

IN THE SUPREME COURT OF FLORIDA

**Supreme Court Case No.: SC05-1297
Lower Tribunal Case No.: 5D05-1116**

WILLIAM DAVID MILLSAPS,)
)
)
 Petitioner,)
)
 v.)
)
 MARIJA ARNJAS,)
)
 Respondent.)
 _____)

**SECOND AMENDED
JURISDICTIONAL BRIEF
OF RESPONDENT**

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CASES:

Travelers Insurance Company v. Bruns,
443 So.2d 959 (Fla. 1984)3

STATEMENT OF THE CASE AND FACTS

Respondent filed a three-count complaint against Petitioner in the Circuit Court for the Ninth Judicial Circuit in and for Orange County, Florida. The causes of action were for ejectment, quiet title, and unlawful detention. Respondent owns a single family residence in Orange County which she purchased at an IRS tax deed sale. Petitioner had lost the title to the single family residence as a result of his failure to pay taxes owed to the United States of America, but remained in possession of it despite demands from Respondent to vacate.

A Motion For Final Summary Judgment was filed by Respondent and heard by the trial court along with other motions. The trial court entered its Partial Order on Plaintiff's Motion For Final Summary Judgment, Defendants' Motion To Dismiss, and Defendants' Cross-Motion For Summary Judgment, on March 1, 2005 (the "Order"). Petitioner filed his Notice of Appeal appealing the Order to the Fifth District Court of Appeal on March 29, 2005. The Fifth District Court of Appeal dismissed the appeal for being an appeal of a non-final, non-appealable order.

Petitioner filed the instant appeal alleging conflict between the District Courts of Appeal.

SUMMARY OF ARGUMENT

There has been no argument by Petitioner why a conflict exists in the decisions of the District Courts of Appeal regarding the instant cause nor why the Order is anything other than non-final and non-appealable.

ARGUMENT

Petitioner's argument does not state why the Fifth District Court of Appeal's ruling is in conflict with any other District Courts of Appeal, and so Respondent is without comment regarding this threshold question.

The lower court ruled that the trial court's Order was non-final and therefore non-appealable. As stated by this Court, "the theory underlying the more restrictive rule is that appellate review of nonfinal judgments serves to waste court resources and needlessly delays final judgment." *Travelers Ins. Co. v. Bruns*, 443 So. 2d 959, 961 (Fla. 1984). Petitioner has provided no reasons why the Order should be considered anything other than non-final and non-appealable.

CONCLUSION

Respondent respectfully requests Petitioner's appeal be dismissed.

Respectfully submitted this ____ day of December 2005.

Jeffrey A. Icardi

CERTIFICATE OF SERVICE

I HEREBY CERTIFY that a true and correct copy of the foregoing as furnished by U.S. Mail this ___ day of December 2005, to William David Millsaps, 528 Morocco Avenue, Orlando, FL 32807-1220.

Jeffrey A. Icardi, Attorney

CERTIFICATE OF COMPLIANCE

I HEREBY CERTIFY that this Jurisdictional Brief of Respondent complies with the font requirements set forth in Florida Rule of Appellate Procedure 9.210(2) as well as Administrative Order AO04-84 regarding Mandatory Submission of Electronic Copies of Documents, dated September 13, 2004.

Jeffrey A. Icardi