

IN THE SUPREME COURT OF FLORIDA

CASE NO.: SC07- 572

Lt. Case No.: 5D06-1280

GREENTREE SERVICING, LLC.
ETC.,

Petitioner,

vs.

MICHAEL J. DECANIO, ET AL.,

Respondents.

**AMENDED ANSWER TO PETITION FOR DISCRETIONARY REVIEW
OF THE FIFTH DISTRICT COURT OF APPEALS OF FLORIDA**

BLANCHARD, MERRIAM,
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I. STATEMENT OF THE CASE AND OF THE FACTS

The Respondent, MICHAEL J. DECANIO (ADECANIO@) agrees in general with the Statement of the Case and of the Facts filed by the Petitioner, GREEN TREE SERVICING, LLC., (AGREENTREE@). It does not, however, go far enough. The

Decision for which review is sought is very fact specific. In its opinion, the Fifth District Court of Appeals noted:

The clerk did exactly what was required by the statute. As Greentree failed to take the steps necessary for it to obtain notice of the statutory issuance of a tax deed, its assertions of a due process violation is ineffective. (Appendix - Opinion, pg. 9).

The Decision of the Fifth District Court of Appeals does not expressly affect a class of constitutional officers. The Decision does not determine which lienholders are entitled to notice under ' 197.522, Florida Statutes, the Opinion merely holds that the statute speaks for itself and should be followed. GREENTREE, in its argument below, sought to establish a special exception for itself and the Court expressly rejected it, finding that GREENTREE had failed to take the steps necessary to protect its own interest.

SUMMARY OF THE ARGUMENT

The Decision in the Fifth District Court of Appeals does not expressly, within the written District Court Opinion affect a class of constitutional officers and is fact specific.

The Petition for Discretionary Review should be Denied.

I. ARGUMENT

THE DECISION OF THE FIFTH DISTRICT COURT OF APPEALS DOES NOT EXPRESSLY AFFECT A CLASS OF CONSTITUTIONAL OR STATE OFFICERS.

GREENTREE cites Spradley v. State, 293 So.2d 697, for the proposition that this Court has jurisdiction to review the Decision of the Fifth District Court of Appeal; in fact, it stands for the opposite position.

In Spradley, this Court stated:

To vest this Court with certiorari jurisdiction, a Decision must directly and, in some way, exclusively affect the duties, powers, validity, formation, termination, or regulation of a particular class of constitutional or state officers. This may be a Decision in a case in which the class or some of its members is directly involved as a party.

It may also be in a case in which no member of the class is a party if the Decision generally affects the entire class in some way unrelated to the specific facts of that case. Spradley, pg. 701.

In the instant case, the clerks were not a party and the Decision is fact specific.

In addition, Spradley was decided prior to 1980 Amendment to Fla. Rule Appellate Procedure, 9.030(a)(2)(a)(iii). In 1980, in a 1980 Amendment, the word expressly was added to the Rule and further limits the basis for invoking jurisdiction. Ludlow v. Brinker, 403 So.2d 969 (Fla. 1981). Expressly means within the written district court opinion. School Board of Pinellas County v. District Court of Appeal, 467 So.2d 985, 986 (Fla. 1985).

CONCLUSION

The Opinion for which review is sought does not meet the above-stated

requirements and jurisdiction should be Denied.

CERTIFICATE OF SERVICE

I HEREBY CERTIFY that a true and exact copy of the foregoing instrument has been furnished this _____ day of April, 2007, to DONNA S. BIGGINS, ESQUIRE, Penson & Padgett, P.A., 2810 Remington Green Circle, Tallahassee, Florida 32308.

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CERTIFICATE OF COMPLIANCE

I HEREBY CERTIFY that the forgoing document is in compliance with the font requirements of Rules 9.100(1) and 9.210(a)(2) of the Florida Rules of Appellate Procedure and has been typed in Times New Roman 14-point font.

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