

IN THE SUPREME! COURT
OF FLORIDA

No. : 11-1243

DANIEL W. BROWN SR.,
Petitioner,

V/s,

STATE OF FLORIDA
Respondent,

ON Notice To Invoke Discretionary
Review of A Decision of The Fourth
District Court of Appeal

APPENDIX TO
JURISDICTIONAL Brief of Petitioner

David W. Brown Sr.
Daniel W. Brown Sr.,
P.O. Box 407016
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I

Whether this Court should invoke its Discretionary Jurisdiction as the Decision below expressly and Directly with Petition For Writ OF Mandamus; Case No: 4011-1711.

SUMMARY OF THE ARGUMENT

This Court should invoke its discretionary jurisdiction pursuant to Fla. R. App. P. 9.120(c) to review the decision below of the Fourth District Court of Appeal because said opinion is in direct and express conflict with its own opinion of the same question of Law

I

Whether this Court should invoke its Discretionary Jurisdiction as the Decision Below expressly and Directly with the Petition for Writ of Mandamus: case No: (4D11-1711).

pursuant to Fla. R. App. P. 9.210 (c) this court should invoke its discretionary jurisdiction to review the decision Below of The Fourth District Court of Appeal. On April 21, 2011, Petitioner Daniel W. Brown Sr., Filled an Petition for Writ of Mandamus with the 17th Judicial Circuit, For Broward County Florida. The Petitioner argued in the Petition that the Respondent, Circuit Judge Andrew L. Siegel, and as grounds therefore alleges as follows:

JURISDICTION

This Court has jurisdiction pursuant to Article V, Section 4 (b) (3) of the Florida Constitution, and Rule 9.030 (b) (3), Florida Rule of Appellate. No other remedy is available under Law except Mandamus (SEE 28 USCA 1651)

LAW

- 1) A writ of Mandamus is a command from a court directed to an inferior court, public office, or government entity, requiring the party to whom it is directed to perform an act that the party has a legal duty to perform because of its position. SEE STATE ex rel Buckwalter V. City of Lakeland, 150 So. 508 (Fla. 1933).
- 2) The act commanded in the writ must be ministerial and cannot be one that the party sought to be coerced has any discretion in performing. SEE English V. McCrary 348 So. 2d 293 (Fla. 1977).
- 3) Mandamus is proper to enforce a right which is clearly established in the law, but not to litigate the existence of such a right. SEE Florida League of Cities V. Smith, 607 So. 2d 397 (Fla. 1992).
- 4) Writ of "Mandamus" is common-law writ of coerce performance of any and all official duties, where official charged

by Law with performance of duty refused or failed to perform same.

5) Constitution, Vesting in circuit court and Supreme Court power and authority to issue writs of Mandamus, Vesting full and complete authority to issue such writs to coerce and enforce full and complete duty devolved by law on any official to perform. Const. art 5. §§ 5, 11.

Article 5, § 5, of the Constitution of Florida, provides that the Supreme Court 'shall have the power to issue writs of mandamus, certiorari, prohibition, quo warranto, habeas corpus, and also all writs necessary or proper to be complete exercise of its jurisdiction.

Article 5, § 11, makes a similar grant of power to the circuit courts.

6) The Statute has not attempted to change the law as to the duty of the officials, and this court has repeatedly held that it is the duty of the proper officials in cases like the above one under the claim as evidenced by the law, when the Constitution vested in the circuit courts and Supreme Court of Florida the

and authority to issue writs of Mandamus, it vested therein full and complete authority to issue such writs to coerce and enforce the full and complete duty devolved by law upon any official to perform.

7) The district court rejected petitioners arguments and dismissed it without prejudice to petitioner's right to file a motion to discharge counsel should he wish to proceed pro'se.

The Petitioner is also filling an Motion to Dismiss Counsel; and also fill Motion For Disqualification of Judge; with an Affidavit. Accordingly, petitioner seeks to invoke this Court's discretionary jurisdiction pursuant to Fla. R. App. P. 9.210(c)

ARGUMENT

The Fourth District Court of Appeal on December 22, 2010, reviewed an appellant Jeffery Knipp in case No 4D09-2364 and appellant number #2 Brian Kiser in case No: 4D09-2365 both Appellants not being co-defendants appealed the Circuit Court's order with-holding adjudication on the (2) counts medical practitioner ('doctor Shopping') Section 893.13 (7)(a) B, Florida Statutes (2008) and dismissing the (1) count of Trafficking: SEE: State V. Santiago, 938 So. 2d 603, 605 (Fla. 4th DCA 2006); State V. Shuler, 988 So. 2d 1230 (Fla. 5th DCA 2008); State V. Kalogeropolous, 758 So. 2d 110, 111 (Fla. 2000).

Although the 4th DCA ruled in an granted in-part and affirmed in-part, the State cross appeal requesting re-hearing on the issue in which defense counsed filed a Motion To Strike: SEE Knipp V. State 4D09-2364; SEE Kiser V. State 4D09-2365, each case addressing the same similar issue based on the final ruling. Now based upon the current ruling before the Courts which stands

as law in effect for South Florida. Circuit Judge Andrew L. Siegel has taken an affirmative stand with the State of Florida (State Attorney) and position in Simillat cases like Knipp and Kiser to wait on the outcome of the ruling on the Rehearing before dismissing the trafficking charge of those defendants who possess valid prescription. And excessive bails shall not be required, nor excessive fines, imposed, nor cruel and unusual punishments inflicted.

Circuit Judge Andrew L. Siegel's stand violate the current and his duty under canon (1) (b) of Judicial code of conduct requires him to dismiss trafficking charges on those defendant who possess valid prescription.

Circuit Judge Andrew L. Siegel stand. violate the current and his duty under canon (1) (A) of Judicial code of conduct requires him to dismiss trafficking charges on those defendant who possess valid prescription.

Petitioner, believes and fears that the presiding Judge is prejudiced against him and in favor of the adverse.

party. The facts and reason for the Petitioner belief are set forth in the Petition For writ of Mandamus.

The Petitioner also believes that the presiding judge will not hear further proceeding with an open mind, but already has made an adverse to the Petitioner.

On 4-24-11 an Petition For writ of Mandamus was filled and the presiding judge in the same case No: 16-10412 CF-10E: Defendant Darrel Akins also filled an writ and Circuit Judge Andrew L. Siegel; Order Striking Defendant's Petition For writ of Mandamus. That thus a Conflict of Interest now exists between the presiding judge. That a conflict does thereby exist between the presiding Judge Andrew L. Siegel, in all party would be ineffective and for inadequate at best.

RELIEF REQUEST

Petitioner, based on the foregoing reasons, this Court should invoke its discretionary jurisdiction pursuant Fla. R. App. P. 9.120(c)

Petitioner seek a Mandate Order directing Circuit Andrew L. Siegel to Comply with his duty to Uphold the Law and Public trust in the Judiciary v) (A). And basis this Unjustified Stand and dismiss Defendants trafficking charge Under Fla. R. C. P. 3.190 (c) (4) of those defendant who possess Valid legal medical prescription.

Respectfully submitted,
Daniel W. Brown Sr.

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CERTIFICATE OF SERVICE

I Hereby Certify that a copy of the foregoing has been furnished to Thomas D. Hall, Clerk; Supreme Court of Florida; 500 South Duval Street; Tallahassee, Fla 32399; Assistant Attorney General; The Capitol Pl 01. Tallahassee, Fla 32399, by United States Mail, this 14th day of July, 2011.

Daniel W. Runkle
Pro'se

IN THE DISTRICT COURT OF APPEAL OF THE STATE OF FLORIDA
FOURTH DISTRICT, 1525 PALM BEACH LAKES BLVD., WEST PALM BEACH, FL 33401

June 6, 2011

CASE NO.: 4D11-1711
L.T. No. : 10-10412 CF10

DANIEL W. BROWN

v.

STATE OF FLORIDA

Appellant / Petitioner(s),

Appellee / Respondent(s).

BY ORDER OF THE COURT:

It appearing that petitioner is currently represented by counsel in this criminal case by attorney James K. Weick, Jr., it is therefore,

ORDERED that the above-styled petition for writ of mandamus is hereby dismissed. *See Logan v. State*, 846 So. 2d 472 (Fla. 2003); *Davis v. State*, 789 So. 2d 978 (Fla. 2001) (holding that appellate courts in Florida have discretion to deny a defendant represented by counsel the ability to proceed pro se in appellate proceedings); further,

ORDERED that this dismissal is without prejudice to petitioner's right to file a motion to discharge counsel should he wish to proceed pro se.

WARNER, CIKLIN and GERBER, JJ., Concur.

I HEREBY CERTIFY that the foregoing is a true copy of the original court order.

Served:

Daniel W. Brown

Attorney General-W.P.B.

James K. Weick, Jr.

dl

Marilyn Beuttenmuller
MARILYN BEUTTENMULLER, Clerk
Fourth District Court of Appeal

