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IN THE SUPREME COURT OF FLORIDA

ROBERT VON GOETZMAN

Petitioner/Pro Se

SC No. 13-9999

v.

Lower Tribunal No. 2D12-1327

JEFF'S TRANSMISSIONS, INC.,

Respondent.

**ON PETITION FOR DISCRETIONARY JURISDICTION BASED ON
ALLEGED CONFLICT OF DECISIONS**

RESPONDENT'S JURISDICTIONAL BRIEF

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STATEMENT OF THE FACTS AND CASE

On October 6, 2010, Robert Von Goetzman, *pro se*, (“Goetzman,” or “Petitioner”), filed a “Demand for Hearing under FL Statute 559.917” in the Circuit Court, Thirteenth Judicial District, Hillsborough County, Florida.¹ In such Demand, Goetzman sought to invalidate the mechanic’s lien of Respondent, Jeff’s Transmissions Inc., (“Jeff’s Transmissions”), in the amount of \$2,622.89, on Goetzman’s automobile for labor performed. *Id.* Since Goetzman filed in the wrong court, the case was transferred to the Hillsborough County Court.

After a bench trial, that court issued its final judgment on November 5, 2012. GA at Tab E. The judgment states that both parties appeared without counsel and presented testimony and evidence, *id.*, but as shown below, no court reporter transcribed the proceedings. The judgment was against Goetzman, made factual findings, and ruled as a matter of law that Jeff’s Transmissions had a valid mechanic’s lien in the amount of \$2,622.89. *Id.*

On November 24, 2010, Goetzman filed a notice of appeal to the Thirteenth Judicial Circuit Court, Appellate Division. GA Tab D. The proceedings in the circuit court plenary appeal lasted over a year and were unduly complicated

¹ See Goetzman’s Appendix (“GA”) at Tab G-1. The citations to the record in this brief are to the documents Goetzman included in his Appendix in the district court, (“GA”), and in this Court, and those Respondent included in its Appendix in the district court. (“RA”).

because Goetzman appeared *pro se*, and as such was not familiar with the Florida Rules of Appellate Procedure.

Foreshadowing the result in Goetzman's plenary appeal, the circuit court stated:

Appellant is forewarned that if a transcript is required but a court reporter was not present for the proceedings, Appellant may obtain a substitute for a transcript in accordance with [Fla. R. App. P.] 9.200(b)(4)[.]

Order Striking Initial Brief (May 13, 2011); RA at Tab 3. Thereafter, Goetzman was unable to obtain the transcript or a substitute for the transcript.

On February 8, 2012, the circuit court issued its opinion in the plenary appeal that in its entirety stated: "In light of an incomplete record of the proceedings below, the judgment below is **AFFIRMED** this 6th day of February, 2012." GA at Tab A. (Emphasis in bold in original). Goetzman then filed a notice of appeal to the Second District Court of Appeal, and that court ordered such notice would proceed in certiorari as Case No. 2D12-1327. *See* the district court's orders dated March 14, 2012 and April 4, 2012 in its online docket at the website http://199.242.69.70/pls/ds/ds_docket.

After Goetzman filed his petition, on April 26, 2012, Jeff's Transmissions, acting *pro se*, filed its first response. *Id.* By order dated May 10, 2012, the district court struck such response because Jeff's Transmissions is a corporation, and can only be represented by counsel. *Id.* The order required Respondent to secure

counsel or have the proceeding resolved on the petition alone. *Id.* On June 8, 2012, undersigned counsel for Jeff's Transmissions filed his notice of appearance, and later filed Jeff's Transmission's response, in the district court. *Id.*

On March 27, 2013, the Second District per curiam affirmed, without elaboration, the decision of the Circuit Court's Appellate Division. *See* <http://www.2dca.org/PCA/2013/march2713.pdf>, and Goetzman's Appendix in this Court, No. 1. On July 1, 2013, Goetzman, *pro se*, filed his Notice of Discretionary Jurisdiction in the district court. http://199.242.69.70/pls/ds/ds_docket. He seeks review by this Court of the Second District's decision that he alleges expressly and directly conflicts with decisions of this Court and of *other* district courts of appeal on the same point of law. Goetzman's Jurisdictional Brief at 2.² This proceeding followed.

² The cases cited and relied on by Petitioner to establish conflict all go to either the merits of Petitioner's county court statutory claim, or to an issue concerning whether corporations must be represented by counsel in Florida courts. Such issue was not raised by Goetzman in the trial court, but was raised in his motion for rehearing and rehearing en banc filed in the Second District. That court denied such motions. *See* http://199.242.69.70/pls/ds/ds_docket. All of the cases cited by Goetzman in his jurisdictional brief are inapplicable to the issue of whether this Court has jurisdiction in this case.

SUMMARY OF THE ARGUMENT

This Court lacks jurisdiction to review a decision of the Second District Court of Appeal that affirmed per curiam, without elaboration, a decision of the Circuit Court for Hillsborough County, Florida, Appellate Division.

ARGUMENT

In his jurisdictional brief at 12, Goetzman framed the issue he seeks review of as follows: “Does a Florida Corporation have to be represented by Counsel in State of Florida Courts?” He then argues that the Second District’s decision in this case expressly and directly conflicts with the Second District’s decision in *Puntagorda Pines Dev., Inc. v. Slack Excavating, Inc.*, 468 So. 2d 438 Fla. 2d DCA 1985)(holding that corporations have to be represented by counsel)). Goetzman did not raise this issue in the trial court in the first instance, nor did the circuit court or the district court address it in their decisions. Thus, this Court should not address it either. In any event, Respondent was represented by counsel in the district court and is represented here, and there is no alleged conflict to resolve by this Court because Goetzman argues that the conflict is between the district court’s own decisions.³

³ Florida’s Constitution and Appellate Rules limit this Court’s discretionary discretion to review decisions of this Court or decisions of *another* district court of appeal, that expressly and directly conflict with such decisions on the same issue of law. *See* Art. V, § 3(b)(3), Fla. Const., and Fla. R. App. P. 9.030(a)(2)(A)(iv). Thus, discretionary jurisdiction in this proceeding does not lie for alleged conflict

Goetzman's brief then argues the merits of his statutory claim in the trial court. However, Goetzman's argument about the alleged errors made in the three lower tribunals on the merits are not appropriate in a jurisdictional brief and will not be responded to here. *See* Fla. R. App. P. 9.120 (d) ("Petitioner's brief [is] limited solely to the issue of the supreme court's jurisdiction."). The Statement of the Facts and Case, *supra*, demonstrates that this Court lacks discretionary jurisdiction to review the district court's decision. This is because no such jurisdiction lies to review decisions of district courts of appeal that affirm trial court judgments in per curiam decisions without elaboration, as the district court did in this case. *Jackson v. State*, 926 So. 2d 1262, 1265 (Fla. 2006) (citing *Jenkins v. State*, 385 So. 2d 1356, 1359 (Fla. 1980)).

CONCLUSION

Based on the reasons, on-line docket records of the Second District Court of Appeal, and precedents of this Court, discussed and cited above, Respondent Jeff's Transmissions, Inc. prays that this Honorable Court will deny the petition.

in decisions of the same district court—here, the Second District's decisions. When such intra-court conflicts are alleged, they are addressed, if at all, in en banc proceedings of a district court. *See* Fla. R. App. P. 9.331. The Second District denied Goetzman's motion for rehearing and rehearing en banc, and recently, on July 18, 2013, denied his motion to certify conflict to this Court. *See* hyperlink, *supra*, note 2.

Respectfully submitted,

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Certificate of Service

I Hereby Certify that on July 31, 2013, a true and correct copy of Respondent Jeff's Transmission's Jurisdictional Brief was served on Petitioner Robert Von Goetzman, pro se, via email to: jointsystems@verizon.net.

/s Keith E. Hope

Certification of Font Size

I Hereby Certify that this brief was prepared using Times New Roman 14.

/s Keith E. Hope