

IN THE UNITED STATES DISTRICT COURT
FOR THE SOUTHERN DISTRICT OF FLORIDA

JOHN B. THOMPSON,

Plaintiff,

v.

Case No. 07-21256 (Judge Adalberto Jordan)

THE FLORIDA BAR and
DAVA J. TUNIS, JOHN HARKNESS,
AND FRANK ANGONES,

Defendants.

PLAINTIFF'S SUPPLEMENTAL LEGAL AUTHORITY

COMES NOW petitioner, John B. Thompson, (Thompson) an attorney on his own behalf, and files this supplemental legal authority in opposition to defendants' motion to dismiss as to the abstention issue, stating:

Florida Constitution, Article I, Section 23, states:

SECTION 23. Right of privacy.--Every natural person has the right to be let alone and free from governmental intrusion into the person's private life except as otherwise provided herein. This section shall not be construed to limit the public's right of access to public records and meetings as provided by law.

With the above provision, the Florida Constitution codifies and in fact extends the penumbral US Supreme Court case of *Connecticut v. Griswold* which established a constitutional right of privacy.

That right of privacy can only be overcome by a state's compelling interest to do something, whatever that something is. What is that "something" here?

The Florida Bar has tied its demand for a mental health exam of Thompson to resolution of its "discipline" of Thompson. Does Florida have a compelling state interest in doing so? Apparently not, because The Bar has not sought an order, pursuant to Rule

3-7.13, to compel that examination. If The Bar's need to secure that order served some compelling state interest, it would be trying to get it.

Having addressed the compelling state interest issue, in light of Article I, Section 23 of the state constitution, we move to the abstention issue again.

The defendants argue that this federal court cannot enjoin a pending state judicial proceeding. Query: Exactly what state judicial proceeding is pending regarding The Bar's desire for an ordered mental health exam of Thompson? Answer: None.

If there is no proceeding, then there is no abstention problem. The Bar is simply extorting Thompson, with no authority to do so, utilizing no procedure to do so. It is simply making this demand out of thin air. For The Bar to argue "abstention" to prevent a federal court from enjoining a baseless, *ultra vires* act is absurd. Put simply:

No proceeding = no abstention.

I hereby certify that the foregoing has been provided to opposing counsel through the court's obscenity-free electronic filing system, this November 2, 2007.

/s/ JOHN B. THOMPSON, Plaintiff
Attorney, Florida Bar #231665
1172 South Dixie Hwy., Suite 111
Coral Gables, Florida 33146
Phone: 305-666-4366
amendmentone@comcast.net