foregoing document has been furnished to: **Office of the State Attorney**, eservicemarion@sao5.org, 110 NW 1st Ave., Ocala, FL 34475, by email, **Defendant**, 8092 SW 115th Loop, , OCALA, FL, 34481, by mail, on this 11th day of March, 2020.

/s/

ZACHARY G. PHIPPS
Assistant Regional Conflict Counsel
Florida Bar No.: 065936
Assistant Regional Counsel
Criminal Conflict & Civil Regional Counsel
307 NW 3rd Street
Ocala, FL 34475
Telephone: (352) 732-1230
Facsimile: (352) 732-1228
Primary Email: rcmarion@rc5state.com
Secondary Email: zhipps@rc5state.com

UNOFFICIAL
DOCUMENT

Exhibit 10, Page 39 of 40

**IN THE CIRCUIT COURT OF THE FIFTH JUDICIAL CIRCUIT
IN AND FOR MARION COUNTY, FLORIDA**

STATE OF FLORIDA
Plaintiff,

CASE NO.: 42-2019-CF-004193

vs.

NEIL JOSEPH GILLESPIE,
Defendant.

**ORDER ON MOTION TO RESCIND ORDER APPOINTING DR. TONIA WERNER
TO DO A COMPETENCY EVALUATION AND ORDER COMPELLING
DEFENDANT TO APPEAR FOR EVALUATION**

THIS CAUSE having come before the Court on Dr. Tonia Werner's Motion to Rescind Order Appointing Dr. Werner to do a Competency Evaluation and Order Compelling Defendant to Appear for Evaluation filed September 16, 2020. The Court, having reviewed the file, and being otherwise duly advised in the premises, hereby

ORDERS AND ADJUDGES that Dr. Tonia Werner's Motion is **GRANTED**, the Order Appointing Dr. Tonia Werner to do a Competency Evaluation and the Order Compelling Defendant to Appear for Evaluation is now rescinded. Whether Defendant will need a competency evaluation remains an issue in these matters.

DONE AND ORDERED in Chambers at Ocala, Marion County, Florida, this 12th day of January 2021.


Gary L. Sanders, Circuit Judge

Exhibit 10, Page 40 of 40

CERTIFICATE OF SERVICE

I HEREBY CERTIFY a true and correct copy of the foregoing has been provided by Electronic Mail on the 12th day January 2021 to:

State Attorney's Office

Brenda Smith, Esq., *Attorney for Defendant*

Richard T. Jones & Salter Feiber, P.A., *Attorney for Dr. Tonia Werner and Meridan Behavioral Health Care, Inc.*

Neil J. Gillespie, neilgillespie@mfi.net

_____/rg/
Judicial Assistant

**UNOFFICIAL
DOCUMENT**

Received 6-12-19

SW office
904FSW Hwy 200

Glenn Housh 499

MARION COUNTY SHERIFF'S OFFICE
P.O. BOX 1987
OCALA, FL 34478

June 11, 2019

Sheriff Billy Woods
Marion County Sheriff's Office (MCSO)
wwoods@marionso.com
692 NW 30th Ave.
Ocala, FL 34475
VIA UPS No. 1Z64589FP293782216
Cc.: Timothy T. McCourt
Tmccourt@marionso.com

Chief Greg Graham
Ocala Police Department (OPD)
ggraham@ocalapd.org
402 S. Pine Ave.
Ocala, FL 34471
VIA UPS No. 1Z64589FP294406228

EXhibit II, Page 1 of 10

Gentlemen:

This is a referral for formal criminal charges against Judge Ann Melenda Craggs for violation of Fla. Stat. § 817.568(8)(a) *Criminal use of personal identification information*; and related crimes together with Curtis Wilson, Esq., in the wrongful foreclosure of my Fla. residential homestead.

Judge Ann Melenda Craggs ("Judge Craggs") has presided over the foreclosure of my home in Reverse Mortgage Solutions, Inc. v. Neil J. Gillespie, et al., Case No.: 2013-CA-00115, Marion County Circuit Court, Florida Fifth Judicial District, since August 18, 2016, after the recusal, *sua sponte*, of Judge Steven G. Rogers, see Doc-354 Order of Recusal, entered on August 17, 2016. The case commenced on January 9, 2013 in Marion County.

Reverse Mortgage Solutions, Inc. ("RMS") is represented by Curtis Alan Wilson (Bar ID 77669) of McCalla, Raymer, Leibert, Pierce, LLC, 225 E. Robinson St. Suite 115, Orlando, FL 32801.

RMS is an active (as of today) Foreign Profit Corporation registered with the Florida Division of Corporations. The 2019 Foreign Profit Corporation Annual Report for RMS appears online, and shows the address for RMS: 14405 Walters Road, Suite 200, Houston, TX 77014.

RMS and its parent company Ditech Holding Corporation are in chapter 11 bankruptcy, consolidated case number 1:19-bk-10412 in the New York Southern Bankruptcy Court.

This referral is to both the MCSO and the OPD since either agency may have jurisdiction, as I understand, over crimes occurring July 18, 2017, in the Marion County Judicial Center, 110 NW 1st Ave., Ocala, FL 34475 during a non-jury trial where Judge Craggs entered a *Final Judgment of Foreclosure* that does not mention the arguments I made before becoming sick, or mention the fact that I was transported to the hospital before the trial ended, and left without anyone to represent me. Judge Craggs did not include any of my documents into evidence.

I am age 63. I am disabled with type 2 diabetes since 2006. Social Security determined I was totally disabled since 1992 following a traumatic brain injury as a survivor of a street robbery.

Judge Craggs and Mr. Wilson continue to rely upon the fruits of their crime in the wrongful foreclosure of my Florida residential homestead property located at 8092 SW 115th Loop, Ocala, Florida, 34481, Marion County.

Judge Craggs and Mr. Wilson violated Fla. Stat. § 817.568(8)(a)
Criminal use of personal identification information

June 11, 2019

Exhibit 11, Page 2 of 10

The Plaintiff's (RMS) state court *in rem* action alleges the 2009 death of Penelope Gillespie is grounds to foreclose a *Home Equity Conversion Mortgage* on my homestead residence, 8092 SW 115th Loop, Ocala, Marion County, Florida in a 55+ community called Oak Run. The property's market value is \$80,565 according to the MCPA (2018). I am one of three (3) borrowers, with my mother Penelope Gillespie, and brother Mark Gillespie.

A *Home Equity Conversion Mortgage*, or HECM, is a Federal Housing Administration (FHA) "reverse" mortgage program administered by the Secretary, United States Department of Housing and Urban Development (Secretary or HUD) to enable home owners over 62 years old access the subject home's equity. 12 U.S.C. § 1715z20 et seq. and 24 C.F.R. Part 206. The record shows substantial violations of the HECM rules by the HUD-approved lender and lender parties.

A HECM does not require a homeowner to make mortgage payments as a conventional mortgage does. Instead, a HECM does not become due and payable until the last surviving homeowner dies or no longer lives in the home. 12 U.S.C. § 1715-z20(j) *Safeguard to prevent displacement of homeowner*. The HECM becomes due and payable in full "if a mortgagor dies and the property is not the principal residence of at least one surviving mortgagor....and no other mortgagor retains title to the property." 24 C.F.R. § 206.27(c).

I am one of two surviving HECM mortgagors, and the only surviving homeowner living in the home, alone, in substantial compliance with the HECM Note, making this foreclosure of a HECM premature. My bother Mark Gillespie of Fort Worth Texas is also a surviving borrower, but he does not live in the home. The HECM becomes due and payable in full "if a mortgagor dies and the property is not the principal residence of at least one surviving mortgagor....and no other mortgagor retains title to the property." 24 C.F.R. § 206.27(c). Mortgagor Ms. Gillespie died in 2009. But I am a surviving borrower or mortgagor living in the home as my principal residence, and retain title to the property. Therefore I dispute the Plaintiff's allegations in its "Verified Complaint to Foreclose Home Equity Conversion Mortgage".

Judge Craggs and Mr. Wilson violated Fla. Stat. § 817.568(8)(a)

Judge Craggs and Mr. Wilson violated Fla. Stat. § 817.568(8)(a) Criminal use of personal identification information, used as trial evidence in the foreclosure.

Section 817.568(8)(a) states:

(8)(a) Any person who willfully and fraudulently uses, or possesses with intent to fraudulently use, personal identification information concerning a deceased individual or dissolved business entity commits the offense of fraudulent use or possession with intent to use personal identification information of a deceased individual or dissolved business entity, a felony of the third degree, punishable as provided in s. 775.082, s. 775.083, or s. 775.084.

My mother, Penelope Gillespie, died on September 16, 2009. RMS alleged so in paragraph 5 of its *Verified Complaint To Foreclose Home Equity Conversion Mortgage*.

Judge Craggs and Mr. Wilson violated Fla. Stat. § 817.568(8)(a)
Criminal use of personal identification information

June 11, 2019

Exhibit 11, Page 3 of 10

Penelope Gillespie was dead on July 18, 2017 when Mr. Wilson submitted trial evidence in violation of § 817.568(8)(a),

Notice of Default and Intent to Foreclose
Date Admitted As Evidence: 07/18/2017
Evidence ID: PL-4

because the Notice of Default and Intent to Foreclose is dated June 8, 2012 to “Penelope Gillespie” and “Dear Penelope Gillespie”. The Evidence List appears at Exhibit 1. The Notice of Default and Intent to Foreclose appears at Exhibit 2 and is signed by Judge Craggs.

The Notice of Default and Intent to Foreclose does not inform “Penelope Gillespie” because she died on September 16, 2009. A deceased person cannot own property, or respond to this notice. This notice is defective.

A HECM foreclosure must commence within 6 months. 24 C.F.R. § 206.125(d)(1). Borrower Penelope Gillespie died September 16, 2009. The Plaintiff did not commence this foreclosure until January 9, 2013.

Because the Plaintiff missed the time to bring a foreclosure, it has relied on false documents showing Penelope Gillespie is still alive, including its notice of foreclosure, and routine correspondence addressed to “Penelope Gillespie”.

The Plaintiff’s (RMS) envelope to the NOTICE OF DEFAULT AND INTENT TO FORECLOSE (Exhibit 2) shows different names for U.S. Postal Service Certified Mail, and is therefore fraudulent, because the Notice begins, “Dear Penelope Gillespie:” and not,

“Dear Neil J. Gillespie and Mark Gillespie as Co-Trustees of the Gillespie Family Living Trust Agreement dated February 10, 1997”

In fact the trust is not mentioned at all. Mark Gillespie was not provided a Notice of Default at his home in Fort Worth, Texas.

Therefore service on Neil J. Gillespie and Mark Gillespie, is fatally flawed. The Trust was not sued. Penelope Gillespie was not sued. The Estate of Penelope Gillespie was not sued.

On information and belief, the Plaintiff sued the wrong party in suing “Neil J. Gillespie and Mark Gillespie as Co-Trustee of the Gillespie Family Living Trust Agreement Dated February 10, 1997”, see the Foreclosure Benchbook 2013 “Parties to the Foreclosure Action”, “Necessary and Proper Defendants” on page 16:

1. The owner of the fee simple title - only indispensable party defendant to a foreclosure action. English v. Bankers Trust Co. of Calif., N.A., 895 So. 2d 1120, 1121 (Fla. 4th DCA 2005). Foreclosure is void if titleholder omitted...

Judge Craggs and Mr. Wilson violated Fla. Stat. § 817.568(8)(a)
Criminal use of personal identification information

June 11, 2019

Exhibit 11, Page 4 of 10

The titleholder on January 9, 2013 when the case was filed was the “Gillespie Family Living Trust Agreement Dated February 10, 1997”. The Plaintiff failed to sue the only indispensable party. Therefore, the foreclosure is void. See Filing # 83954243 E-Filed 01/27/2019 11:53:01 PM

DEFENDANT NEIL J. GILLESPIE’S AMENDED VERIFIED MOTION TO VACATE FINAL JUDGMENT OF FORECLOSURE AND CANCEL MARCH 11, 2019 FORECLOSURE SALE

I demand Judge Craggs, and Mr. Wilson, be prosecuted for violation of § 817.568(8)(a), a felony of the third degree, punishable as provided in s. 775.082, s. 775.083, or s. 775.084.

Judge Craggs and Mr. Wilson also violated related laws, such as,

F.S. § 837.06 False official statements.—Whoever knowingly makes a false statement in writing with the intent to mislead a public servant in the performance of his or her official duty shall be guilty of a misdemeanor of the second degree, punishable as provided in s. 775.082 or s. 775.083.

Mr. Wilson and Judge Craggs made false statements in writing to mislead the Marion County Clerk in the performance of his duties. Regarding Judge Craggs,

F.S. § 838.022 Official misconduct.—

(1) It is unlawful for a public servant or public contractor, to knowingly and intentionally obtain a benefit for any person or to cause unlawful harm to another, by:

(a) Falsifying, or causing another person to falsify, any official record or official document;

Judge Craggs knowingly and intentionally obtained a benefit (foreclosure) for any person (Mr. Wilson) or to cause unlawful harm to another (Neil J. Gillespie) by falsifying, or causing another person to falsify, any official record or official document;

F.S. § 839.13 Falsifying records.—

(1) Except as provided in subsection (2), if any judge, justice, mayor, alderman, clerk, sheriff, coroner, or other public officer, or employee or agent of or contractor with a public agency, or any person whatsoever, shall steal, embezzle, alter, corruptly withdraw, falsify or avoid any record, process, charter, gift, grant, conveyance, or contract, or any paper filed in any judicial proceeding in any court of this state, or shall knowingly and willfully take off, discharge or conceal any issue, forfeited recognizance, or other forfeiture, or other paper above mentioned, or shall forge, deface, or falsify any document or instrument recorded, or filed in any court, or any registry, acknowledgment, or certificate, or shall fraudulently alter, deface, or falsify any minutes, documents, books, or any proceedings whatever of or belonging to any public office within this state; or if any person shall cause or procure any of the offenses aforesaid to be committed, or be in anywise concerned therein, the person so offending shall be guilty of a misdemeanor of the first degree, punishable as provided in s. 775.082 or s. 775.083.

Judge Craggs and Mr. Wilson violated Fla. Stat. § 817.568(8)(a)
Criminal use of personal identification information

June 11, 2019

Chapter 825, Abuse, Neglect, And Exploitation Of Elderly Persons and Disabled Adults

I am an elderly person [825.101(4)] and a disabled adult as defined by Chapter 825.

Judge Craggs is a public officer who corruptly used her official position as judge to secure a special benefit (corrupt foreclosure) for Mr. Wilson.

F.S. § 112.313(6) Misuse of Public Position,
(6) MISUSE OF PUBLIC POSITION.—No public officer, employee of an agency, or local government attorney shall corruptly use or attempt to use his or her official position or any property or resource which may be within his or her trust, or perform his or her official duties, to secure a special privilege, benefit, or exemption for himself, herself, or others. This section shall not be construed to conflict with s. 104.31.

Judge Craggs is a public servant as provided by the Fla. Const., Art. V, who violated her Oath of Office, see Art. II, sec 5(b).

(b) Each state and county officer, before entering upon the duties of the office, shall give bond as required by law, and shall swear or affirm:

“I do solemnly swear (or affirm) that I will support, protect, and defend the Constitution and Government of the United States and of the State of Florida; that I am duly qualified to hold office under the Constitution of the state; and that I will well and faithfully perform the duties of (title of office) on which I am now about to enter. So help me God.”,

and thereafter shall devote personal attention to the duties of the office, and continue in office until a successor qualifies.

Judge Craggs has committed other crimes in this foreclosure. I may submit those separately. But I may not, if the enclosed evidence and accusations are sufficient to arrest and convict Judge Craggs and Mr. Wilson. The Bar and the Bench have worked since 2013 to confuse just about every issue in this case. I do not want to confuse this case further and thereby undermine any prosecutable crime(s) against Judge Craggs and Mr. Wilson. Thank you.

Sincerely,



Neil J. Gillespie
8092 SW 415th Loop
Ocala, Florida 34481
neilgillespie@mfi.net
352-854-7807

Enclosures



OFFICE OF DAVID R. ELLSPERMANN
MARION COUNTY CLERK'S OFFICE

EVIDENCE LIST

REVERSE MORTGAGE
SOLUTIONS, INC

13-CA-115

Plaintiff/Petitioner

Case Number

vs.

NEIL J GILLESPIE AND MARK GILLESPIE AS
CO-TRUSTEES OF THE GILLESPIE FAMILY
LIVING TRUST AGREEMENT DATED
FEBRUARY 10, 1997; OAK RUN
HOMEOWNERS' ASSOCIATION, INC; UNITED
STATES OF AMERICA, ON BEHALF OF THE
SECRETARY OF HOUSING AND URBAN
DEVELOPMENT; ELIZABETH BAUERLE;
MARK GILLESPIE, NEIL J GILLESPIE;
DEVELOPMENT & CONSTRUCTION
CORPORATION OF AMERICA; UNKNOWN
SPOUSE OF ELIZABETH BAUERLE;
UNKNOWN SPOUSE OF MARK GILLESPIE,
UNKNOWN SPOUSE OF NEIL J GILLESPIE;
UNKNOWN SETTLERS / BENEFICIARIES OF
THE GILLESPIE FAMILY LIVING TRUST
AGREEMENT DATED FEBRUARY 10, 1007;
UNKNOWN TRUSTEES M SETTLERS AND
BENEFICIARIES OF UNKNOWN SETTLERS /
BENEFICIARIES OF THE GILLESPIE FAMILY
LIVING TRUST AGREEMENT DATED
FEBRUARY 10, 1997; UNKNOWN TENANT IN
POSSESSION 1 AND UNKNOWN TENANT IN
POSSESSION 2



STATE OF FLORIDA, COUNTY OF MARION
I HEREBY CERTIFY that the foregoing is a true and
correct copy of pages 1 through 2 of the
instrument filed in this office.
The original instrument filed contains 2 pages.
 This copy has no redactions.
 This copy has been redacted pursuant to law.
DAVID R. ELLSPERMANN, Clerk of Circuit & County Court
Dated 7/26/17 by M. TUCKER, CLC

Defendant/Respondent

| Exhibit ID# | Date Introduced | DESCRIPTION OF ITEM | Date Admitted as Evidence | Evidence ID# |
|-------------|-----------------|--|---------------------------|--------------|
| | | | | |
| | | * Original Adjustable Rate Note (Home Equity Conversion) | 07/18/2017 | PL-1 |

| | | | | |
|--|---|---|------------|-------------------|
| | | • Adjustable Rate Home Equity Conversion Mortgage | 07/18/2017 | PL-2 |
| | | • Assignment of Mortgage | 07/18/2017 | PL-3 |
| | / | Notice of Default and Intent to Foreclose | 07/18/2017 | PL-4 |
| | / | Copy of: Home Equity Conversion Loan Agreement | 07/18/2017 | PL-5 |
| | / | Payoff Statement | 07/18/2017 | PL_6 Composite |
| | | Evidence received in Clerks' office 07/18/2017 | | |

Original Documents kept in Court File

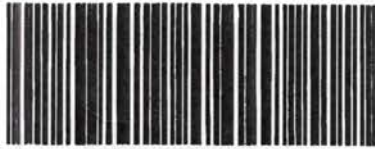
| | | | |
|-------------------------|----------------|----------------------------|----------------|
| <u>L. Finch</u> | <u>7/21/17</u> | <u>Debra M. Jones</u> | <u>7-21-17</u> |
| Court Clerk's Signature | Date | Evidence Clerk's Signature | Date |

Attorney for Plaintiff/Petitioner

Attorney for Defendant/Respondent

Exhibit 11, Page 8 of 10

Reverse Mortgage Solutions, Inc.
2727 Spring Creek Dr.
Spring, TX 77377



PRESORT
First-Class Mail
U.S. Postage and
Fees Paid
WSO

20120608-197

Neil J. Gillespie
Mark Gillespie
8092 SW 115TH LOOP
OCALA, FL 34481-3567

STATE OF FLORIDA, COUNTY OF MARION
I HEREBY CERTIFY that the foregoing is a true and
correct copy of pages 1 through 3 of the
instrument filed in this office.
The original instrument filed contains 3 pages.
 This copy has no redactions.
 This copy has been redacted pursuant to law.
DAVID R. ELLSPERMAN, Clerk of Circuit & County Court
Dated 7/18/17 by D. TUCKER DC



EXHIBIT
2

B-CA-115-S
ADMITTED INTO EVIDENCE AS:
PETITIONER'S EXHIBIT 4
RESPONDENT'S EXHIBIT _____
JUDGE ANN MELINDA CRAGGS

DEM

7/18/17



7196 9006 9296 0216 1259



EXhibit 11, Page 9 of 10

June 8, 2012

Sent Via Certified Mail

Penelope Gillespie

Loan Number: 69977
Property Address: 8092 SW 115TH LOOP
OCALA, FL 34481

NOTICE OF DEFAULT AND INTENT TO FORECLOSE

Dear Penelope Gillespie:

Reverse Mortgage Solutions, Inc., (herein as "RMS") is currently servicing your mortgage loan that is secured by the above referenced property. You are hereby formally notified that the mortgage loan associated with the referenced Deed of Trust/Mortgage is in default because of the death of the primary mortgagor and the loan must be paid in full.

To cure this default, you must forward funds in the amount of \$108,056.19 consisting of the principal due, plus all interest and fees through July 8, 2012.

It is possible that after payment of the amounts detailed above there may be other fees still due and owing, including but not limited to other fees, escrow advances or corporate advances that RMS paid on your behalf or advanced to your account.

This letter is a formal demand to pay \$108,056.19. If the default is not paid in full by July 8, 2012, RMS will take steps to terminate your ownership in the property by a foreclosure proceeding or other action to seize the property.

IF YOU ARE UNABLE TO PAY YOUR ACCOUNT IN FULL, RMS offers consumer assistance programs designed to help resolve delinquencies and avoid FORECLOSURE. These services are provided without cost to our customers. You may be eligible for a loan workout plan or other similar alternatives. If you would like to learn more about these programs, you may contact the Loss Mitigation Department at (866) 503-5559, between the hours of 8:30 AM and 5:00 PM CST. WE ARE VERY INTERESTED IN ASSISTING YOU.

The default above can be cured by payment of the total payoff amount plus any additional fees that become due by July 8, 2012. Note that additional charges, costs and fees may become due during the period between today's date and the date the aforementioned payments are received. Please contact our Collection Department at (866) 503-5559 to obtain updated payoff information.

Please include your loan number and property address with your payment and send to:

Reverse Mortgage Solutions, Inc.
2727 Spring Creek Drive
Spring, TX 77373

562439



12-02121-1
Page 1 of 2

Exhibit 11, Page 10 of 10

If you wish to dispute the delinquency, or if you dispute the calculation of amount of the delinquency and reinstatement amount, you may contact us by calling (866) 503-5559.

You have the right to bring a court action to assert the non-existence of a default or any other defense to acceleration or foreclosure sale. Failure to respond to this letter may result in the loss of your property. To the extent your obligation has been discharged or is subject to the automatic stay in a bankruptcy case, this notice is for informational purposes only and does not constitute a demand for payment or an attempt to collect a debt as your personal obligation. If you are represented by an attorney, please provide us with the attorney's name, address and telephone number.

Attention Service members and dependents: The Federal Service Members' Civil Relief Act ("SCRA") and certain state laws provide important protections for you, including prohibiting foreclosure under most circumstances. If you are currently in the military service, or have been within the last nine (9) months, AND joined after signing the Note and Security Instrument now in default, please notify RMS immediately. When contacting RMS as to your military service, you must provide positive proof as to your military status. If you do not provide this information, it will be assumed that you are not entitled to protection under the above-mentioned Act.

If you are experiencing financial difficulty, you should know that there are several options available to you that may help you keep your home. You may contact HUD Government Counseling which provides free or low-cost housing counseling. You should consider contacting one of these agencies immediately. These agencies specialize in helping homeowners who are facing financial difficulty. Housing counselors can help you assess your financial condition and work with us to explore the possibility of modifying your loan, establishing an easier payment plan for you, or even working out a period of loan forbearance. For your benefit and assistance, there are government approved homeownership counseling agencies designed to help homeowners avoid losing their homes. To obtain a list of approved counseling agencies, please call (800) 569-4287 or visit <http://www.hud.gov/offices/hsg/sfh/hcc/hcs.cfm>.

NO PERSON IN THIS OFFICE WILL GIVE YOU ANY LEGAL ADVICE. If, at any time, you make a written request to us not to be contacted by phone at your place of employment, we will not do so. If, at any time, you make a written request to us not to contact you, we will not do so, except to send statutorily and/or contractually required legal notice.

You may be eligible for assistance from the Homeownership Preservation Foundation or other foreclosure counseling a. You may call the following toll-free number to request assistance from the Homeownership Preservation Foundation: (888) 995-HOPE (4637). If you wish, you may also contact us directly at (866) 503-5559 and ask to discuss possible options.

This matter is very important. Please give it your immediate attention.

Sincerely,

Reverse Mortgage Solutions, Inc.
(866) 503-5559

FEDERAL LAW REQUIRES US TO ADVISE YOU THAT REVERSE MORTGAGE SOLUTIONS, INC. IS A DEBT COLLECTOR AND THAT THIS IS AN ATTEMPT TO COLLECT A DEBT. ANY INFORMATION OBTAINED MAY BE USED FOR THAT PURPOSE. TO THE EXTENT YOUR OBLIGATION HAS BEEN DISCHARGED OR IS SUBJECT TO THE AUTOMATIC STAY IN A BANKRUPTCY PROCEEDING, THIS NOTICE IS FOR INFORMATIONAL PURPOSES ONLY AND DOES NOT CONSTITUTE A DEMAND FOR PAYMENT OR AN ATTEMPT TO COLLECT AN INDEBTEDNESS AS YOUR PERSONAL OBLIGATION. IF YOU ARE REPRESENTED BY AN ATTORNEY, PLEASE PROVIDE US WITH THE ATTORNEY'S NAME, ADDRESS AND TELEPHONE NUMBER.



Exhibit 12, Page 1 of 1



U.S. Department of Justice
Federal Bureau of Investigation
Washington, D.C. 20535-0001

April 11, 2014

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

Dear Mr. Gillespie:

Your recent communication to the Federal Bureau of Investigation, Public Corruption Unit (PCU), has been received.

The primary function of FBI Headquarters is the administration of program management, policy formulation, training and other administrative duties. The review of complaint letters involving potential public corruption and related allegations is the responsibility of the appropriate FBI field office.

Accordingly, the PCU has forwarded your complaint information to the appropriate local FBI Field Office. Should you wish to provide any additional information related to this matter, please furnish the specific details directly to the below address.

UNOFFICIAL DOCUMENT

Sincerely,

Brian J. Nadeau
Unit Chief
Public Corruption Unit

Cc/Enc:
FBI Tampa
5525 West Gray Street
Tampa, FL 33609

Exhibit 13, Page 1 of 2

**IN THE CIRCUIT COURT OF THE FIFTH JUDICIAL CIRCUIT IN
AND FOR MARION COUNTY, FLORIDA**

NEIL J. GILLESPIE,

Plaintiff,

v.

Case No.: 2018-CA-2640

**FIFTH JUDICIAL CIRCUIT FLORIDA; SANDRA
SUE ROBBINS, Chief Judge, and Individually;
JONATHAN LIN, Trial Court Administrator,
and Individually; GRACE FAGAN, Circuit
Counsel, and Individually; KRISTINA VALDEZ,
Disability Coordinator; ANN MELINDA CRAGGS,
Circuit Court Judge, and Individually,**

Defendants.

ORDER OF DISMISSAL

THIS CAUSE came before the Court on Plaintiff's Response to Order Granting 60 Day Stay for Eye Surgery, filed on March 8, 2021. Having considered the same, reviewed the court file, and being otherwise duly advised in the premises, the Court finds as follows:

This Court entered an Order Granting Plaintiff's Amended Motion for a 60 Day Stay for Eye Surgery on February 23, 2021. Said order provided that, "Plaintiff shall file and serve an amended complaint on March 22, 2021. Failure of the Plaintiff to timely file and serve an amended complaint within the time allowed may result in denial of any further requests for extension of time and dismissal of the action." The record reflects Plaintiff has failed to file an amended complaint and has not ask for an extension. The Plaintiff has filed several motions with the court indicating that he is in jail in Pennsylvania and has filed motions in other cases, including a Writ of Habeas Corpus in the United States Supreme Court.

Further, the Plaintiff now has informed the court on March 19, 2021, by motion at page 5, that jurisdiction and venue in this case is in the United States District Court, Ocala

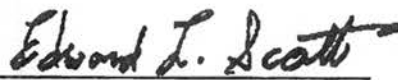
Exhibit 13, Page 2 of 2

Division, under 42 U.S.C 1983 and the Federal Americans with Disabilities Act 2008. Based on a lack of Jurisdiction and Venue,

It is,

ORDERED: the instant action is **DISMISSED**, *sua sponte*.

ORDERED in Ocala, Marion County, Florida this 14 day of April 2021.



EDWARD L. SCOTT
Circuit Judge

CERTIFICATE OF SERVICE

I **HEREBY CERTIFY** that a true and accurate copy of the foregoing has been furnished by the Florida Court's e-filing portal or U.S. Mail to the following this 14 day of April 2021:

Neil J. Gillespie
neilgillespie@mfi.net
Pro Se Plaintiff

Brittany Quinlan, Assistant Attorney General
Brittany.quinlan@myfloridalegal.com
Counsel for Defendants



Becky Knipe
Judicial Assistant

Exhibit 14, Page 10 of 13

MARION County Circuit Court
FIFTH JUDICIAL CIRCUIT FLORIDA

Neil J. Gillespie,
PLAINTIFF,

v,

CASE NO: 2018-CA 2640

FIFTH JUDICIAL CIRCUIT
FLORIDA, et al., DEFENDANTS

PLAINTIFF'S MOTION TO REINSTATE CASE
MOTION TO EXTEND TIME FOR AMENDED COMPLAINT

PLAINTIFF PRO SE Neil J. Gillespie MOVES TO REINSTATE THE CASE AND EXTEND TIME TO FILE AN AMENDED COMPLAINT, AND STATES AS

1. The Court entered order of DISMISSAL, SUA SPONTE, APR-14, 2021 because PLAINTIFF failed to file and serve an Amended Complaint by MARCH 20, 2021, The Court admits PLAINTIFF filed two motions showing he was in Jail in Pennsylvania, but the Court failed to construe his hand-written motions as asking for an extension of time. The Court states PLAINTIFF filed a "Writ of Habeas Corpus in the United States Supreme Court. (USSC). The USSC Docket does not show PLAINTIFF'S Petition for Habeas Corpus.
2. The PLAINTIFF prevailed on DEFENDANTS' motion to dismiss and was granted leave to file an Amended Complaint, initially on Dec-01-2020, and most recently by MAR-22-2021

Exhibit 14, Page 2 of 13

Motion to Reinstate
2018-CA-2648

Page 2 of 11

3. PLAINTIFF'S COMPLAINT ALLEGES VIOLATION OF, INTER ALIA, 42 USC SECTION 1983, CIVIL ACTION FOR DEPRIVATION OF RIGHTS, AND VIOLATION OF THE AMERICANS WITH DISABILITIES ACT (ADA) AMENDMENTS ACT OF 2008, IN THE WRONGLY FORECLOSURE OF HIS FLORIDA HOMESTEAD AT 8092 SW 113RD LOOP, OCOLA, MARION COUNTY, FLORIDA BY (DEFENDANT) JUDGE ANN MELINDA CRAIGS IN CASE NO. 2013-CA-115.
4. THE ORDER OF DISMISSAL NOW CLAIMS THE COURT LACKS JURISDICTION AND VENUE OVER 42 USC 1983 AND THE ADA AMENDMENTS ACT 2008, EVEN THOUGH PLAINTIFF PREVAILED ON DEFENDANT'S MOTION TO DISMISS, AND WAS GRANTED LEAVE TO FILE AN AMENDED COMPLAINT.
5. THE RECORD SHOWS PARTIAL BLINDNESS DISABILITY INITIALLY DELAYED PLAINTIFF'S ABILITY TO FILE A TIMELY AMENDED COMPLAINT. PLAINTIFF EVENTUALLY GOT RETINA SURGERY JAN-28-2021 AT WILLS EYE HOSPITAL IN PHILADELPHIA, BUT WAS ARRESTED FEB-04-2021 ON A BENCH WARRANT OF JUDGE GARY SANDERS IN CASE 2019-CF-4193 AND 2020-CF-2417 WHILE RECOVERING FROM EYE SURGERY AT A MOTEL IN PENNSYLVANIA.
6. THE RECORD IN CASE 2020-CA-934 SHOWS AT DOC 79 PLAINTIFF GAVE NOTICE UNDER SECTION 768.28 OF THE STATE'S TORT LIABILITY FOR, INTER ALIA, HIS DETACHED RETINA INJURY

Exhibit 14, Page 3 of 13

Motion to Reinstate

Page 3 of 11

2018-CA-2640

7. The Record in Case No. 2020-CF-2417 Shows At Doc 173 PLAINTIFF gave notice under section 768.28 OF the state's Tort Liability For, inter alia, denial OF A 60 DAY stay for eye surgery.
8. The section 768.28 Notice in 2020-CF-2417 also shows the state's liability for wrongful arrest and prosecution where Defendant Judge Craggs signed the Affidavit to arrest the Plaintiff on an "Infamous Crime" in violation of his Right under the Fifth Amendment to a Presentment or Indictment of a Grand Jury.
9. Plaintiff is currently incarcerated in the Bucks County Jail, Doylestown, Pennsylvania, since Feb 05-2021 and cannot file an Amended Complaint from Jail without his computer, printer, files, records and legal research.
10. Therefore the Plaintiff moves nunc pro tunc to extend time to file an Amended Complaint, from March 23 2021 until he is released from Jail, and home in Ocala, with his computer, printer, files, records and legal research.
11. Plaintiff withdrew two Responses submitted in this Court on March 1, 2021 and March 9, 2021 after he learned the extent of criminality against him by

Exhibit 14, Page 4 of 13

Motion to Reinstate
2018-CA-2640

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The Fifth Judicial Circuit in bringing UNCONSTITUTIONAL CHARGES AGAINST him for LAWFUL ONE-PARTY CONSENT Phone Recording, defending AGAINST HOME INVASION JUNE 7, 2021, AND A DIABOLICAL AND EVIL TRAP set by MARION County Circuit Judge GARY LAMAR SANDERS AGAINST THE PLAINTIFF.

12 Judge SANDERS ORDERED PLAINTIFF TO APPEAR IN CASE NO: 2019-CF-4193 FOR A "Faretta Hearing" JANUARY 20, 2021 TO LITIGATE AGAINST APPOINTED COUNSEL BRENDA SMITH. Judge SANDERS DENIED PLAINTIFF'S MOTION FOR A 60 DAY STAY FOR EYE SURGERY. ON JANUARY 20, 2021 PLAINTIFF WAS TOO DISABLED WITH BLINDNESS TO LITIGATE A SCHEDULED 2 HOUR FARETTA HEARING.

13. The Fifth Judicial Circuit WRONGLY FORCED APPOINTED COUNSEL ON THE PLAINTIFF IN CASE NO. 2019-CF-4193, IN VIOLATION OF FARETTA V. CALIFORNIA, 422 U.S. 806 (1975) FROM NOVEMBER 12, 2019 THROUGH JANUARY 20, 2021, INCLUDING THE PUBLIC DEFENDER, ZACHARY PHIPPS/OCCRC, AND BRENDA SMITH, ESQ, EACH OF WHOM PROVIDED INEFFECTIVE ASSISTANCE OF COUNSEL (WITH MALICE NEGLIGENT) IN VIOLATION OF STRICKLAND V. WASHINGTON, 466 U.S. 668 (1984)

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Motion To Reinstate
2018-CA-2640

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14. PLAINTIFF LEFT his home in OCALA JANUARY 20, 2021, AND got competent AND timely eye surgery JANUARY 28, 2021 AT WILLS EYE HOSPITAL IN Philadelphia to fix a detached Retina AND blindness disability.
15. PLAINTIFF HAS been INCARCERATED FOR 90 days fighting EXTRADITION TO Florida, so he MAY RETURN voluntarily with his Vehicle, computer, printer, Files, Records AND RESEARCH.
16. ON APRIL 6, 2021, PLAINTIFF WAS SERVED A GOVERNOR'S WARRANT IN the EXTRADITION that showed Judge SANDERS did not intend to hold a "FARETTA hearing" ON JANUARY 20, 2021, but had conspired with the MARION County Sheriff's Office (MCSO) to ARREST PLAINTIFF ON New CRIMINAL CHARGES IN CASE 2021-CF-²⁸637 FOR INTERCEPTION AND DISCLOSURE OF ORAL COMMUNICATION, PER AN ARREST AFFIDAVIT by Billy BURKESON OF THE MCSO, REPORT NUMBER MCSO055ARR 004315, CASE NUMBER MCSO 21 OFF 001350.

FLA. STAT. SEC 934.03.1a INTERCEPTION OF ORAL COMMUNICATION
FLA. STAT. SEC 934.03.1c DISCLOSURE OF COMMUNICATION
17. The alleged victim, JANINE LUKER, A PERSON PREVIOUSLY UNKNOWN TO THE PLAINTIFF, LET SARAH THOMPSON CALL PLAINTIFF ON A cell phone in the NAME OF "CARLOS RODRIGUE", A PERSON

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Also unknown to the PLAINTIFF. ON November 24, 2020, MS. LUKER FACILITATED Phone calls on the phone of CARLOS RODRIGUE, FROM SARAH THOMPSON TO PLAINTIFF, AND TO A person believed to be THOMPSON'S drug dealer. MS. LUKER ALSO PROMISED PLAINTIFF THAT her PARENTS would accompany him to eye surgery in Gainesville, also people the PLAINTIFF did not know. Therefore, the PLAINTIFF Reported this highly suspicious call to Federal and state authorities, AND counsel for the DEFENDANTS in CASE NO. 2020-CA-934.

18. SARAH THOMPSON is the Alleged Victim in 2020-CF-2417, A home invasion by her June 7, 2020, AND CHARGED wrongfully AS A CRIME TO THE PLAINTIFF JUNE 13, 2021,

FLA. STAT. 784.03.1A1 BATTERY

FLA. STAT. 812.131.26 ROBBERY BY SUDDEN SNATCHING
WITHOUT A DEADLY WEAPON

19. MCSO BURLESON'S AFFIDAVIT IN 2021-CF-²⁸⁶~~637~~ FALSELY STATES, "I discovered there were nine recorded phone calls, eight of which were to SARAH THOMPSON..." THAT IS A FALSE STATEMENT. SEVEN CALLS WERE FROM SARAH THOMPSON TO THE PLAINTIFF, ONE CALL WAS FROM JOHANNA THORNDIKE (SARAH'S SISTER) TO THE PLAINTIFF, DUE TO THE NATURE OF THE CALLS - ANOTHER CALL WAS WITH A MOTEL SARAH DAMAGED, PLAINTIFF REPORTED

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Motion to Reinstate

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2018-CA-2640

The calls to Federal and state Authorities, AND Defense Counsel in Case No. 2020-CA-934,

20 MCSO Burleson also lied about the Plaintiff having "Contact with Thompson in violation of his conditions of Pretrial Release", There were no enforceable contact Restrictions with Thompson because Judge CRAIGS Lied in the Arrest Affidavit in 2020-CF-2417 that Thompson and Plaintiff lived together in the same house at 8092 SW 115th Loop, but had no provision for one person to leave the premise. Furthermore, Thompson appeared pro se in 2020-CA-934 for unlawful detainer, and Judge CRAIGS allowed the Plaintiff, who also appeared pro se, to contact Thompson regarding Case No 2020-CA-934. Plaintiff also owed a duty to Thompson, who was homeless, help under the "Good Samaritan Act", Fla. Stat. 768.13, to render good faith emergency care,

21. Therefore, MCSO Burleson violated Florida Law which he had to cause the Plaintiff's arrest, under:

Fla. Stat. 837.06 False Official Statements

Fla. Stat. 838.022 Official Misconduct

Fla. Stat. 839.13 Falsifying Records

Fla. Stat. 112.313(6) Misuse of Public Position

Exhibit 14, Page 8 of 13

Motion to Reinstate
2018-CA-2640

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22. The PLAINTIFF NEVER unlawfully intercepted a phone call, which is wiretapping, see Doc 172, PLAINTIFF'S Constitutional challenge to chapter 934 Florida statutes in Case No. 2020-CF-2417.
23. However, PLAINTIFF records phone calls to which he is a party, called one-party consent, which is lawful under Federal Law (18 USC 2511) and protected by the Supremacy Clause of the U.S. Constitution.
24. One-party consent is lawful in 38 states, and therefore protected by the Equal Protection Clause of the U.S. Constitution.
25. The PLAINTIFF recorded a one-party consent call with Attorney Zachary Phipps of the OCCRC appointed to represent him in 2019-CF-4193. During the call MR. Phipps admitted that the Plaintiff was competent to stand trial, thereby impeaching Phipps' Motion for a Psychological Exam of Plaintiff.
26. The Plaintiff had a recording of the call with MR. Phipps transcribed and filed on the record in 2020-CF-2417 at Doc 159.
27. Judge Sanders accepted the recorded call and the transcript as evidence to grant Dr. Tonya Wernel's motion, Doc 270 in case 2019-CF-4193, to withdraw

Exhibit 14, Page 9 of 13

Motion to Reinstatement
2018-CA-2640

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From the Case and drop the EXAM ordered on Plaintiff.

28. Therefore MARION County Circuit court Judge GARY SANDERS LEGALIZED ONE-PARTY CONSENT in the State of Florida,
29. Recently the PLAINTIFF RECEIVED in the U.S. MAIL 3 POSTCARDS FROM SARAH THOMPSON MAILED while she WAS INCARCERATED in the MARION County Jail, FROM JAN-08-2021 through MAR-25-2021, CASE 2021-MM-171.
30. The Front of the 3 Postcards APPEARS AT Exhibit 1. The MESSAGE OF THE 3 Postcards APPEARS AT Exhibit 2. MS. THOMPSON wrote she MISSES THE PLAINTIFF, AND "I MUST Love you", MS. THOMPSON ALSO WROTE "I NOW HAVE 70 Days Sobriety and have NO desire to ever go back to that Life Again."
31. The PLAINTIFF RECORDED 7 Phone calls He RECEIVED FROM MS. THOMPSON, AND 1 Phone call FROM THOMPSON'S SISTER JOHANNA, REQUESTING THE PLAINTIFF'S help AND PROTECTION.
32. Sheriff Woods and his gang, including Billy Burleson, MISREPRESENTED those calls to cause the PLAINTIFF'S ARREST in MARION County case NO. 2021-CF-637. 286

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Motion to Reinstate
2018-CA-2640

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WHEREFORE, the PLAINTIFF moves to Reinstate the case. The PLAINTIFF moves to extend time to file an Amended Complaint nunc pro tunc from March 22, 2021 until he is released from jail and home in Ocala at 8092 SW 115th Loop, with his vehicle, his computer, printer, files, records and legal research.

In the alternative, the PLAINTIFF moves to settle this case against the Defendants as follows:

1. Immediate Release from incarceration and/or detainer in Pennsylvania, Florida, or any other state, or the United States (Federal). Recall the bench warrant of Judge Sanders, Restore PLAINTIFF'S Bonds, and Release PLAINTIFF on his own recognizance hence forth now and for any other crime.

2. Return his Florida Homestead located at 8092 SW 115th Loop, Ocala, Marion County, Florida, with a free and clear title, unencumbered, and strike and dismiss the foreclosure with prejudice.

Respectfully Submitted MAY 2, 2021.

Neil Joseph Gillespie

Neil Joseph Gillespie, BC# 131166

Exhibit 14, Page 11 of 13

Motion to Reinstate
2018-CA-2640

Page 11 of 11

Bucks County Jail #15
1730 S. EASTON ROAD
DOYLESTOWN, PA 18901

FLORIDA ADDRESS
8092 SW 115th Loop
OCAIA, Florida 34481

Certificate of Service

I hereby certify this Motion to Reinstate was
provided by U.S. MAIL First Class to:

MARION County clerk
P.O. Box 1030
OCAIA, Florida 34478

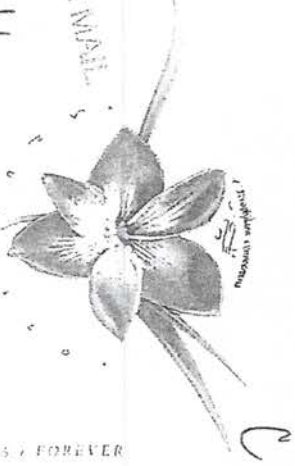
BRITTANY QUINLAN, AAG
OFFICE OF ATTORNEY GENERAL
501 E. Kennedy Blvd #1100
TAMPA, FL 33602-5242

Signed, Nel J. Gillespie
Nel J. Gillespie

Neil Gillespie
8092 SW 115th Loop
Ocala, FL
34402

Sarah Thompson
3290 NW 10th St
Ocala, FL
34475-4550

INMATE MAIL



USA / FOREVER

Sarah Thompson
402239
3290 NW 10th St
Ocala, FL
34475-4550

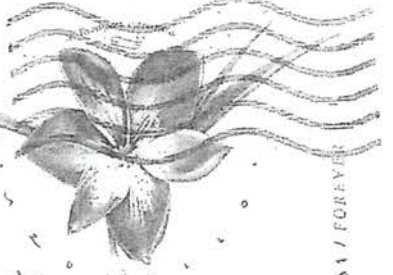
JACKSONVILLE FL 320
INMATE MAIL
19 JAN 2021 2PM 2 L



Neil Gillespie
8290 SW 115th Loop
Ocala, FL
34402

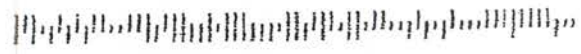


Sarah Thompson
3290 NW 30th St
Ocala, FL
34475
JACKSONVILLE FL 320
INMATE MAIL
26 JAN 2021 PM 2 L



USA / FOREVER

Neil Gillespie
8290 SW 115th Loop
Ocala, FL
34402



C

Exhibit 15, Page 1 of 1

MARION County Circuit Court
Fifth Judicial Circuit Florida

Neil J. Gillespie

v.

CASE NO: 2018 CA2640

Fifth Judicial Circuit, Florida,
Circuit Judge ANN MELINDA CRAIG, et al

NOTICE OF APPEAL

PLAINTIFF PRO SE Neil J. Gillespie gives notice of Appeal to the
5th District Court of Appeal of the Order Denying Plaintiff's
Motion To Reinstate Case entered on or about July 29, 2021

Respect Fully Submitted August 5, 2021

Neil Gillespie

Neil Joseph Gillespie
MARION County Jail, Med B, 114B
3290 NW 10th Street
OCALA, FL 34475

Home Address
8092 SW 115th Loop
OCALA, FL 34481

AO 255941

Certificate of Service

I Hereby certify that on August 6, 2021 I Mailed
this NOTICE OF APPEAL to the Following:

MARION County Clerk
P.O. Box 1030
OCALA, Florida 34478

BRITTANY QUINLAN, Asst. Atty. General
OFFICE OF THE ATTORNEY GENERAL
TAMPA Civil Litigation Bureau
501 E. Kennedy Blvd, Ste 1100
TAMPA, FL 33602-5242

signed Neil Gillespie
Neil Joseph Gillespie



Jefferson Health.

833 Chestnut Street, Suite #115 | Philadelphia, PA 19107

STATEMENT

i For assistance, please call:
 Toll-Free 1-844-308-4672 | Local 1-215-971-8370
 Monday–Thursday 8:00am–8:00pm
 Friday 8:00am–5:00pm; Saturday 9:00am–1:00pm

Addressee

NEIL JOSEPH GILLESPIE
 8092 SW 115TH LOOP
 Ocala FL 34481-3567

Page 1 of 1

Pay Online

FAST
SIMPLE
SECURE

Jefferson.edu/MyChart

| Account Number | Due Date | Amount Due | Amount Paid |
|----------------|--------------|------------|-------------|
| 6385903 | Upon Receipt | \$210.81 | \$ |

Please make checks payable and remit to:

JEFFERSON HEALTH
 PO BOX 785992
 PHILADELPHIA, PA 19178-5992

Check if address/insurance changes are on back

0000638590330000210813

Exhibit 16, Page 1 of 1

Please detach and return top portion with payment.

| Account Number | Account Name | Statement Date | Due Date |
|----------------|-----------------------|----------------|--------------|
| 6385903 | NEIL JOSEPH GILLESPIE | 02/18/2021 | Upon Receipt |

| Date | Service Description | Charges | Payments/ Adjustments | Patient Balance |
|--------------------------|---|------------|-----------------------|-----------------|
| Hospital Services | | | | |
| | Neil Joseph Gillespie Location: JEFFERSON HOSPITAL NEUROSCIENCE Visit # 29420603 Dates of Service: 1/23/2021 - 1/24/2021 | | | |
| 02/18/2021 | EMERGENCY ROOM-GENERAL | \$1,177.00 | | |
| 02/18/2021 | INSURANCE PAYMENT - MEDICARE | | -\$31.23 | |
| | CONTRACTUAL WRITE-OFF - MEDICARE | | -\$934.96 | |
| | Total | | | \$210.81 |
| | Total Hospital Services Balance | | | \$210.81 |

MESSAGES

Thank you for choosing Jefferson Health. The balance reflected on this statement is your responsibility. Prompt payment is appreciated.

INSURANCE INFORMATION

Primary:MEDICARE
 Secondary:Not on file

AMOUNT DUE: \$210.81

712121 - 22894018-000595-01/01-0-0-0

Wills Eye Hospital
 PO Box 829157
 Philadelphia, PA 19182

RETURN SERVICE REQUESTED

Patient Name: Neil Gillespie
 Billing Phone: 215-825-4733

IF PAYING BY VISA, MASTERCARD, DISCOVER OR AMERICAN EXPRESS, FILL OUT BELOW

VISA MASTERCARD DISCOVER AMER. EXP.

CARD NUMBER: _____ EXP. DATE: _____ AMOUNT: _____

SIGNATURE: _____ MUST INCLUDE 3 DIGIT SECURITY CODE FROM BACK OF CARD

| STATEMENT DATE | PAY THIS AMOUNT | ACCOUNT NO. |
|----------------|-----------------|-------------|
| 3/25/2021 | \$818.85 | 344741 |

CHARGES AND CREDITS MADE AFTER STATEMENT DATE WILL APPEAR ON NEXT STATEMENT

SHOW AMOUNT PAID HERE

Stmnt ID#: 1195205485



NEIL GILLESPIE
 8092 SW 115TH LOOP
 Ocala FL 34481-3567

Wills Eye Hospital
 PO BOX 829157
 PHILADELPHIA PA 19182-9157

Exhibit 17, Page 10A1

Please check box if above address is incorrect or insurance information has changed, and indicate change(s) on reverse side.

STATEMENT

PLEASE DETACH AND RETURN TOP PORTION WITH YOUR PAYMENT IN ENCLOSED ENVELOPE

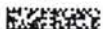
| Date | Procedure Code | Description | Payments/Credits | Adjustment | Insurance Due | Balance | Deductible | Copay | Coinsurance |
|----------|----------------|-------------------------------|------------------|------------|---------------|---------|------------|-------|-------------|
| 1/28/202 | | Balance Forward | 0.00 | | 0.00 | 0.00 | | | |
| 1/28/202 | | RPR COMPLEX RETINA DETACH VIT | 9886.00 | | 0.00 | 818.85 | | | |
| 2/19/202 | | Medicare Write Off | | 5791.73 | | | | | |
| 2/19/202 | | Medicare Payment | | 3275.42 | | | | | |
| 1/28/202 | C-1814 | IMP SILICONE OIL ALCON 1000 | 501.82 | | 0.00 | 0.00 | | | |
| 2/19/202 | | Medicare Write Off | | 501.82 | | | | | |
| 1/28/202 | L8610 | IMP SILICONE STRIP 41 | 25.54 | | 0.00 | 0.00 | | | |
| 2/19/202 | | Medicare Write Off | | 25.54 | | | | | |
| 1/28/202 | L8610 | IMP SILICONE SLEEVE 70 | 16.13 | | 0.00 | 0.00 | | | |
| 2/19/202 | | Medicare Write Off | | 16.13 | | | | | |

| AGING CURRENT | AGING 30 | AGING 60 | AGING 90 | AGING 120 |
|---------------|----------|----------|----------|-----------|
| 0.00 | 818.85 | 0.00 | 0.00 | 0.00 |

Please Pay This Amount

\$818.85

| | |
|-------------------------|--------|
| Please Pay This Amount: | 818.85 |
| Insurance Pending: | 0.00 |
| Last Payment Date: | |
| Last Payment Amount: | |



STATEMENT
 SEE REVERSE SIDE FOR IMPORTANT BILLING INFORMATION

MARION County Circuit Court
Fifth Judicial Circuit Florida

Exhibit 18, Page 1 of 12

State of Florida

V.

CASE NO: 2020CF2417

Neil Joseph Gillespie

Defendant's Motion To Modify Conditions of Pretrial Release

Defendant prose, Neil Joseph Gillespie, moves under F.S. 903.047 to Modify conditions of Pretrial Release, and states:

1. F.S. 903.047, 1(b) Allows The Court to Modify Conditions of Pretrial Release for good cause and in the interest of Justice.
2. The First Appearance order in this case shows no contact with the Alleged Victim, Sarah Thompson, and was modified orally by the Presiding Judge, Ann McLinda Craggs, to allow contact related to case 2020CA934 for UNLAWFUL DETAINEE against Ms. Thompson, et al.
3. The Defendant is the Plaintiff in 20CA934, appearing prose, and Ms. Thompson is a Defendant appearing prose in the case, thereby, requiring direct contact. This fact has led to misunderstanding with the Marion County Sheriff's Office. (MCSO). see clerk Default, ex 3
4. Grounds exist to remove the no contact condition for good cause and in the interest of Justice.
5. Ms. Thompson shows no fear of the Defendant as would be expected by an actual crime victim.
6. Ms. Thompson asked the Defendant for a ride on June 7, 2020 after her violent rampage at his home. The Defendant denied her request as shown in email to the MCSO, state attorney Brad King, and other persons.

Motion to Modify Conditions
OF PRETRIAL Release

Exhibit 18, Page 2 of 12

2020 CF 2417

PAGE 2

7. IN the days AFTER the DEFENDANT'S ARREST IN this CASE ON June 13, 2020, MS. THOMPSON CALLED him AND came to his home IN BREACH OF NO CONTACT.
8. The Defendant Reported MS. THOMPSON'S CONTACT by EMAIL to Judge CRAIGS, The MCSO, State Attorney KING, AND other PERSONS, but got NO Reply. EMAIL FROM MCSO GENERAL Counsel TIM McCourt Shows MR. McCourt INFORMED MS. THOMPSON OF NO CONTACT.
9. MS. THOMPSON WAS ARRESTED ON drug charges IN Sumter County. She WAS SERVED the AMENDED Complaint IN CASE 20CA934 WHILE IN Jail by the Sumter County Sheriff.
10. DURING her INCARCERATION IN Sumter County, MS. THOMPSON'S Cellmate wrote to the Defendant, A Jail Postcard SENT ON BEHALF OF THOMPSON expressing her Regret FOR the incident June 7, 2020 AT Defendant's home. The Defendant PROVIDED A copy OF the Postcard to the State Attorney's Office AND to other PERSONS by EMAIL.
11. AFTER her Release FROM Jail IN Sumter County, MS. THOMPSON Returned to MARION County AND eventually Established A homeless CAMP FOR herself ACROSS the street FROM the Oak Run Country Club where the Defendant Lived. The Defendant PROVIDED Photos OF MS. THOMPSON'S Homeless CAMP, Made IN A dumpster bin behind newly constructed stores ON SW 200 ACROSS FROM OAK RUN, TO the State Attorney's Office AND Counsel IN 20CA934.

Motion to Modify Conditions

2020CF2417

OF PRETRIAL Release

Exhibit 18, Page 3 of 12 Page 3

12. ON November 9, 2020, MS. THOMPSON stalked the Defendant to the Ocala Pharmacy on SW 200. MS. Thompson was sitting on the ground by the front of the Defendant's minivan when he exited the Pharmacy. MS. Thompson asked the Defendant for food and housing as she was hungry, broke, and homeless. The Defendant reported this contact to the State Attorney's Office, and Counsel in case 20CA934.
13. MS. Thompson told the Defendant she overdosed on drugs after leaving the Sumter County Jail, and needed 2 NARCAN to be revived. This shocked the Defendant and caused him great concern for her. The Defendant reported this contact to the State Attorney's Office, and Counsel in case 20CA934.
14. The Defendant provided Ms. Thompson a key to the storage unit on SW 200 with her belongings after the State Attorney, Brad King, abandoned their joint effort to return Thompson's property to her. This effort by the Defendant resulted in his detached retina, left eye, requiring surgery. The Defendant reported this contact to the State Attorney's Office and Counsel in case 20CA934, see, second notice under F. 3768, waiver of immunity, in case 20CA934, Nov-18-2020, Doc. 79.
15. ON OR ABOUT NOV-12-2020 MS. THOMPSON asked the Defendant to deposit a check in his bank account and give her the funds when it cleared so she could rent an apartment. The check was from a motel in Ocala payable to Sarah Thompson for approximately \$1,400. The Defendant deposited the check in his Chase Bank account so that MS. Thompson could use the money, once the check cleared, to rent an apartment, and stop contacting him for food and shelter.

16. Shortly AFTER depositing Ms. Thompson's check in his bank Account, the Defendant viewed A copy OF the check AND noticed A Misspelled Street Address For the Motel, AND Further investigation showed the Motel closed 5 years Ago. The Defendant immediately notified CHASE Bank that the check was bad. A week or so later the check bounced for being written on A closed Account, the Defendant Reported this contact to the state Attorney's office, Counsel in case 20CA934, AND LAW enforcement.

17. Ms. Thompson also called the Defendant A number of times ON his home office business Phone. All calls ON 352-854-7807 ARE Recorded for quality Assurance Purposes Pursuant to the business use exception under F.S. 934.02(4)(a)(i), AS stated ON his Public website at www.nosue.org/telephone-recording, For his Justice Network organization established in 2010, AND his Political Campaigns, most recently Neil J. Gillespie For President, Principal Campaign Committee ID: C00627810, the Defendant Provided wav Files OF these calls to the state Attorney's office, Counsel in case 20CA934, AND LAW enforcement.

18. The Defendant Received Phone calls From Ms. Thompson Requesting his help AND Protection when she WAS homeless, hungry, AND destitute, AND at Risk From cold winter weather while sleeping outdoors. The Defendant Provided wav Files OF these calls to The state Attorney's office, Counsel in case 20CA934 AND LAW enforcement.

19. ON CHRISTMAS DAY, December 25, 2020, MS. Thompson contact the Defendant AFTER she was Robbed of her money, drugs, and State issued ID, AFTER Falling UNCONSCIOUS while doing drugs in A Motel Room with OTHER drug users on Christmas eve, December 24, 2020. without her ~~State issued ID~~ state-issued ID, MS. Thompson could not Rent A Motel Room or Lodging.
20. Another time MS. Thompson called the Defendant AFTER she was Kicked out of A Motel, and STRANDED in the PARKING lot with her belongings. This call was Provided by WAF file to the STATE ATTORNEY'S OFFICE, Counsel in 20CA934, AND LAW ENFORCEMENT. MS. Thompson told the Defendant she was banned from WyndHAM Hotels AND All their Related Hotels AND Motels.
21. The Presiding Judge in case 20CA934, Judge Hodges, Failed to Rule on the Defendant's Petition for Injunction Against Repeat Violence to Protect the Plaintiff Neil J. Gillespie from Repeat violence by MS. Thompson, see second notice under F.S. 768.28 waiver of immunity in case 20CA934, Doc 79.
22. ON OR About JAN-06-2021 The Defendant told JOHANNA ThonDike he did not want contact with her sister, SARAH Thompson. Defendant Provided A WAF file of the Phone call to the STATE ATTORNEY'S OFFICE, Counsel in 20CA934, AND LAW ENFORCEMENT.
23. MS. Thompson was ARRESTED JAN-08-2021 For Domestic Violence BATTERY upon her sister JOHANNA ThonDike while sharing A Motel Room on silver springs Blvd. in Ocala, See Docket/case NO 21MM171. MS. Thompson WAS INCARCERATED in the MARION County Jail From JAN-08-2021 through MAR-25-2021, inmate ID # A0223902, Represented by the Public Defender.

24. Ms. Thompson continued to CONTACT the Defendant FROM the MARION County Jail, with the help AND ASSISTANCE OF Sheriff Billy Woods ON THREE SEPARATE OCCASIONS. Sheriff Woods PROVIDED MS. THOMPSON WITH POSTCARDS she sent to the Defendant FROM Jail. Sheriff Woods DEPOSITED Thompson's POSTCARDS in the U.S. MAIL Addressed to The Defendant.
25. The Front side of the Postcards appears AT Exhibit 1 and show "inmate MAIL" FROM SARAH THOMPSON, 3290 NW 30th ST, Ocala FL 34475, the Jail Address, to Neil Gillespie, 8092 SW 115th Loop, Ocala, FL 34482.
26. The back side of the Postcards with the message appears AT Exhibit 2.
- Ms. Thompson wrote the Defendant ON JAN 26, 2021 in part that she wants to spend Valentine's Day with him "FACE TO FACE", AND ASKED THE DEFENDANT FOR his help with her case
 - Ms. Thompson wrote to the Defendant ON FEB 16, 2021 in part that she misses the Defendant, AND HAS BEEN THINKING ABOUT HIM AND COOKING FOOD AT his home.
 - MS THOMPSON wrote to the Defendant ON MAR-19-2021 in part "I MUST LOVE YOU" AND "I NOW HAVE 70 DAYS SOBRIETY AND HAVE NO DESIRE TO EVER GO BACK TO THAT LIFE AGAIN!!"
27. This motion shows MS. THOMPSON has two sides. When she is under the influence of illegal drugs, MS. THOMPSON is A violent AND dishonest person, AND A danger to Society. But when sober, MS. THOMPSON is A normal, friendly person, intelligent, capable of introspection, AND who enjoys spending time with the Defendant, AND CLAIMS she loves him.

Motion to Modify Conditions
of Pretrial Release

Exhibit 18, Page 7 of 12

Page 7

28. The Defendant Moves to Modify the Conditions of Pretrial Release for good Cause and in the Interest of Justice, NUNC PRO TUNC, to June 14, 2020, to Remove the NO CONTACT PROVISION.

29. The Defendant Further Moves to Modify the Conditions of Pretrial Release for good Cause and in the interest of Justice, NUNC PRO TUNC, to JAN-19-2021 to Grant the Defendant A 60 Day stay for eye surgery, Restore his bond, And Release him from incarceration with time served since his arrest on Feb-04-2021.

WHEREFORE, the Defendant Moves NUNC PRO TUNC June 14, 2020 to Remove the NO CONTACT PROVISION. Defendant Further Moves NUNC PRO TUNC JAN-19-2021 to Grant the Defendant A 60 Day stay for eye surgery, Restore his bond, And Release him from incarceration with time served since his arrest Feb 4, 2021

Respectfully Submitted May 31, 2021.

Neil Joseph Gillespie

Neil Joseph Gillespie
MARION County Jail, Med B, 114B
3290 NW 10th Street
OCAIA, FL 34475
INMATE # A0255941

Home Address
8092 SW 115th Loop
OCAIA, Florida 34481

Certificate of Service

I hereby certify this Motion was served MAY 31, 2021 by U.S. Mail to the following:

MARION County Clerk
P.O. Box 1030
OCAIA, FL 34478

STATE Attorney's Office
110 NW 1st Ave, Suite 5000
OCAIA, FL 34475

Signed Neil Joseph Gillespie
Neil Joseph Gillespie

~~STATE Attorney's Office~~
~~110 NW 1st Ave, Suite 5000~~
~~OCAIA, FL 34475~~

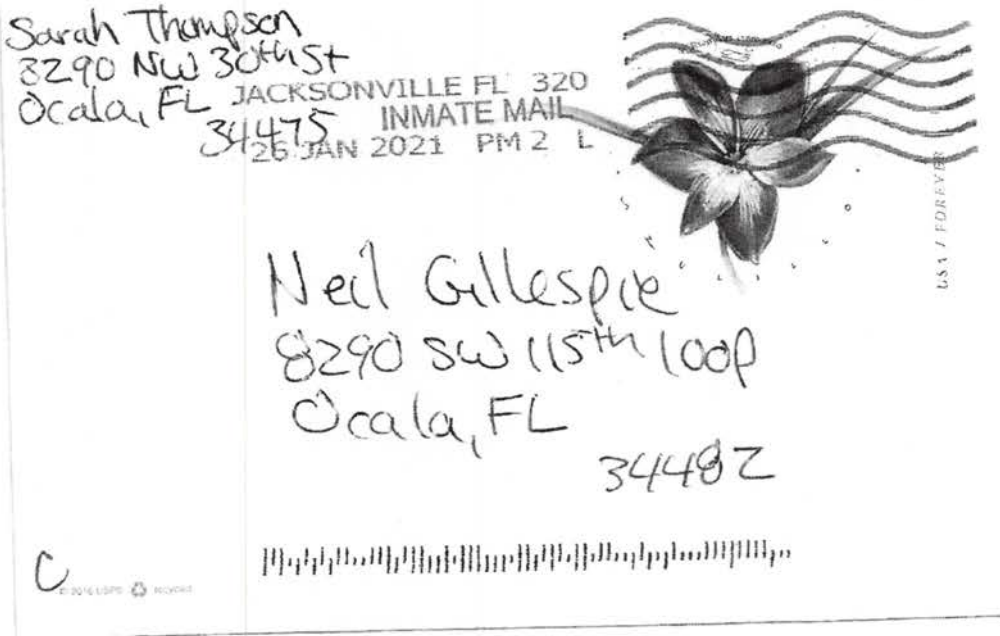


Exhibit 1

Exhibit 18, Page 8 of 12

Dear Neil, (Miss you!) ^{Hopefully be home soon 7-16-22}
 Hey! I hope this postcard finds you well. I've been thinking about you and cooking & food at your house. I'm starting all the time! I go to court 02/24 and will be getting time served but I still got my charges in Sumter County. So I have to wait until they come to get me. My attorney for Sumter is Gregory Williams maybe you could let him know I will be done with my case on the 17th and see if he can put me in to be transported right away. Or see if I can do a doo court from here. I just wanna get out of here. I will have been locked up 48 days for Neil get Neil. Hope you had a great Valentines Day 1/32

Hey Neil, V&V 03/17/22
 I hope you are all up & well. I haven't heard anything from you or received any books so my imagination is starting to get the best of me. As you can see I am still sitting in Marion County Jail, still have no idea what is going on in my Sumter case, and I'm still the happiest I have been in a long time!! I now have 70 days sobriety and have no desire to ever go back to that life again!! This "vacation" is just what I needed to start getting my life onto the right track and realizing frankly FUCK EVERY 1. AA AA I just gotta start doing what's best for me all the time and not worry about everyone else. My new slogan: Not My Pussy Not My Problem. Hope

Dear Neil,
 Well as you can see my sister really got me this time or I guess I got me, not really sure. I was hoping my charges would be dropped by night in order for that to happen. Johanna Wale have to go to the state Attorney's office and recant her statement. I'm not sure if she even knows how to do that because I'm not allowed any contact with her directly or indirectly. I have been thinking about you alot wishing/dreaming I was there cooking food now. I'm constantly starving. I'm hoping you can figure out how to get me out of here. When I ask ~~you~~ something always seems to happen so I hope to be able to spend Valentines day face to face. My next court date is 02/08 my PD is Sean Gravel, 30yr old, new attorney for my sumter PD is C. reg Williams.

Exhibit 2

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Exhibit 3

IN THE CIRCUIT COURT OF THE FIFTH JUDICIAL CIRCUIT FLORIDA
IN AND FOR MARION COUNTY

NEIL J. GILLESPIE,

Plaintiff,

CASE NO. 2020-CA-934

SARAH MAY THOMPSON, MARION
COUNTY BOARD OF COUNTY
COMMISSIONERS (BOCC), MARION
COUNTY SHERIFF'S OFFICE (MCSO),
TIMOTHY MCCOURT GENERAL COUNSEL
MCSO, LT. CHARLES WELCH SOUTH
MARION DISTRICT COMMANDER MCSO,
WILLIAM WOODS SHERIFF MARION
COUNTY MCSO, BRAD KING STATE
ATTORNEY, OFFICE OF THE STATE
ATTORNEY FIFTH JUDICIAL CIRCUIT FLORIDA,
MICHAEL GRAVES PUBLIC DEFENDER, OFFICE
OF MIKE GRAVES PUBLIC DEFENDER,
SUSAN D. BAILEY ASSISTANT PUBLIC DEFENDER,

Exhibit 18, Page 10 of 12

Defendants,

MOTION FOR DEFAULT AGAINST DEFENDANT SARAH MAY THOMPSON

Plaintiff moves pursuant to Fla. R. Civ. P. 1.500 (a) for entry of default in the above styled cause for failure of Defendant, **Sarah May Thompson**, to file or serve a pleading or other paper within the time required by law.

Dated November 16, 2020.



Neil J. Gillespie, Plaintiff
8092 SW 115th Loop
Ocala, FL 34481
Tel. 352-854-7807
Email: neilgillespie@mfi.net

MOTION FOR DEFAULT AGAINST
DEFENDANT SARAH MAY THOMPSON

ENTRY OF DEFAULT

Exhibit 18, Page 11 of 12

It appears that Defendant, Sarah May Thompson, in the above styled cause, having been duly served according to the law, and said Defendant having failed to file or serve any paper herein, Default is hereby entered against said Defendant.

NOTE TO CLERK: In the event that any of the aforementioned Defendants have timely filed any paper in the above styled cause, or should their return of service not be filed, then please strike the name of such Defendant from the above motion.

Dated this 19th day of November, 2020.

DAVID R. ELLSPERMANN,
CLERK OF THE CIRCUIT COURT

As Clerk of the Court



BY: M. Tucker
Deputy Clerk

CERTIFICATE OF SERVICE

I HEREBY CERTIFY that a true and correct copy of the foregoing was served on the Florida Portal November 16, 2020 to the following names:

Defendant Sarah May Thompson, pro se.
14445 SW 34th Terrace Road
Ocala, Florida 34473-2432
Phone Number: 352-320-9729
Email: scarah6985@yahoo.com

Ashley Moody, Attorney General, for State of Florida Defendants.
Brittany Quinlan, Assistant Attorney General
Office of the Attorney General
Tampa Civil Litigation Bureau
501 E. Kennedy Blvd., Suite 1100
Tampa, FL 33602-5242
Tel: (813) 233-2880 Fax: (813) 233-2886
Brittany.Quinlan@myfloridalegal.com

MOTION FOR DEFAULT AGAINST
DEFENDANT SARAH MAY THOMPSON

Tyrell.Daniel@myfloridalegal.com
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Exhibit 18, Page 12 of 12

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Marion County Attorney's Office
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Ocala, Florida 34471
(352) 867-7707



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Tel. 352-854-7807
Email: neilgillespie@mfi.net

Neil Joseph Gillespie
MARION COUNTY JAIL, No. 6, 114B
3290 NW 10th Street
OCALA, Florida 34476
INMATE ID # A0255941



Clerk of Court
United States District Court
Middle District of Florida
OCALA Division
207 N.W. Second Street
OCALA, Florida 34475

INMATE MAIL

SCREENED
By USMS

Legal Mail 1 of 2

Neil Joseph Gillespie

MARION COUNTY JAIL, MED B, 114B

3290 NW 10th Street

Ocala, Florida 34475

Inmate ID # A0255941



INMATE MAIL

SCREENED
By USMS

Clerk of Court
United States District Court
Middle District of Florida
Ocala Division
207 N.W. Second Street
Ocala, Florida 34475

Legal mail 20Fa