

RECEIVED, 04/05/2024 01:45:22 PM, Clerk, Six District Court of Appeal

PETITION FOR SIXTH DISTRICT COURT OF APPEALS
TO INVESTIGATE THE COURT RECORD FOR CAUSE OF MANIFEST
INJUSTICE ALTERNATIVELY FIND CURE OF PREJUDICIAL DEFECTS
IF POSSIBLE, BY MANDATE THAT COUNTY COURT CONTINUE AND
THE DEFENSE ALLOWED TO BRING ITS ENTIRE CASE DURING THE
OVERSIGHT OF APPEAL INVESTIGATION OF THE RECORD AND FIND
FOR OTHER RELIEF AS THE COURT DEEMS JUST

COMES NOW, Defendant, Edward Garczynski, certifying that a good and substantial cause exists in the interest of justice for granting this Petition in order to prejudicially limit the admission of exculpatory and documentary evidence and otherwise shutting the defense case by a number of bench rulings issued by the Ninth Judicial Circuit In and For Osceola County, Florida, in error, County Court Judge Gabrielle Sanders-Morancy presiding. This Petition is timely demanded and is ripe for review to notice the court transcript for prejudicial plain error working manifest injustice and cure violations of fundamental constitutional protections and statutory rights by mandate that the Courts afford defendants there right to bring there defense case in its entirety or cause the case to be dismissed if that is deemed fair and just. The Petition is not to be considered as a waiver of any other right, remedy, and defense which has been raised by objection and challenged on the record or as a waiver to rights and remedies which may be raised after review of the court record in this case. The defendant filed a Notice of Appeal and Grounds for a Stay Pending Appeal on March 19, 2024 by the Florida E-File Portal and by serving the same upon the Plaintiff. The Appeals Courts receiving this Petition are presumed to know their duties to insure that a fair and impartial justice is served and that the integrity of the courts is protected when presented with timely notice of a viable cause of action in a rush to judgement case where the defense is shut of the trial by distress of the Trial Court or by plain error.

ERROR

Error 1. The Court erred by not giving immediate consideration to any available and viable remedy of the situation to protect the integrity of the Court and fairness of the trial when receiving answer from defendant and thoroughly reading thru it and not granting, denying, or setting for hearing a Motion to Determine rent set forth by the defendant.

Error 2. The Court erred by not setting forth a hearing to allow for objection from Defendant concerning Plaintiffs Motion for Default Payment of Rent and the seeing the amount Plaintiff claims Defendant owed currently was substantially higher then complaint.

Error 3. The Court erred in not calculating the Florida Statute time for a 3-Day Notice to become valid or invalid as the 3-Day notice was considered invalid by Florida Statue 83.56 requiring an extra 5 business days for payment if payment for 3-day notice is to be made to a P.O. Box or Out-of-Town address, which containing in complaint, payment was to be made to another county within the State of Florida.

Error 4. The Court erred in granting Defendant an Emergency Motion to Stay Execution of Writ and Vacate Judgement to allow Defendant to set Hearing to plead his case and the many records that Defendant has to refute Plaintiffs claim and was quick to rush to judgment without affording Defendant a through explanation as to why the Emergency Motion to Stay Writ and Vacate Judgment was denied.

As the situation with the hearing, motions, and focus ability of the Presiding Judge, and as compounded by other errors, worked continually to limit and otherwise prejudice the defendants case, the record will show that the defendant has not been afforded their statutory and constitutional rights to defend their case against the filed complaint.

This is an extraordinary case involving coordinated related civil cases affecting hundreds of thousands of unnamed parties who will continue to be harmfully affected by the plain judicial error involving either the Court's distress under political pressure to subrogate itself to take on the agency position for serving original notice; the judicial misconduct and the executive branch usurpation of judicial and legislative power by neglect and failure of its official duties under the law; the attempt of the executive agency and department to cure its fatal neglect by abuse of judicial process by application of inequitable non operative case precedence as the law of this case; or, the Court's abuse of discretion.

NINTH AMEDMENT UNENUMERATED RIGHTS:

The enumeration in the Constitution, of certain rights, shat not be construed to deny or disparage others retained by the people. Whatever the cause, the resultant constitutional violations affecting substantial rights and denial of defensive justiciable causes of is not only unreasonable, it works a manifest injustice and constitutes a clear necessity for an emergency remedy for all defendants, named and unnamed, caught in a rush to judgment trial involving a subject matter of wide scale public importance.

CONCLUSION

Whereas, good cause and substantial prejudicial harm shown, and as will be further evidence on the Court record as well as the undisclosed ex parte communication, all of which cannot be cured without an immediate stay of the Writ of Possession pending appellate investigation and review; or, or perhaps by order of an immediate mandate that the eviction case continue to afford the defense the opportunity to review the Court transcript and then bring its case in its entirety might save the case from being deemed void. This extraordinary situation must be investigated, and a formal summary determination should issue accordingly with findings of fact and conclusions of law to declare that defendants and the thousands of affected unnamed parties are entitled to present their case to an impartial and fully informed Judge or Jury.

Wherefore, these verified statements considered, the defendant Edward Garczynski Petitions this Court for denial of judicial due process in law and in a rush to judgement case denying the defense causing a manifest injustice and other relief the reviewing Court deems fair and just.

Verified And Respectfully Submitted on the 19th day of March, 2024.
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