

IN THE SUPREME COURT OF FLORIDA

CASE NO.: SC22-81

DCA CASE NO.: 4D21-2586

L.T. No. 21-CA-000035-CAAXMX

STEPHEN MURRAY

Plaintiff/Petitioner

vs.

JANELLE IRWIN TAYLOR, an individual,

PETER D. SCHORSCH, an individual,

EXTENSIVE ENTERPRISES MEDIA, a Florida LLC

Defendants/Respondents.

_____ /

PETITIONER'S BRIEF IN SUPPORT OF

DISCRETIONARY JURISDICTION OF THE SUPREME COURT OF FLORIDA

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Comes now the undersigned Petitioner Stephen Murray, and submits this Brief in Support of Discretionary Jurisdiction of the Supreme Court of Florida. Petitioner argues the Supreme Court of Florida has jurisdiction in this matter, for the reasons here set forth:

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Appendix: Orders of the trial and circuit courts attached below.

I. STATEMENT OF THE CASE AND THE FACTS

For years, Petitioner sent snarky private grievance emails to elected official Phil Archer, who could never respond and was assumed to not even read them, because the emails documented his use of perjury and tampered evidence and the political consequences. On a different topic in a different forum to unrelated people on the other side of the state, Petitioner posted Bible quotes in response to a photo with the President on Air Force 1. In an independent act weeks later, Petitioner drove over a bridge and posted political fliers outside a law school. Petitioner sent thousands of emails with grievances from a website cops2prison.org. Petitioner was stalked by agents of government, who used the opportunity of Petitioner unknowingly crossing into their jurisdiction, to swear lies in an arrest affidavit citing a novel and obscure "Cyberstalk" statute, which was questionable on its face, and never resulted in charges.

Florida officials illegally pressured Petitioner to stop his political speech. They fed the perjurious arrest affidavit and other false statements to Respondents, in a quid pro quo to attack Petitioner with false and malicious defamation, advertised and delivered over and over. Petitioner swore to Respondents that their Article was false and defamatory, and not based on official statements, to which they responded with

malice and threat. Petitioner filed a complaint but did not serve Respondents for five months, while attempting to get criminal discovery. Respondents filed a motion to dismiss with prejudice, citing their Article was legally sufficiently true, Petitioner had not given them 5 days to correct it (F.S. 770.01), they corrected the defamatory statements (not true), and simultaneously that Petitioner had taken too long to serve them. Respondents provided the trial court with a proposed order containing lies. The court erred in construing Petitioner's rights as irrelevant, and signed the order which was affirmed.

II. SUMMARY OF ARGUMENT

The intervention of state courts to dismiss Petitioner's complaint without a jury trial, establishes a loophole for government actors to attack Constitutional rights, by affirming individually insulated legal elements assembled in a chain, with that end as the sum. Like in "Whole Woman's Health v. Jackson", it deputizes private citizens to do something not permitted to government actors, and then protects and bolsters the private citizens acting as agent, in a selective set of circumstances contrived by government. It affirms the discretion of state judges to determine First Amendment speech and construe rights without witness or discovery, clarification, or articulated standard, prioritizing government interests over sworn

statements of private citizens, and in this case using perjury.

It expressly declares valid Florida statute and case law which limit a citizen's recourse for attacks on his First Amendment rights, which attacks take the form of false and malicious defamation originating with and protected by state officers.

State officers such as legislators and prosecutors can, through political influence and abuse of discretion, violate or permit the violation of such legal rules as Florida Statute 837.02 and Florida Rule of Criminal Procedure 3.134 to create an attack on First Amendment rights, and insulate it from Florida courts.

Case law applied and produced in this case specifically endows Florida police and judges with the right to defame citizens without limitation, and even using perjury, as an attack on political speech. And it strips private citizens of ordinary and traditional protections to that end, to expose them to attacks originating in the executive branch, and amplify those attacks.

In a separate case 2:21-cv-14355 Southern District of Florida, state officers who originated this defamation asserted immunity and privilege to do so in their official roles, which statements support jurisdiction. In that case (ECF 36, p.2), the Florida Attorney General argued that Petitioner "addresses the Eleventh Amendment bar by stating that the 'constitutional powers of the

Governor of Florida, do not include ordering police to detain someone admittedly without probable cause and under false pretense, to threaten that person not to make political speech.' (ECF 22, p.7) There is no supporting authority behind this statement." These are issues of Constitutional rights, where the lower court has construed them as fair to be ignored, in a novel scheme of state officers using various tricks and statutes to circumvent them, such as fixing a match between private citizens to achieve the outcome preferred by government.

Petitioner quotes Justice Kagan in "Whole Woman's Health v. Jackson" that a court cannot abdicate its jurisdiction by saying "oh, we've never seen this before, so we can't do anything about it". Petitioner quotes "United States v. Peters" - "If the legislatures of the several states may at will annul the judgments of the courts of the United States, and destroy rights acquired under those judgments, the Constitution itself becomes a solemn mockery, and the Nation is deprived of the means of enforcing its laws by the instrumentality of its own tribunals." Petitioner cannot certify, but pleads on behalf of millions of common citizens, that these are issues of great importance. They manifest in a system for depriving private individuals of reputation and opportunity without due process at the hand of government, which is applied on a mass scale to incite the mobs.

III. ARGUMENT - STATE OFFICERS AND CONSTITUTIONAL TRADITIONS

Depriving Petitioner of ordinary protections against false and malicious defamation in this special circumstance contrived by government, upends the traditions which have conserved our Republic. Our legal and cultural traditions hold that grievances to the government are the most protected form of speech, because they cannot practically be regulated by the same government toward which grievances are directed, whose political survival incentive may be in proportion to abusing rather than protecting such speech. The least protected speech is that directed toward the false and malicious defamation of private citizens, which advances no useful value, but only sows social conflict. More egregious when such speech, designed to incite neighbor against neighbor, originates with government, for the glorification of government at the expense of common citizens. Most egregious when such speech originates in government and takes the form of an attack on the right to petition that very same government.

The least protected speech, cannot be protected at the expense of the most protected speech. The government is infinitely more dangerous than the individual. A private individual with the worst intentions, cannot compete against a government official with the best intentions, in damage by speech. The purpose of our way of life is to censor the actions of the powerful. The

First Amendment flows uphill, from the less powerful to the more powerful, to counterbalance the natural difference in rights flowing in the opposite direction. The Founders did not imagine they needed to protect specific rights of the powerful, from less powerful individuals. It was not imagined that rulers would want to grieve about individuals, but that the individuals would stop them. It is inconceivable that the anti-federalists imagined private individuals would stop police and government officials attacking and slandering them, unless the Constitution guaranteed police and government officials that explicit right.

The powerful, through the courts, defined Petitioner's speech as a crime without due process, and selectively enveloped a private speaker in a shield against ordinary recourse for defamation. At that moment, agents of government and conduits of political forces created and affirmed an arrangement to circumvent the First Amendment comprised of 1) Police deprive citizens of reputation and opportunity using the stroke of a pen (and as a practical matter with no penalty but rather a political reward and incentive for perjury), 2) Police can do it regardless of probable cause, particularly on behalf of elected officials who can overlook perjury and hold influence over the discretion of judges (in this case they insulated the perjury by not providing discovery, and then broke FRCP to keep defendant on bond while

politically pressuring his lawyer), 3) They can then amplify that deprivation by deputizing publishers to defame their target, by dismissing ordinary defenses against defamation, and using civil courts to give favor to government actors, propaganda, and attacks on citizens, over citizen speech and truth, 4) They can do all this without any witness, and refusing demands for discovery and even public records to document what they have done, and even if there is no charge and a judge or prosecutor determines there was not originally sufficient probable cause, and 5) They can do it to attack and retaliate for political speech, by delegating retaliation for political speech to malicious web bandits as agents of government. 6) As a practical matter, no appeal can cure such an attack on political speech, when the cost of the appeal in time and money renders its availability irrelevant to a person immediately so deprived of his First Amendment rights, and with political resistance at every step in state courts often appointed by the attackers.

IV. ARGUMENT - FIRST AMENDMENT, INCITEMENT, AND SELF-PRESERVATION

Self preservation was a matter worthy of contemplation for Ben Franklin outside the Constitutional Convention and has often weighed in interpretations of First Amendment rights. Limits of the First Amendment have long included speech that incites rather than grieves, such as "shouting fire in a theatre and

causing a panic" from "Schenck v. United States", or "Advocating overthrow of Government" under the Smith Act. What may seem insignificant in individual attacks such as the present defamation of Petitioner, when applied on a mass scale over time, amounts to speech that does not serve the purpose of truth or grievance, but incitement of citizen against citizen. Saying Petitioner drove to Pinellas to stalk someone when Petitioner did not, and saying similar things about enough people for a long enough time, cultivates social unrest and conflict.

Justice Holmes said "in many places and in ordinary times, the defendants, in saying all that was said in the circular, would have been within their constitutional rights. But the character of every act depends upon the circumstances in which it is done". Antisemitism and privation existed throughout history. It was only through the advent of new broadcast technology, that Hitler was able to overcome whatever baffles existed to diffuse such factors, and amplify them into tribal war. Can falsely accusing someone of a crime, if it is blown up and broadcast and recited enough times using the new Internet medium as an amplifier, become inciting and inflammatory, in a proportion that exceeds any merits within the values of the First Amendment?

The present ruling construes the First Amendment in a way that

defies broad historical tradition, when it elevates mass inciteful speech by government against an individual, over private non-inciteful speech by an individual against government. And it specifically affirms the use of the former to cancel the latter. The government through mass media has millions of agents available. And so the slightest incitement by government is not just a threat, but an attack with effect, and without due process. Hatred of fellow citizens is amplified day and night for clicks for cash on the Internet. Defaming the accused to monetize the bloodlust of mobs has created literal factional war in the streets. To construe such considerations as irrelevant, is to become party to a suicide pact.

V. ARGUMENT - A CONFLICT OF RIGHTS

Members of the Court must be aware of gossip originating with government affecting the outcome of criminal trials. This includes witnesses reciting items from the news to convict innocents, jurors considering items from the Internet which defendants have no opportunity to confront - hearsay masquerading as real evidence - and even police overlooking evidence, if such discoveries would contradict what has been handed over to news media. This manufactures an expanding population of aggrieved citizens who distrust courts and media, and hate their neighbors and their country.

Depriving someone in advance of a trial with defamatory embellishments on the Internet, forces him to either give up his privacy and right to remain silent by pushing back on the lies, or give up his reputation and opportunity and ordinary recourse for defamation - and even his right to a fair trial - without due process. Rights in criminal justice comprise a plurality of the Bill of Rights. The right of some clown on the web to make 10 cents defaming a private citizen with unsubstantiated nonsense, and the right of government actors to defame targets of their aggression, are nothing compared to the rights of private individuals to fair and honest criminal justice outcomes.

Decisions of courts seem designed to erode these rights to bolster criminal justice with accessories that intentionally undermine individual rights. If a set of rules improves state odds in prosecution outcomes, and increases or amplifies the impact of prosecutions, it affects and involves the rights in the Bill of Rights. These are not theoretical considerations, but real and hard outcomes. It is an error to construe constitutional rights in criminal justice as irrelevant, when considering laws and rulings that interact with those rights.

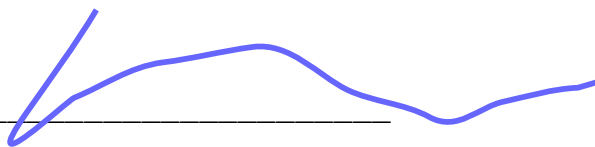
VI. CONCLUSION

Wherefore, Petitioner Stephen Murray respectfully submits that this Court has jurisdiction to address this matter of great importance to many members of the public, defining the powers of state officials and state laws to construe as irrelevant and annul, sacred rights under the federal Constitution and in our way of life.

Respectfully submitted January 19, 2022

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CERTIFICATE OF SERVICE

I HEREBY CERTIFY that a true and correct copy of the foregoing was electronically filed with the Supreme Court of Florida, and was sent by email to Respondents' attorney

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All on this 19th day of January, 2022.

s/Stephen Murray/ _____



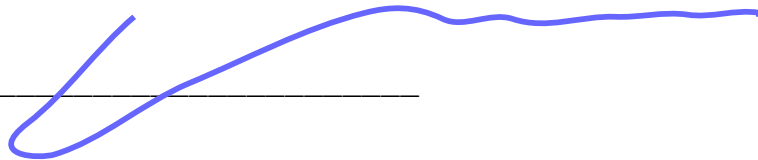
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CERTIFICATE OF FONT

I HEREBY CERTIFY that this document is composed in Courier 12-point, with double line spacing and 1-inch margins, and the arguments are limited to 10 pages.

All on this 19th day January, 2022.

s/Stephen Murray/

A handwritten signature in blue ink is written over a horizontal line. The signature is a cursive-style name that appears to be 'Stephen Murray'.

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