

**IN THE SUPREME COURT OF FLORIDA  
STATE OF FLORIDA**

NEIL J. GILLESPIE,  
NEIL J. GILLESPIE FOR PRESIDENT,

Petitioners,

PETITION NO. \_\_\_\_\_  
*in forma pauperis*

v.

SECRETARY OF STATE KEN DETZNER,  
Florida's Chief Election Officer,

Respondent.

\_\_\_\_\_ /

**PETITION FOR WRIT OF MANDAMUS  
AND CONSTITUTIONAL CHALLENGE**

*in forma pauperis*

1. Petitioner Neil J. Gillespie, and Petitioner Neil J. Gillespie For President, Petition the Supreme Court of Florida, *in forma pauperis*, for a writ of mandamus directing Secretary of State Ken Detzner, Florida's Chief Election Officer, to disqualify all candidates for president of the United States (executive branch) who are lawyer members of the bar, and officers of the court (judicial branch), under the Florida Constitution, Article II, Section 3, Branches of Government, and the separation of powers of the Constitution of the United States; and Amendment 22 of the U.S. Constitution as to Hillary Rodham Clinton.

RECEIVED, 11/09/2016 10:53:47 AM, Clerk, Supreme Court

2. The Petitioners challenge the constitutionality of members of the judicial branch of government running as candidates for president of the United States, part of the executive branch of government.

3. The Petitioners challenge the constitutionality of political parties in Florida and the United States.

4. The Petitioners challenge the constitutionality of Fla. Stat. § 103.022, *Write-in candidates for President and Vice President*, with states and/or jurisdictions that do not have equivalent write-in rules. Kristi Reid Bronson, Chief, Division of Elections, denied my Florida write-in candidacy as untimely submitted.

5. **JURISDICTION**

ARTICLE V, JUDICIARY, of the Florida Constitution,

SECTION 2. Administration; practice and procedure.—

(a) The supreme court shall adopt rules for the practice and procedure in all courts including the time for seeking appellate review, the administrative supervision of all courts, the transfer to the court having jurisdiction of any proceeding when the jurisdiction of another court has been improvidently invoked, and a requirement that no cause shall be dismissed because an improper remedy has been sought. The supreme court shall adopt rules to allow the court and the district courts of appeal to submit questions relating to military law to the federal Court of Appeals for the Armed Forces for an advisory opinion. Rules of court may be repealed by general law enacted by two-thirds vote of the membership of each house of the legislature.

ARTICLE V, JUDICIARY, of the Florida Constitution,

SECTION 3. Supreme court.

(b) JURISDICTION.—The supreme court:

(8) May issue writs of mandamus and quo warranto to state officers and state agencies.

RULE 9.030(a) Jurisdiction of Supreme Court, Fla. R. App. Pro.

(3) Original Jurisdiction. The supreme court may issue writs of prohibition to courts and all writs necessary to the complete exercise of its jurisdiction, and may issue writs of mandamus and quo warranto to state officers and state agencies. The supreme court or any justice may issue writs of habeas corpus returnable before the supreme court or any justice, a district court of appeal or any judge thereof, or any circuit judge.

**PARTIES**

6. Petitioner NEIL J. GILLESPIE is a write-in candidate for president of the United States in the Commonwealth of Pennsylvania, and certain other states, Federal Election Commission (FEC) Candidate ID: P60022993, and resides at his Florida homestead, 8092 SW 115th Loop, Ocala, Marion County, Florida 34481. (Hereinafter “Petitioner(s)” or “Gillespie”). Exhibit 1.

7. Petitioner NEIL J. GILLESPIE FOR PRESIDENT, is the Principal Campaign Committee, FEC Committee ID: C00627810, NEIL J. Gillespie, Treasurer, for write-in candidate Gillespie. (“Petitioner(s)” or “Gillespie For President”). Exhibit 2.

8. Respondent Secretary of State Ken Detzner is Florida’s Chief Election Officer under Fla. Stat. § 97.012, Secretary of State as chief election officer.

**STANDING TO PETITION OR SUE**

9. The Petitioners *Gillespie* and *Gillespie For President* have standing to bring this petition as a candidate for president, and as the principal campaign committee.

**PETITION FOR WRIT OF MANDAMUS**

10. **PART I - writ of mandamus** directing Secretary of State Ken Detzner, Florida's Chief Election Officer, to disqualify all candidates for president of the United States (executive branch) who are lawyer members of the bar, and officers of the court (judicial branch), under the Florida Constitution, Article II, Section 3, Branches of Government, and the separation of powers of the Constitution of the United States;

The Democrats Official Certification of Nomination appears at Exhibit 3, and shows,

THIS IS TO CERTIFY that at the National Convention of the Democratic Party of the United States of America. held in Philadelphia, Pennsylvania on July 25 through 29, 2016, the following were duly nominated as candidates of said Party for President and Vice President of the United States respectively, and that the following are legally qualified to serve as President and Vice President of the United States respectively under the applicable provisions of the United States Constitution:

**For President of the United States**

Hillary Rodham Clinton  
15 Old House Lane  
Chappaqua, NY 10514

**For Vice President of the United States**

Timothy Michael Kaine  
1515 Confederate  
Ave Richmond, VA 23227

and is signed under oath/notarized July 29, 2016 by,

Representative Marcia Fudge  
Chair, Democratic National Convention

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Mayor Stephanie Rawlings-Blake  
Secretary, Democratic National Convention

and has a cover letter dated August 3, 2016 of David Huynh, Director of Delegate Operations and Ballot Access, Email [dhuyh@hillaryclinton.com](mailto:dhuyh@hillaryclinton.com) addressed to,

Maria Matthews, Division Director  
Florida Department of State, Division of Elections  
Director's Office  
Room 316, R.A. Gray Building  
500 South Bronough Street  
Tallahassee, FL 32399

Hillary Rodham Clinton is an attorney in the State of Arkansas, bar number 73104 admitted on 10/18/1973. She is licensed and in good standing with the court and there are no disciplinary actions against her in Arkansas, according to email of Deputy Clerk Rose Allen, Tuesday, November 01, 2016 9:12 AM. Exhibit 4.

Rose Allen, Deputy Clerk  
Clerk of the Courts Office  
Justice Building  
625 Marshall Street  
Little Rock, AR 72201  
Phone: 501-682-4369  
Email: [Rose.Allen@arcourts.gov](mailto:Rose.Allen@arcourts.gov)

However, the attorney directory for Arkansas shows Hillary Rodham Clinton “suspended for CLE” on 3/14/2002. (Exhibit 5). In response, Ms. Allen referred me to Carol R. Hampton, Supreme Court Library. Ms. Hampton had previously

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responded by email on October 31, 2016 at 11:21 AM (Exhibit 6) and confirmed that Hillary Rodham Clinton was suspended for CLE on 3/14/2002.

Carol R. Hampton  
Supreme Court Library  
Library Technical Assistant III  
625 Marshall Street  
Little Rock, AR 72201  
Phone: (501) 682-2148  
Email: carol.hampton@arcourts.gov

The Virginia State Bar shows for Tim Kaine, the Vice Presidential candidate for Hillary Rodham Clinton, “currently inactive in good standing”,

Timothy Michael Kaine  
Bar ID #24165  
Currently inactive in good standing  
Licensed 10/2/1984  
No record of public discipline

according to email of Debra C. Isley, Administrative Assistant, Virginia State Bar, 1111 East Main Street, Suite 700, Richmond, Virginia 23219-0026 (Exhibit 7).

The Republican Party's Certificate of Nominations for the State of Florida appears at Exhibit 8, and shows in relevant part,

We do hereby certify that at a National Convention of Delegates representing the Republican Party of the United States, duly held and convened in the City of Cleveland, State of Ohio, on July 20, 2016, the following person, meeting the constitutional requirements for the Office of President of United States, and the following person, meeting the constitutional requirements for the Office of Vice President of the United States, were nominated for such offices to be filled at the ensuing general election, November 8, 2016, viz.:

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**President of the United States**

Donald J. Trump  
721 Fifth Avenue PH  
New York, NY 10022

**Vice President of the United States**

Michael R. Pence  
4750 Meridian Street  
Indianapolis, IN 46208

and is signed under oath/notarized July 20, 2016 by,

Paul Ryan  
700 Saint Lawrence Avenue  
Janesville, Wisconsin 53545  
*Chairman of the 2016 Republican National Convention*

Susie Hudson  
1658 Route 12  
West Berlin, VT 05663  
*Secretary of the 2016 Republican National Convention*

A cover letter with the Republican Party's Certificate of Nominations for the State  
of Florida addressed to Ken Detzner, Secretary of State, dated July 22, 2016, from,

Blaise Ingoglia, Chairman, Republican Party of Florida  
John Phillippe, Chief Counsel, Republican National Committee

states in relevant part,

Attached please find a copy of the Republican Party's Certificate of  
Nomination, which shall serve as official certification to your office of the  
2016 Republican National Convention's nomination for President and Vice  
President of the United States, respectively.

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The attached Certificate of Nomination is signed by Paul Ryan as Chairman of the 2016 Republican National Convention, and Susie Hudson, as Secretary of the 2016 Republican National Convention.

Please confirm as soon as possible that you have now received all of the necessary documentation to place the party's nominees for President and Vice President on your state's general election ballot for November 8, 2016. This confirmation can be sent by emailing a letter to Christina Schaengold, Associate Counsel, in the Republican National Committee Counsel's Office. Christina can be reached at (202) 863 5107, or by e-mail at cschaengold@gop.com...

The online public **Indiana Roll of Attorneys** (Exhibit 9) shows for Mike Pence on October 30, 2016 at 11:50 AM,

Michael Richard Pence  
Attorney Number: 10892-49

Contact Information  
200 W. Washington Street  
Indianapolis, IN 46204  
Tel. 317-695-5453

Status Information  
License Status: Inactive In Good Standing  
Status Date: 03-05-2012  
Admit Date: 05-30-1986

Disciplinary Information  
This attorney has no disciplinary history

11. **PART II - Constitutional challenge.** Member(s) of the judicial branch, running as candidate(s) for president of the United States, the executive branch, is unconstitutional under SEPARATION OF POWERS.

Of the two major parties, Democratic and Republican, there are three lawyers in the presidential race: **Hillary Rodham Clinton, Tim Kaine, and Mike Pence**. Donald Trump is not a lawyer.

It is unconstitutional for a lawyer (judicial branch) to be president of the United States (executive branch) because it would violate *separation of powers*.

Separation of powers is inferred in the U.S. Constitution,

Article I - Legislative Branch

Article II - Executive Branch

Article III - Judicial Branch

Separation of powers is clearly expressed in Florida law,

ARTICLE II, GENERAL PROVISIONS, of the Florida Constitution,

SECTION 3. Branches of government.—The powers of the state government shall be divided into legislative, executive and judicial branches. No person belonging to one branch shall exercise any powers appertaining to either of the other branches unless expressly provided herein.

**Admission to the bar is for life, and beyond.**

The practice of law is unlike any other profession. Only the legal profession is self-regulated. Once a person is admitted to the practice of law, by passing the bar exam, passing character and fitness, and admission to the bar by the supreme court of the lawyer's state, the person becomes, *inter alia*, an *officer of the court*.

Classification of lawyers admitted to the state regulatory bar may include,

- Members in Good Standing
- Conditionally Admitted Members

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- Inactive Members
- Delinquent members
- Suspended members
- Disbarred members, with right to reapply
- Disbarred members, disbarred for life
- Retired members
- Deceased members

The practice of law is unlike any other *legitimate* profession, according to David W. Marston, a former U.S. Attorney, Harvard Law School grad, and author. Marston, a now Philadelphia lawyer, compared the legal business to the Mafia in *Malice Aforethought, How Lawyers Use Our Secret Rules To Get Rich, Get Sex, Get Even...And Get Away With It*, an exposé of America's legal profession.

"They all have undergone the same tough initiation, and once admitted to membership, all have sworn the same oath. They live by their own rules and have fiercely resisted efforts by outsiders to penetrate their clan. They have a code of silence that makes the Mafia's dreaded omerta seem gossipy. And while the organization rigidly limits the operations of its members to their assigned turf, their criminal activities within these areas are surprisingly varied." (Page 22, paragraphs 4 & 5)

"The organization enforces its own discipline, and outsiders can piece together only the most fragmentary picture of the process. But while hard statistics about crime and misconduct by its members remain elusive, there has unquestionably been a sharp escalation in recent years" (Page 23, paragraph 2)

"In every state, the organization has tentacles that reach into the legislature, as well as intimate knowledge of the local criminal justice system. Laws that might threaten operations are vigorously opposed, and when members are convicted of crimes, punishments are often lenient." (Page 23, paragraph 4)

"It's not the Mafia. Not the Medellin drug cartel...The members are all lawyers. And the organization is the American legal profession." (Pages 23-24) *Malice Aforethought*

- C-Span Interview on YouTube with Dave Marston, author of *Malice Aforethought, How Lawyers Use Our Secret Rules to Get Rich, Get Even and Get Away with It* (1991), video link: <https://youtu.be/AV7xfWw0zr0>

### **Broad Issue Paper - Separation of Powers - The Florida Bar (Exhibit 10)**

<https://www.floridabar.org/divcom/pi/bips2001.nsf/1119bd38ae090a748525676f0053b606/c2d4411cc05f7c458525669e004dea34!OpenDocument>

“The Florida Bar has long maintained that this state's separation of powers doctrine precludes legislative entry into the regulation of lawyers.”

If so, *separation of powers* should protect the PUBLIC from lawyers

entering the presidency (executive branch) or congress (legislative branch).

Below is Section III, Background, Separation of Powers, Broad Issue Paper,

### **III. Background**

#### **A. United States -- Separation of Powers**

The U. S. Constitution defines the power of the three main branches of the federal government as legislative, executive and judicial.

The U.S. Constitution provides the framework for the exercise of power by the federal government. Although the document contains no express separation of powers provision, the constitution defines and allocates the power of the federal government among the legislative, executive, and judicial branches. The framers of the constitution divided the exercise of governmental power into three branches to prevent that power from concentrating in one body. Checks to balance the power of the other branches are expressly provided in the constitution creating an overlap of power among the branches. In this way, the power of each branch is limited by giving to an equal branch one facet of another's unique power. Using these checks, the three branches compete among themselves to keep a relative balance of power. Therefore, each branch's exercise of its type of

power is not absolute. Under a literal interpretation of the structure created in the constitution, violation of the separation of powers doctrine occurs whenever the power of one branch is exercised by another branch without express authority in the Constitution.

The separation of the powers of government is a fundamental principle of every free and good government and is historically a part of both the state and federal constitutions. It is fundamental to the very existence and perpetuity of the American form of government and is one of the most important principles guaranteeing the liberty of the people and preventing the exercise of autocratic power.

### ***1. Legislative***

U.S. Constitution Article I, Section 1: "All legislative powers herein granted shall be vested in a Congress of the United States, which shall consist of a Senate and House of Representatives." Section 8 of that article enumerates those powers which, among others, include: (1) to lay and collect taxes, excises, imports and duties, to pay the debts and provide for the common defense and general welfare; (2) to regulate commerce; (3) to establish uniform laws of bankruptcy; (4) to coin money and punish counterfeiting; (5) to establish post offices and post roads; (6) to constitute tribunals inferior to the supreme court; (7) to declare war; (8) to raise and support armies and to provide and maintain a Navy; (9) to make rules for the government; and (10) to make all laws which shall be necessary and proper for carrying into execution the legislative powers and all other powers vested by the constitution by the government of the United States or in any department or officer thereof.

### ***2. Executive***

U.S. Constitution Article II, Section 1: "The executive power shall be vested in a President of the United States of America." Article II, Sections 2 and 3 define those powers: (1) The president shall be commander-in-chief of the Army and Navy of the U.S., and of the militia of the states, when called into the actual service of the U.S.; (2) the president shall have power, by and with the advice and consent of the Senate, to make treaties; (3) the president shall have power to fill up all vacancies that may happen during the recess of the

Senate, by granting commissions which shall expire at the end of their next session; and (4) the president shall from time to time give to the Congress information of the state of the union, and recommend to their consideration such measures as the president shall judge necessary and expedient; the president may, on extraordinary occasions, convene both houses or either of them.

### ***3. Judicial***

The U.S. Constitution Article III, Section 1 reads: "The judicial power of the United States shall be vested in one supreme court and in such inferior courts as the Congress may from time to time ordain and establish." Judicial power shall extend to: all cases, in law and equity, arising under this constitution, the laws of the United States, and treaties made, or which shall be made, under their authority; all cases affecting ambassadors, other public ministers and consuls; all cases of admiralty and maritime jurisdiction; controversies to which the United States shall be a party; controversies between two or more states; cases between a state and citizens of another state; cases between citizens of different states, cases between citizens of the same state claiming lands under the grants of different states, and between a state, or the citizens thereof, and foreign states, citizens or subjects. Judicial power also extends to all cases affecting ambassadors, other public ministers and consuls, and those in which a state shall be a party, the supreme court shall have original jurisdiction. The trial of all crimes, except in cases of impeachment, shall be by jury. Such trial shall be held in the state where the said crimes shall have been committed.

### **B. Florida -- Separation of Powers**

According to the State of Florida Constitution Article II, Section 3, the powers of the state government shall be divided into legislative, executive and judicial branches. No person belonging to one branch shall exercise any powers appertaining to either of the other branches unless expressly provided.

#### ***1. Legislative***

Article III Section 1 of the Florida Constitution states that the "legislative power of the state shall be vested in a legislature of the State of Florida,

consisting of a senate composed of one senator elected from each senatorial district and a house of representatives composed of one member elected from each representative district." The legislature has been described generally as the lawmaking branch of government. It also has the broad purpose of determining policies and programs and reviewing program performance.

Basically, the legislature is empowered to enact statutes that: levy and collect taxes; oversee professional licensing boards; ensure the public's health, safety and welfare; define crime and provide punishment for violations; build highways; regulate marriage and divorce; authorize establishment of cities. In addition, the legislature may also overturn the governor's veto, determine fiscal policies in the preparation of the General Appropriations Act and conduct formal investigations of alleged misconduct by government agencies and even private businesses.

## ***2. Executive***

Article IV, Section 1 states that the supreme executive power shall be vested in a governor who shall: be commander-in-chief of all military forces of the state not in active service of the United States. The governor shall take care that the laws be faithfully executed, commission all officers of the state and counties, and transact all necessary business with the officers of government. The governor may require information in writing from all executive or administrative state, county or municipal officers upon any subject relating to the duties of their respective offices; initiate judicial proceedings in the name of the state against any executive or administrative state, county or municipal officer to enforce compliance with any duty or restrain any unauthorized act; request in writing the opinion of the justices of the Supreme Court of Florida as to the interpretation of any portion of the state constitution upon any question affecting the governor's executive powers and duties; have power to call out the militia to preserve the public peace, execute the laws of the state, suppress insurrection, or repel invasion; and by message, at least once in each regular session, inform the legislature concerning the condition of the state, propose such reorganization of the executive department as will promote efficiency and economy, and recommend measures in the public interest.

Additionally, the governor prepares a recommended balanced budget to be submitted prior to the legislative session. The governor retains line item veto of the General Appropriations Act and has other veto power in order to nullify any legislative act found unacceptable.

### ***3. Judicial***

The third branch of state government, the judiciary, exists because of Article V, Section 1 of the Florida Constitution. The judicial department of the government is that branch: intended to interpret, construe, and apply the law; and charged with the declaration of what the law is, and its construction so far as it is written law. Section 1 states that the "judicial power shall be vested in a supreme court, district courts of appeal, circuit courts and county courts. No other courts may be established by the state, any political subdivision or any municipality. The legislature shall, by general law, divide the state into appellate court districts and judicial circuits following county lines. Commissions established by law, or administrative officers or bodies may be granted quasi-judicial power in matters connected with the functions of their offices. The legislature may establish by general law a civil traffic hearing officer system for the purpose of hearing civil traffic infractions."

#### **Ex parte Garland, 71 U.S. 333 (1866)**

[https://en.wikipedia.org/wiki/Ex\\_parte\\_Garland](https://en.wikipedia.org/wiki/Ex_parte_Garland)

The US Supreme Court held in **Ex parte Garland** that counselors [lawyers] are officers of the court and not officers of the United States, and that their removal was an exercise of judicial power and not legislative power. Exhibit 11.

#### **Case (Wikipedia)**

In January 1865 the Congress of the United States passed a law that effectively disbarred former members of the Confederate government by requiring a loyalty oath be recited by any Federal court officer affirming that the officer had never served in the Confederate government.

Augustus Hill Garland, an attorney and former Confederate Senator from Arkansas, had previously received a pardon from President Andrew

Johnson. Garland came before the court and pleaded that the act of Congress was a bill of attainder and an ex post facto law which unfairly punished him for the crime for which he had been pardoned and was therefore unconstitutional.

### **Decision (Wikipedia)**

In a 5-4 vote the Supreme Court ruled that the law was indeed a bill of attainder and an ex post facto law. The court ruled that Garland was beyond the reach of punishment of any kind due to his prior presidential pardon. The court also stated that counselors are officers of the court and not officers of the United States, and that their removal was an exercise of judicial power and not legislative power. The law was struck down, opening the way for former Confederate government officials to return to positions within the federal judiciary.

**Ex parte Garland, 71 U.S. 333 (1866) Legal Information Institute** (Exhibit 12)  
<https://www.law.cornell.edu/supremecourt/text/71/333>

By the Judiciary Act of 1789, the Supreme Court has power to make rules and decide upon the qualifications of attorneys.

5. Attorneys and counselors are not officers of the United States; they are officers of the court, admitted as such by its order upon evidence of their possessing sufficient legal learning and fair private character.

6. The order of admission is the judgment of the court that the parties possess the requisite qualifications and are entitled to appear as attorneys and counselors and conduct causes therein. From its entry, the parties become officers of the court, and are responsible to it for professional misconduct. They hold their office during good behavior, and can only be deprived of it for misconduct ascertained and declared by the judgment of the court after opportunity to be heard has been afforded. Their admission and their exclusion are the exercise of judicial power. [p334]

7. The right of an attorney and counselor, acquired by his admission, to appear for suitors and to argue causes, is not a mere indulgence -- a matter of grace and favor -- revocable at the pleasure of the court, or at the command

of the legislature. It is a right of which he can only be deprived by the judgment of the court, for moral or professional delinquency.

8. The admitted power of Congress to prescribe qualifications for the office of attorney and counselor in the Federal courts cannot be exercised as a means for the infliction of punishment for the past conduct of such officers, against the inhibition of the Constitution.

AMENDMENT TWENTY-TWO -- U.S. Constitution, states in relevant part,

"No person shall be elected to the office of the President more than twice, and no person who has held the office of President, or acted as President, for more than two years of a term to which some other person was elected President shall be elected to the office of President more than once."

<http://constitutioncenter.org/interactive-constitution/amendments/amendment-xxii>

State ex rel. Perez et al. v. Wall, Judge held in a judicial disqualification case, marriage makes husband and wife one person. (quoting Judge Cooper for the Court in *Hume v. Bank*, 10 Lea, 1) 'Affinity, as distinguished from consanguinity, signifies the relation which each party to a marriage, the husband and the wife, bears to the kindred or blood relations of the other. The marriage having made them one person, the blood relations of each are held as related by affinity in the same degree to the one spouse as by consanguinity to the other...' Exhibit 13.

State ex rel. Perez et al. v. Wall, Judge,  
49 L.R.A. 548, 41 Fla. 463, 26 So. 1020  
<https://www.scribd.com/document/319201519/>

Hillary Rodham Clinton was married to Bill Clinton during both terms of his presidency. As lawyers, Hillary Rodham Clinton and Bill Clinton were officers of the court, and members of the judicial branch of government. **State ex rel. Perez et**

**al. v. Wall, Judge** would consider them as one person for judicial disqualification.

While not on point for presidential disqualification, I am not aware of any other case(s) that address presidential disqualification due to marriage.

### **"Buy One, Get One Free" - Bill Clinton and Hillary Clinton**

Early in his first presidential campaign, Bill Clinton declared that he and his wife were basically a bargain deal -- "buy one, get one free." (Exhibit 14)

<http://www.pbs.org/wgbh/pages/frontline/shows/clinton/chapters/1.html#5>

### **America's First Female President?**

Laura Secorun Palet of Ozy.com challenges the claim that Hillary Rodham Clinton would be America's first female president if elected. (Exhibit 15)

"Sorry, Hillary Clinton, but America has already had its first (acting) female president. Three decades before Clinton was born, Edith Wilson, Woodrow Wilson's second wife, ran the Oval Office for 17 months. Nobody voted for her, and she never actually referred to herself as president, but she did take charge of many executive duties after her husband was left incapacitated by a massive stroke."

<http://www.ozy.com/flashback/americas-first-female-president-been-there-done-that/61409>

### **The legal mind is indispensable to lawyering, but has its limitations**

One of the most compelling arguments against lawyers serving as president is found in an Article by The Honorable Dennis Jacobs, *The Secret Life of Judges*, 75 Fordham L. Rev. 2855 (2007). <http://ir.lawnet.fordham.edu/flr/vol75/iss6/4/>

I sometimes think that the problem at bottom is really a lack of respect by lawyers for other people. Judges live chiefly in a circle of lawyers. But

outside that circle there are people who are just as fully absorbed by other pursuits that deserve consideration and respect. Judges need a heightened respect for how nonlawyers solve problems, reach compromises, broker risks, and govern themselves and their institutions. There are lawyers on the one hand; and just about everybody else is the competition in the framing of values and standards of behavior. (par. 4-5, page 2861)

The legal mind is indispensable to lawyering, and for other purposes it is perfectly okay in its way. But it has its limitations. For example, every problem-solving profession except ours--quickly adopts as preferred the solution that is simplest, cheapest, and most efficacious, or (as they say) elegant... (par. 5, p. 2862)

As a matter of self-awareness and conscience, judges should accept that the legal mind is not the best policy instrument, and that lawyer-driven processes and lawyer-centered solutions can be unwise, insufficient, and unjust, even if our friends and colleagues in the legal profession lead us that way. For the judiciary, this would mean a reduced role, but not a diminished one if the judiciary is elevated by considerations of honor, self-restraint, and respect for other influences. (last par., p. 2863)

*The Secret Life of Judges* appears at Exhibit 16.

### **Conclusion**

Amendment XXII, and the holding of **State ex rel. Perez et al. v. Wall, Judge**, where Hillary Rodham Clinton and Bill Clinton are considered as one person, block Hillary Rodham Clinton from the presidency in 2016.

The US Supreme Court holding in Ex parte Garland that lawyers are officers of the court, and members of the judicial branch of government, blocks Hillary Rodham Clinton, Tim Kaine, and Mike Pence from being president (executive branch) because it would be an unconstitutional violation of separation of powers.

12. **PART III - Constitutional challenge.** Political parties in Florida and the United States are unconstitutional.

Political parties in the United States, Wikipedia

[https://en.wikipedia.org/wiki/Political\\_parties\\_in\\_the\\_United\\_States](https://en.wikipedia.org/wiki/Political_parties_in_the_United_States)

[T]he United States Constitution has always been silent on the issue of political parties; at the time it was signed in 1787, there were no parties in the nation. (¶1)

The United States Constitution has never formally addressed the issue of political parties. The Founding Fathers did not originally intend for American politics to be partisan. In Federalist Papers No. 9 and No. 10, Alexander Hamilton and James Madison, respectively, wrote specifically about the dangers of domestic political factions. In addition, the first President of the United States, George Washington, was not a member of any political party at the time of his election or throughout his tenure as president. Furthermore, he hoped that political parties would not be formed, fearing conflict and stagnation, as outlined in his Farewell Address.[6] Nevertheless, the beginnings of the American two-party system emerged from his immediate circle of advisers. Hamilton and Madison, who wrote the aforementioned Federalist Papers against political factions, ended up being the core leaders in this emerging party system. (¶1, section, History and early political parties)

A class-action lawsuit by JamPAC against the DNC suggests the nomination of Hillary Rodham Clinton was a rigged and unlawful process, see the First Amended Complaint, 16-cv-61511-WJZ, that appears as a separate appendix.

Plaintiff: CAROL WILDING et al.

Defendant: DNC SERVICES CORPORATION, d/b/a DEMOCRATIC NATIONAL COMMITTEE and DEBORAH "DEBBIE" WASSERMANSCHULTZ

Case Number: 16-cv-61511-WJZ

Filed: June 28, 2016

Court: Southern District of Florida

County: Broward County, Florida  
Judge: William J. Zloch  
Nature of Suit: Class Action  
Cause of Action: Fraud and Consumer  
Jury Demanded: Yes

13. **PART IV - Constitutional challenge.**

1. Petitioners challenge the constitutionality of Fla. Stat. § 103.022, *Write-in candidates for President and Vice President*
2. Petitioners challenge the constitutionality of combined presidential and vice presidential candidates.

On August 31, 2016, Gillespie submitted his Oath under Fla. Stat. § 103.022 to Secretary of State Detzner by email and UPS #1Z64589FP296243338.

On September 1, 2016, Kristi Reid Bronson, Chief, Division of Elections, denied Gillespie's Florida write-in candidacy as untimely submitted by email on September 1, 2016. Bronson's email and Gillespie's Oath appear at Exhibit 17.

Email Thursday, September 01, 2016 8:11 AM  
Bronson, Kristi R. <Kristi.Bronson@DOS.MyFlorida.com>

Dear Mr. Gillespie –

The deadline for submitting the oath of candidate for a write-in candidate for the office of President was July 12, 2016. Accordingly, your submission is untimely and will not be processed.

I trust this is responsive to your inquiry.

***Regards,***

***Kristi Reid Bronson, Chief***

***Division of Elections,***

***Bureau of Election Records***

***(850) 245-6240***

Richard Winger of Ballot Access News wrote in a post on July 18, 2016, *Seven Presidential Candidates File to have Write-ins Counted in Florida*,

Florida is the only state in which the filing deadline to file as a write-in for president in the general election is earlier than the deadline for a new party to get on the ballot for President. The Florida write-in filing deadline was July 12. This year, six independent presidential candidates and one minor party candidate filed to have write-ins counted.

The minor party nominee is Zoltan Istvan of the Transhumanist Party. Istvan lives in Mill Valley, California.

The six independents are: Laurence J. Kotlikoff of Brookline, Massachusetts, a prominent economist; Richard Duncan of Aurora, Ohio, who usually gets on the ballot in Ohio but no other state; Cherunda Fox of Detroit, Michigan; Samuel Tabor of Mobeetie, Texas; Tony Valdivia of San Antonio, Texas; and Andrew Basiago of Charlotte, North Carolina. Basiago claims to have traveled back in time; see this story.

<http://ballot-access.org/2016/07/18/seven-presidential-candidates-file-to-have-write-ins-counted-in-florida/>

An article by Ballotpedia for the 2016 presidential election, *Ballot access for presidential candidates*, states,

In order to get on the ballot, a candidate for president of the United States must meet a variety of complex, state-specific filing requirements and deadlines. These regulations, known as ballot access laws, determine whether a candidate or party will appear on an election ballot. These laws are set at the state level. A presidential candidate must prepare to meet ballot access requirements well in advance of primaries, caucuses, and the general election.

There are three basic methods by which an individual may become a candidate for president of the United States.

EMERGENCY PETITION FOR WRIT OF MANDAMUS  
AND CONSTITUTIONAL CHALLENGE

1. An individual can seek the nomination of a political party. Presidential nominees are selected by delegates at national nominating conventions. Individual states conduct caucuses or primary elections to determine which delegates will be sent to the national convention.[1]

2. An individual can run as an independent. Independent presidential candidates typically must petition each state to have their names printed on the general election ballot. For the 2016 presidential contest, it was estimated that an independent candidate would need to collect in excess of 880,000 signatures in order to appear on the general election ballot in every state.[1]

3. An individual can run as a write-in candidate. In 34 states, a write-in candidate must file some paperwork in advance of the election. In nine states, write-in voting for presidential candidates is not permitted. The remaining states do not require write-in candidates to file paperwork in advance of the election.[1]

[https://ballotpedia.org/Ballot\\_access\\_for\\_presidential\\_candidates](https://ballotpedia.org/Ballot_access_for_presidential_candidates)

On information and belief, states that do not require write-in candidates to file paperwork in advance of the election are,

Commonwealth of Pennsylvania  
State of Oregon  
State of Iowa  
State of New Jersey  
State of Rhode Island  
State of New Hampshire  
State of Vermont

On November 7, 2016, The American Bar Association published an article on its online Journal by Debra Cassens Weiss, *If you cast a write-in vote for president, will it count? State laws differ*, that states,

Thinking of casting a write-in vote for president? It may not be counted.

You can write in anyone on the ballot in 10 states and Washington, D.C., the Washington Post reports. But you will face more hurdles if you want your write-in to count in other states.

Eight states don't even have a line for write-ins, according to the article. Thirty-two states won't count write-ins unless a candidate is registered with the state before the election.

The jurisdictions allowing write-ins for anyone are: Alabama, the District of Columbia, Iowa, Mississippi, New Hampshire, New Jersey, Oregon, Pennsylvania, Rhode Island, Vermont and Wyoming.

The states that don't allow write-ins are: Arkansas, Hawaii, Louisiana, Nevada, New Mexico, Oklahoma, South Carolina and South Dakota.

There are additional restrictions in some states, including some of those that allow write-ins for anyone. In Mississippi, for example, write-ins won't be considered unless a candidate on the ballot dies, resigns, withdraws or is removed from the ballot. Some states won't allow a write-in to win unless additional paperwork is filed after the election.

And in some states, preciseness counts. Nicknames and initials may not be allowed.

[http://www.abajournal.com/news/article/if\\_you\\_cast\\_a\\_write\\_in\\_vote\\_for\\_president\\_will\\_it\\_count\\_state\\_laws\\_differ/](http://www.abajournal.com/news/article/if_you_cast_a_write_in_vote_for_president_will_it_count_state_laws_differ/)

The ABA Journal article, and linked Washington Post story, appear at Exhibit 18.

### **NATURE OF THIS PETITION**

14. The general election is today November 8, 2016. This petition was intended to be a complaint and injunction filed in federal court a week ago, but that plan was obstructed by the district court's refusal to allow open ECF on the PACER system.

The Petitioner's communication with the United States District Court, Middle District of Pennsylvania, appears as a separate appendix.

**FEDERAL ELECTION COMMISSION (FEC)**

15. The FEC website describes its duties:

The duties of the FEC, which is an independent regulatory agency, are to disclose campaign finance information, to enforce the provisions of the law such as the limits and prohibitions on contributions, and to oversee the public funding of Presidential elections.

16. Notice to the Florida Attorney General a constitutional challenge  
oag.civil.eserve@myfloridalegal.com

1. Petitioners challenge the constitutionality of members of the judicial branch of government running as candidates for president of the United States, part of the executive branch of government.
2. Petitioners challenge the constitutionality of political parties
3. Petitioners challenge the constitutionality of Fla. Stat. § 103.022, *Write-in candidates for President and Vice President*
4. Petitioners challenge the constitutionality of combined presidential and vice presidential candidates.

U.S.C. Title 52 - Voting and Elections  
CFR Title 11 - Federal Elections  
Title IX, Electors and Elections, Chapters 97-107

Rule 1.071 Constitutional Challenge, Fla. R. Civ. Pro.  
86.091 Parties. declaratory relief, Fla. R. Civ. Pro.  
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

17. Petitioner Neil J. Gillespie is a qualified person with a disability, henceforth in the first person. I request disability accommodation so that my petition is

considered on the merits, and not dismissed on account of disability, or disability discrimination. I request reasonable accommodation under the Americans with Disabilities Act (ADA), as amended, 42 U.S.C. 12181 et. seq, including the ADA Amendments Act of 2008, as amended; I request reasonable accommodation under the Rehabilitation Act of 1973, as amended, 29 U.S.C. 701 et. seq, including Section 504 of the Rehabilitation Act, as amended, and Section 508 of the Rehabilitation Act, as amended. This disability accommodation request also seeks a prohibition against disability discrimination.

### CONCLUSION

The petition for writ of mandamus should be granted, together with such other and further relief as the Court deems just and equitable.

I hereby certify that this petition complies with the font requirements of Rule 9.100(l).

RESPECTFULLY SUBMITTED November 8, 2016.



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Neil J. Gillespie, nonlawyer, pro se  
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## Service List November 8, 2016

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David Huynh, Director of Delegate  
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Email dhuyh@hillaryclinton.com

Notice to the Florida Attorney General a constitutional challenge  
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