

No. SC21-0896

IN THE SUPREME COURT OF FLORIDA

William M. Windsor

v.

Clayton & McCulloh, P.A., Russell E. Klemm, Neal McCulloh,
Kenneth M. Clayton, Alan Schwartzseid, Brian Hess, Coach Houses
at Leesburg Condominium Association, Inc., Gary Hansen, Isabel
Campbell, Sergio Naumoff, Ed Broom, Jr., Sue Yokley,
and Wendy Krauss.

MOTION SEEKING REVIEW OF INDIGENT STATUS

Circuit Court of the Fifth Judicial District:

Case # 2021-CA-0766

William Michael Windsor, Petitioner

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Respondents:

Clayton & McCulloh, P.A., Russell E. Klemm, Neal McCulloh,
Kenneth M. Clayton, Alan Schwartzseid, Brian Hess, Coach Houses
at Leesburg Condominium Association, Inc., Gary Hansen, Isabel
Campbell, Sergio Naumoff, Ed Broom, Jr., Sue Yokley, and Wendy
Krauss.

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FACTS

1. On June 9, 2021, this Court docketed my Petition for Writ of Mandamus regarding Circuit Court of the Fifth Judicial District Case No. 2021-CA-0766. The Petition was assigned Case No. SC21-896.

2. On June 14, 2021, I received an Order denying In Forma Pauperis status. I seek review by the Court of the Clerk's determination.

ARGUMENTS

3. My arguments are expressed in my June 9, 2021 Motion for Leave to Proceed In Forma Pauperis and in my Petition for Writ of Mandamus in this case, referenced and incorporated herein.

STATUTORY INTERPRETATION

4. The issue is one of statutory interpretation: Florida Statute 57.082. I cannot find an appellate court decision on this issue.

5. To me, the statutory intention of Florida Statute 57.082 seems clear: Enable poor people to have their day in court. It seemed clear to Mr. John A. Tomasino, but now he is siding with clerks who I believe could care less about the realities of insolvency,

the impact of debts, and the importance of the Constitutions.

57.082(1)(a)4 identified “All liabilities and debts” as financial information to be considered. If the legislature didn’t mean this, they wouldn’t have said it. If the legislature intended that anyone with \$2,501 in the bank is not indigent, they could have simply said so and dramatically reduced the length of the statute and the form used to apply.

6. *McCloud v. State*, SC17-2011 (Fla. 12/20/2018) is a recent decision by this Court addressing statutory interpretation:

“This Court undertakes de novo review for questions of statutory interpretation. *E.g.*, *Polite v. State*, 973 So.2d 1107, 1111 (Fla. 2007). The purpose of this endeavor is to effectuate the Legislature's intent because “legislative intent is the polestar that guides a court's statutory construction analysis.” *State v. J.M.*, 824 So.2d 105, 109 (Fla. 2002); *e.g.*, *In re Ginsberg's Estate*, 50 So.2d 539, 542 (Fla. 1951) (“It is a fundamental rule in statutory construction that the intention of the Legislature in the enactment of a statute should be ascertained and effectuated.”); *Getzen v. Sumter Cty.*, 103 So. 104, 107 (Fla. 1925) (“The intent of organic or statutory provisions is the essence of the law.”); *State v. Patterson*, 65 So. 659, 660 (Fla. 1914) (“[L]egislative intent . . . is the essence and vital force of the law.”); *State v. Atlantic Coast Line R.R. Co.*, 47 So. 969, 984 (Fla. 1908) (“In construing and applying a duly enacted statute, the valid legislative intent is the guiding star.”); *Curry v. Lehman*, 47 So. 18, 20 (Fla. 1908) (“[T]he primary rule of construction is to ascertain and give effect to that intent.”); 48A Fla. Jur. 2d, *Statutes* § 116 (2014) (“The primary rule of statutory construction, and the ultimate goal in construing a statutory provision, is to give effect to

legislative intent.” (footnotes omitted)); 2A Norman J. Singer, *Statutes and Statutory Construction* § 45:5 (7th ed. 2014) (“[T]he essential idea that legislative will governs decisions on statutory construction has always been the test most often declared by courts.”); see also *Heydon's Case*, (1584) 76 Eng. Rep. 637 (Exch.) (detailing the traditional common law rule of legislative intent guiding statutory construction). In order to “discern legislative intent, this Court looks first to the plain and obvious meaning of the statute's text.” *Smith v. State*, 204 So.3d 18, 21 (Fla. 2016) (quoting *W. Fla. Reg'l Med. Ctr., Inc. v. See*, 79 So.2d 1, 9 (Fla. 2012)). If the statute is “clear and unambiguous,” then this Court does not look beyond the plain language or employ the rules of construction to determine legislative intent-it simply applies the law. *Gaulden v. State*, 195 So.3d 1123, 1125 (Fla. 2016) (quoting *Borden v. E.-Eur. Ins. Co.*, 921 So.2d 587, 595 (Fla. 2006)).”

7. With the help of a sweet lady at the Leesburg Public Library, I learned how to review legislative session records. Unfortunately, these provide no indication of the intent of the legislature.

8. Florida Statute 57.082(2)(a)2 indicates that in civil indigence, “net equity value” applies to “any intangible or tangible personal property or real property or the expectancy of an interest in any such property.” According to the Internal Revenue Service, NOLO, and Black's Law Dictionary, cash and bank account assets are neither tangible personal property nor intangible personal property.

9. The Internal Revenue Service defines “tangible personal property” and “intangible personal property,” and cash and bank accounts are not included. This means my Net Equity Value is negative \$1,405,862. MEGA INDIGENT.

10. Rules of statutory interpretation say to look to other statutes for guidance.

11. Florida Statute Section 199.023 defines “intangible personal property:”

“(1) ‘Intangible personal property’ means all personal property which is not in itself intrinsically valuable, but which derives its chief value from that which it represents, including, but not limited to, the following:

(a) All stocks or shares of incorporated or unincorporated companies, business trusts, and mutual funds.

(b) All notes, bonds, and other obligations for the payment of money.

(c) All condominium and cooperative apartment leases of recreation facilities, land leases, and leases of other commonly used facilities.

(d) Except for any leasehold or other possessory interest described in s. 4(a), Art. VII of the State Constitution or s. 196.199(7), all leasehold or other possessory interests in real property owned by the United States, the state, any political subdivision of the state, any municipality of the state, or any agency, authority, and other public body corporate of the state, which are undeveloped or

predominantly used for residential or commercial purposes and upon which rental payments are due.

12. See *Jasper v. Orange Lake Homes, Inc.*, 151 So.2d 331 (Fla.App. Dist.2 03/20/1963).

13. Florida Statute Section 200.01 defines “tangible personal property:”

“(1) Tangible personal property' shall include all goods, chattels, vehicles (except motor vehicles and household furnishings, wearing apparel, effects of the person actually employed in the use of serving the creature comforts of the owner and not held for commercial purposes), animals and other articles of value capable of manual possession and whose chief value shall consist of the thing itself and not what it represents. The words ‘personal property,’ as used in this chapter, shall be synonymous with tangible personal property.” (Florida Statutes 1967)

14. Cash and money in the bank are neither Intangible Personal Property nor Tangible Personal Property.

15. A rule of statutory interpretation is that all words in the statute are intended to have meaning. When Florida Statute 57.082 says: “(a) **The application must include, at a minimum,** the following financial information...,” it’s important, but the clerks and judges completely ignore this information. Lake County Deputy Clerk ASHLEY Cramer has told me twice that they have “a

sheet” that they go by, and they don’t look at anything except the first page of the Application Form. ASHLEY told me that my \$14,000 in savings (retirement account) was “too much.” This is ridiculous, and it is not what is provided by the statute. And Clerk John A. Tomasino says if you have \$2,501 in a savings account, you are not indigent. Nothing else is considered by him. I refuse to believe that the legislature intended people who can’t pay their bills, can’t get badly needed medical care, and have significant debts are not indigent.

16. Florida Statute 57.082 (2) states a clear requirement: “DETERMINATION BY THE CLERK. -- The clerk of the court shall determine whether an applicant seeking such designation is indigent **based upon the information provided in the application** and the criteria prescribed in this subsection.”

17. Florida Constitution Section 21 guarantees access to courts. “The courts shall be open to every person for redress of any injury, and justice shall be administered without sale, denial or delay.” Florida Constitution Section 9 guarantees due process. “No person shall be deprived of life, liberty or property without due process of law.” The good news is that we have these Constitutional

protections. The bad news is that if you can't afford to pay court fees, the Constitution isn't worth the paper it's printed on or the cyberspace it occupies.

18. The term "net equity value" is undefined in the statute. Florida Statute 57.082(2)(a)2 says: "There is a presumption that the applicant is not indigent if the applicant owns, or has equity in, any intangible or tangible personal property or real property or the expectancy of an interest in any such property having a **net equity value** of \$2,500 or more, excluding the value of the person's homestead and one vehicle having a net value not exceeding \$5,000."

19. There is no way in the world the legislature meant to redefine the term net to mean gross.

20. West's Encyclopedia of American Law defines "net" as "the sum that remains following all permissible deductions, including charges, expenses, discounts, commissions, or taxes. **Net assets, for example, are what remain after an individual subtracts the amount owed to creditors from his or her assets.**"

21. Merriam-Webster defines "net" as "**the excess of the value of assets over liabilities.**"

22. West's Encyclopedia of American Law defines "gross" as "Before or without diminution or deduction. Whole; entire; total; as in the gross sum, amount, weight – as opposed to net. Not adjusted or reduced by deductions or subtractions."

23. The equation for calculating Net Equity Value is (cash and cash equivalents) plus short- and long-term investments) minus (short-term debt and long-term debt). In my case, this was \$15,399 minus \$1,405,862 for a negative \$1,390,463. My Net Equity Value for determining indigence is negative \$1,390,463 – stratospherically below the positive \$2,500 allowed by statute.

24. Florida Statute 57.082(a)2 actually indicates that in civil indigence, "net equity value" applies to "any intangible or tangible personal property or real property or the expectancy of an interest in any such property." According to the Internal Revenue Service, NOLO, and Black's Law Dictionary, my cash and bank account assets of \$16,354 were neither tangible personal property nor intangible personal property. So, the calculation would be 0.00 minus \$1,405,862 for a negative \$1,405,862.

25. Section 4 of the Florida Form for "Application for Determination of Civil Indigent Status" is where Assets are listed.

Section 5 is where Liabilities are listed. There is nothing on the form or in the statutes that says Section 5 is to be disregarded. The idea is ludicrous.

26. If the legislature meant no one is indigent if they have at least \$2,500, they would have simply said so. If the legislature meant only gross numbers were to be considered on assets, they would have simply said so. If the legislature meant that debts are not to be considered, they simply would have said so.

27. Florida Statute 57.082(2)(a)2 means "net equity value" in all assets. So, for example, if an applicant has \$2,501 in cash and overdue debts on credit cards of \$75,000, the applicant has a negative net equity value.

28. Florida Statute 57.082(2)(a)2 currently reads:

"There is a presumption that the applicant is not indigent if the applicant owns, or has equity in, any intangible or tangible personal property or real property or the expectancy of an interest in any such property having a net equity value of \$2,500 or more, excluding the value of the person's homestead and one vehicle having a net value not exceeding \$5,000."

29. The legislature should be encouraged to amend Florida Statute 57.082(2)(a)2 to read as follows:

"There is a presumption that the applicant is not indigent if the applicant owns, or has equity in, any assets or the

expectancy of an interest in any such assets having a net equity value of \$2,500 or more. This excludes the value of the person's homestead and one vehicle having a net value not exceeding \$5,000. Net Equity Value is calculated by taking the total value of all assets minus the total of all Liabilities."

WHATEVER HAPPENED TO THE POWER OF PRECEDENT?

30. The United States Supreme Court recently declared me indigent. The U.S. Supreme Court is obviously concerned with the Constitutional guarantees that the clerks and judges in Florida ignore.

31. I pray that the decision of this Court will establish a precedent that will help poor people. Poor people are easily used and abused by the unscrupulous. Clerks and judges should not be users and abusers. Poor people deserve justice, too.

THIS COURT'S OBLIGATIONS ON REVIEW

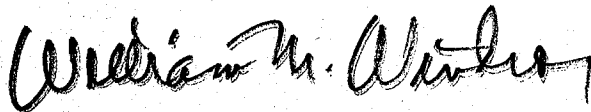
32. Florida Statute 57.082(4)(a) provides that the Court shall consider the following factors in reviewing the Clerk's determination:

"1. Whether paying for private counsel or other fees and costs creates a substantial hardship for the applicant or the applicant's family.

2. Whether the applicant is proceeding pro se or is represented by a private attorney for a fee or on a pro bono basis.
3. When the applicant retained private counsel.
4. The amount of any attorney's fees and who is paying the fees.
5. Any other relevant financial circumstances of the applicant or the applicant's family."

33. These are addressed on page 6 of the Verified Affidavit of William M. Windsor dated June 9, 2021, filed with my June 9, 2021 Motion for In Forma Pauperis.

Respectfully submitted the 14th day of June, 2021,



William M. Windsor

Pro Se

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CERTIFICATE OF SERVICE

I, William M. Windsor, do swear or declare that on this date, 14th day of June, 2021, I have served the enclosed MOTION SEEKING REVIEW on each party to the above proceeding or that party's counsel, and on every other person required to be served, by email.

The names and addresses of those served are as follows:

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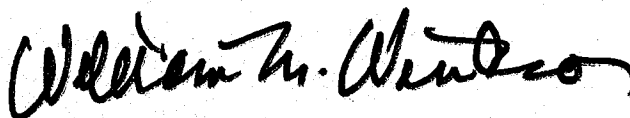
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Judge Dan R. Mosley

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c/o Andrea Coluccio - Judicial Assistant to Judge Dan R. Mosley
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Executed the 14th day of June, 2021,



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