

IN THE SUPREME COURT  
STATE OF FLORIDA

THE FLORIDA SENATE, ET AL.,     )  
  )  
  )  
      Petitioners,                    )  
  )  
vs.                                    )     Case No.:    SC01-765  
  )  
FLORIDA PUBLIC EMPLOYEES         )  
COUNCIL, AFSCME.                    )  
  )  
      Respondent.                    )

**PETITION OF CHRISTINE WALSH**

Petitioner CHRISTINE WALSH asks to be heard in this cause, as an intervenor or by any other characterization<sup>1</sup> satisfactory to the Court.

There is no emergency here. There is no constitutional crisis. Nor does this Court have jurisdiction of the controversy portrayed by the "Emergency" Petitioners as threatening to unravel the very fabric of democratic government.

**Non-Existent Jurisdiction**

Notwithstanding the "Emergency" Petitioners' claims that something nefarious is afoot in a circuit court,

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<sup>1</sup> The "Emergency Petitioners" rely on Chiles v. Children, 589 So.2d 260 (Fla.1991). Among the participants or advocates acknowledged in the reported Chiles opinion appears an individual characterized as an "interested party".

Article V, Section 3(b)(7)<sup>2</sup> cannot avail them of this Court's jurisdiction. The cited provision does nothing more than acknowledge that this Court may issue a writ of prohibition in order to *complete* an exercise of its jurisdiction. It is clearly meant to attend situations where this Court actually has jurisdiction as determined from other specific grants found in Article V, Section 3(b).

Each of those provisions vesting jurisdiction in this Court requires an existing decision of a district court of appeal. The provision from which the "Emergency" Petitioners borrow their discomfiting alarum that the circuit court has become a constitutional loose cannon "of a magnitude unprecedented in recorded Florida history" *affecting a class of constitutional officers* requires a decision by a district court of appeal. All other jurisdictional grants in Section 3(b) require a *certification* by a district court of appeal that some aspect of a question legitimately before it is of great public importance or otherwise requires immediate resolution by this Court.

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<sup>2</sup> "Emergency" Petition, p.2

The "Emergency Petitioners" supply none of these requirements and appear to make no claim that they can.

The "Emergency" Petitioners rely, astonishingly, on Chiles v. Children (supra, n.1). Even lay persons reading the Chiles opinion can see that the controversy did not spring fully formed from the loins of those litigants into the bosom of this Court. It was properly certified by a district court of appeal as a matter of great public importance requiring immediate resolution, as required by the Article V provisions creating this Court's jurisdiction. The explanatory notes following the applicable appellate rules explain that constitutional certiorari was abolished by the electorate on March 11, 1980, (Article V, § 3(b), Fla. Const. 1980). The notes explain that a district court certification has been necessary for twenty years to invoke this Court's discretionary jurisdiction and that the district court was intended by the 1980 constitutional revisions to be the court of last resort in other cases.

What appears to be the "Emergency" Petitioners' objective is in fact protection from exposure or development of facts in the circuit court, and the stopping in its tracks of any inquiry into the surrounding circumstances by

a State Attorney<sup>3</sup> in the Second Circuit who has a reputation for honesty and courage, and who has demonstrated in the past that he is no respecter of personages merely because they may have acquired legislative titles in front of their names.

### **The "Emergency" Petitioners' Portrayals**

The aggrieved Florida legislators report an affront to the separation of powers provision of the Florida Constitution by Judge Smith, "of a magnitude unprecedented in recorded Florida history". Whatever the "Emergency" Petitioners may ultimately make of that claim pales alongside the legislature's actions over the last dozen years to accommodate influential legislators'<sup>4</sup> wishes for de facto control over persons in the executive branch agencies, i.e., state Career Service employees, by simply and expediently removing their civil service protections. Then those unprotected state employees who did not quickly signal

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<sup>3</sup>A constitutional officer of the judicial branch, established by Article V.

<sup>4</sup>The most infamous of whom are now seen to have been receiving secret payments from special interests who didn't want to be inspected, regulated or held to requirements of law by executive branch state employees, and who are now serving federal criminal sentences.

their willingness to be servile lackeys of legislators, favored special interests, and their lobbyists were dismissed and replaced with more obedient executive branch employees.

Any grade school child in Florida could read Article II, Section 3:

"... No person belonging to one branch shall exercise any powers appertaining<sup>5</sup> to either of the other branches..."

and figure out that it is an element in the legislature that is making haste, and now apparently in desperation, to mow down the troublesome separation of powers provision (under the guise of "modernization") and make Florida's state (executive branch) employees into their obedient lockstepping serfs, groveling at the feet of legislators' favored interests and big campaign contributors.

There are indications that at an earlier time earlier legislators understood all about the State Constitution and the separation of powers. They actually set it out in simple understandable words in Section 20.02, Florida

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<sup>5</sup> For legislators who hear of this wrinkle, "appertain" is explained in Webster's as meaning "to belong as a function".

Statutes. Regarding Judge Smith's recently detected effrontery, the statute says:

"... The judicial branch has the purpose of ... adjudicating any conflicts arising from the interpretation or application of the laws."

It is hard for the intervenors to distinguish those words from what the circuit court plaintiff below is asking Judge Smith to do, but that is a question for resolution by those capable parties.

#### **Intervenor's Interests**

1. Intervenor CHRISTINE WALSH is a citizen of Florida and a resident of Santa Rosa County.

2. Intervenor CHRISTINE WALSH is a plaintiff in Case No. 00-1827 pending in Leon County circuit court. The case has had no connection with Judge Smith and is not assigned to him. Intervenor's circuit court case explains and alleges how the Florida Department of Transportation and the Florida Department of Environmental Protection have been recently transformed by legislative action into private preserves of flowing cash, to benefit legislators' favored interests and campaign contributors, by stealthy and incremental removal of civil service protection from executive branch state employees. It explains the subsequent intimidation and removal of state regulatory employees who would not satisfactorily misrepresent facts, or conceal violations of law. The case describes citizens' injuries flowing from those removals of state employees' civil service

protections, and explains the concealed intercession into executive branch functions by Florida legislators receiving secret payments from favored interests and campaign contributors in a pattern of racketeering activity.

3. Intervenor and her neighbors came to Tallahassee in January of 2000 and saw Governor Jeb Bush cast the deciding vote in a Cabinet determination to pay a large campaign contributor 23 million dollars of state funds for a piece of property carried on the assessor's rolls at less than \$500,000. As part of the deal, the state agreed to depart from ordinary appraisal methodology required by law and to accept the donation of a piece of contaminated property near Intervenors' homes. And against that background the "Amicus" parties tell this court that "the judiciary has an obligation to restrain its own excesses."

4. In August of 2000 Intervenor and her neighbors commenced their lawsuit to expose what had been done and to seek redress. Their circuit court complaint identified state employees who would be witnesses in their case. Those state employees had previously told the truth about the legislatively protected lawlessness of a big campaign contributor. They had testified before the Special Grand Jury in Escambia County. Immediately one of the state employee witnesses was dismissed. He had 20 years of executive branch service and was absolutely honest. He had recently lost his civil service protections in the manner described above in numbered paragraph 2. Another state employee witness was immediately marked for "internal investigations". Invented charges were then "sustained" against him because his civil service protections had not yet been

removed. Both state employees had displeased a large campaign contributor to the Governor's party.

5. The plaintiff (state employee union) in the controversy before Judge Smith which the "Emergency" Petitioners (legislators) are trying to shut down is apparently trying to protect state employees including the remaining state employee witnesses in Intervenor's pending circuit court case from having their civil service protections removed or being intimidated into silence or dismissed arbitrarily "without cause". Intervenor's interests are affected thereby by the case before Judge Smith. Their interests are likewise implicated in the "Emergency" Petitioners' efforts in this Court to stifle any inquiry into or exposure of the circumstances.

6. By the end of October 2000, one month after the dismissal of the first state employee witness in Intervenor's circuit court case and the invented "internal investigation" charges against the other, the Governor's "Council of 100" run by the Republican finance chairman had a "legal opinion" in hand telling how all civil service protections of all state employees could be removed.

7. After the Governor's rush to remove all civil service protections from all state employees, Intervenor's circuit court action was amended in February to show a pattern of racketeering activity involving former legislators and the administrators of a state agency found by the Special Grand Jury to have intimidated state employees to make it all work. It showed an enterprise to benefit special political interests. The amendment explained the involvement of Stephen MacNamara, the former "chief of staff" of former Speaker of



the Florida House John Thrasher (Amicus herein) who had “lobbied” unprotected state employees in the Governor’s conference room in 1999 to make the 23 million dollar land acquisition deal work. (The Amicus parties assure this Court that their “constitutional obligations” to protect the integrity of the Florida Legislature no longer exist.)

8. That month, February 2001, is when the pleadings of both the circuit court plaintiff before Judge Smith and the “Emergency” Petitioners herein say the Governor declared an impasse to stop the negotiations with the employee union then refusing to accept removal of all state employees’ civil service protections.

9. On March 20, 2001, the Florida Commission on Ethics found probable cause that Stephen MacNamara had violated Florida ethics laws in connection with his activities and “lobbying” state employees in the 23 million dollar land acquisition and shadowy “linked agreements” while he was the Speaker’s chief of staff.

The Commission’s finding had been known for several days by insiders, including Ethics Commission member Carol Licko, the Governor’s former “ethics” counsel, who the Governor had placed on the Commission after the Commission received the complaint against MacNamara from a Gainesville citizen, and who then voted as an Ethics Commissioner not to find probable cause that MacNamara had violated ethics laws.

10. The “Emergency” Petitioners’ pleadings show that one week later on March 27, 2001, a “meeting” was hurriedly scheduled to “make recommendations” in the matter about removal of state employee protections, and for such action as the legislature deemed to be in the “public interest”. The union plaintiff in the circuit court case below assigned

to Judge Smith says it was a hearing. That may or may not be the same as a meeting.

And Section 447.403(4)(d) says the legislature must (somehow) include the interest of the public employees involved when it “deems” what is in the “public interest”.

### **Allegations**

Intervenors allege that the March 27 “meeting” or “hearing” or whatever it was that the plaintiff has asked to be heard about in the circuit court below, was set in haste and desperation by the “Emergency” Petitioners because they and others know that the impending evidentiary hearing prosecuted by the Commission on Ethics about Stephen MacNamara’s improper activities designed to control and influence executive branch state employees is likely to cascade into an ethics train wreck of a magnitude unsurpassed in recent Florida history. They fear it will reveal the intimidation and manipulation of Florida state executive branch employees by Florida legislators, including some now serving federal sentences for concealment of secret payments from special interests and large campaign contributors.

This Court should not suppress legitimate inquiry into this mess by the State Attorney, as the “Emergency Petitioners” demand in their strident bid to paint a constitutional crisis. This state of affairs cries out to be examined in the full light of truth.

Intervenors attach and incorporate also recent newspaper revelations of serious escalating health problems in Panhandle counties attributed to years of corrupt and collusive non-enforcement of Florida’s pollution laws, and confirmed by the Special Grand Jury. Intervenors ask this Court to consider those public interest implications.

Florida citizens are sickened and dying from polluted air and water while politicians in Tallahassee do their churlish dance of greed and arrogance and our state rapidly gains a reputation for lawlessness at the highest levels of its government.

I have read the petition asking to be heard in this matter submitted by my neighbor in Santa Rosa County, Charles D’Asaro, and I adopt what he says there because it is true to the best of my knowledge and sincere belief.

April 18, 2001.

Respectfully submitted,

CHRISTINE M. WALSH  
Post Office Box 551  
Bagdad, Florida 32530

Telephone 850 623-1038  
Intervenor Pro Se

**CERTIFICATE OF SERVICE**

I HEREBY CERTIFY that a true and correct copy of the foregoing has been furnished to Ben R. Patterson, Esquire, Patterson & Traynham, Post Office Box 4289, Tallahassee, Florida 32315; Honorable L. Ralph Smith, Circuit Judge, Leon County Courthouse, 301 S. Monroe Street, Tallahassee, Florida 32301; Honorable Robert A. Butterworth, PL 01 The Capitol, 400 South Monroe Street, Tallahassee, Florida 32399-1050; Barry Richard, Esquire, 101 E. College Avenue, Post Office Box 1838, Tallahassee, FL 32302-1838; William N. Meggs, State Attorney, Second Judicial Circuit, Leon County Courthouse, 301 S. Monroe Street, Tallahassee, FL 32301; and counsel for the Amicus parties, this the \_\_\_\_\_ day of April, 2001.

Christine M. Walsh