

SUPREME COURT OF FLORIDA

Frank C. Johnson v. The Bank of New York Mellon Trust Company

136 So. 3d 507 (Fla. 2014) · No. SC12-840; SC12-842 · Decided January 23, 2014

SUMMARY

The Supreme Court of Florida consolidated two mandamus proceedings brought by Frank C. Johnson against The Bank of New York Mellon Trust Company. The court sanctioned Johnson for abusive pro se filing practices and directed the clerk to reject future filings concerning specified Alachua County foreclosure cases unless signed by Florida Bar counsel.

CASE DETAILS

COURT	Supreme Court of Florida
WRITING FOR THE COURT	Per Curiam; Polston, C.J.; Pariente, J.; Lewis, J.; Quince, J.; Canady, J.; Labarga, J.; Perry, J.
JURISDICTION	Florida
DECIDED	January 23, 2014
DOCKET	SC12-840; SC12-842
DISPOSITION	other
PROCEDURAL POSTURE	Original proceedings involving consolidated petitions for writs of mandamus. After dismissing the petitions, the Supreme Court retained jurisdiction to determine whether sanctions should be imposed and, after a show-cause response, imposed a filing restriction.
PRECEDENTIAL VALUE	Published Florida Supreme Court opinion; precedential.
PARTIES	Frank C. Johnson v. The Bank of New York Mellon Trust Company

TOPICS

- sanctions
- appellate procedure
- civil procedure
- appellate jurisdiction
- real estate

PRACTICE AREAS

- appellate procedure
- civil procedure
- judicial sanctions
- foreclosure

QUESTIONS PRESENTED

1. Whether Johnson showed cause why he should not be sanctioned for abusive and excessive pro se filings.
2. Whether the Supreme Court of Florida could restrict Johnson's future pro se filings in specified foreclosure-related cases.

HOLDINGS

1. Johnson failed to show cause why he should not be sanctioned based on his extensive and abusive use of the judicial process.
2. The Court may exercise its inherent power to protect itself from abuse of the judicial process by requiring that specified future filings be signed by a member in good standing of The Florida Bar.

KEY QUOTATIONS

“Accordingly, we now exercise the inherent power of this Court to protect itself from abuse of the judicial process and bar Petitioner Johnson from any future pro se filings of any kind related to his foreclosure proceedings.”

FACTUAL BACKGROUND

Johnson had initiated numerous proceedings and submitted a large volume of pro se filings in various courts, including twenty-one proceedings in the Supreme Court of Florida since 2004. Many of his recent filings concerned foreclosure proceedings in the Alachua County circuit court, and he had not obtained relief on the merits in the proceedings disposed of by the Supreme Court.

PROCEDURAL HISTORY

Johnson filed petitions for writs of mandamus in two cases. The Supreme Court consolidated the cases and dismissed the petitions under *Pettway v. State*, while retaining jurisdiction to consider sanctions. After reviewing Johnson's response to a show-cause order and his extensive history of pro se filings, the Court barred future pro se filings concerning two specified Alachua County circuit court cases unless signed by Florida Bar counsel.

DISPOSITION

other

CASES CITED

- *Pettway v. State*, 776 So. 2d 930, 931 (Fla. 2000)
- *Johnson v. Wilbur*, 981 So. 2d 479 (Fla. 1st DCA 2008)
- *McCutcheon v. State*, 117 So. 3d 769 (Fla. 2013)
- *James v. Tucker*, 75 So. 3d 231 (Fla. 2011)
- *Johnson v. Rundle*, 59 So. 3d 1080 (Fla. 2011)
- *Steele v. State*, 14 So. 3d 221 (Fla. 2009)
- *Pettway v. McNeil*, 987 So. 2d 20 (Fla. 2008)

- Johnson v. Wilbur, 895 So. 2d 405 (Fla. 2005) (table)
- Johnson v. Law Offices of Marshall Watson, P.A., 942 So. 2d 412 (Fla. 2006) (table)
- Johnson v. Mitchell, 935 So. 2d 499 (Fla. 2006) (table)
- Johnson v. The Florida Bar, 937 So. 2d 1099 (Fla. 2006) (table)
- Johnson v. Judicial Qualifications Comm'n, 977 So. 2d 576 (Fla. 2008) (table)
- Johnson v. Bank of N.Y. Mellon Trust Co., 70 So. 3d 587 (Fla. 2011) (table)

OPINION

PER CURIAM.

Supreme Court of Florida _____ No. SC12-840 _____ FRANK C. JOHNSON, Petitioner, vs. THE BANK OF NEW YORK MELLON TRUST COMPANY, Respondent. _____ No. SC12-842 _____ FRANK C. JOHNSON, Petitioner, vs. THE BANK OF NEW YORK MELLON TRUST COMPANY, Respondent. [January 23, 2014] PER CURIAM. Petitioner Frank C. Johnson filed petitions for writs of mandamus in the above-styled cases.¹ On December 18, 2012, this Court entered an order consolidating the cases and dismissing the petitions pursuant to *Pettway v. State*, 776 So.

2d 930, 931 (Fla. 2000). In doing so, we expressly retained jurisdiction to pursue possible sanctions against petitioner. *Johnson v. Bank of N. Y. Mellon Trust Co.*, 2012 WL 6653024 (Fla. Dec. 18, 2012) (table). Over the past several years, petitioner has submitted a tremendous number of pro se filings in various courts in different cases, to the point that he is barred or limited in submitting pro se filings in the First District Court of Appeal, see *Johnson v. Wilbur*, 981 So.

2d 479 (Fla. 1st DCA 2008), and the Circuit Court of the Eighth Judicial Circuit, in and for Alachua County, Florida. Since 2004, petitioner has initiated twenty-one proceedings in this Court. 2 Many of his most recent filings have been related to foreclosure proceedings in the 1.

We have jurisdiction. See art. V, § 3(b)(8), Fla. Const. 2. *Johnson v. Wilbur*, 895 So. 2d 405 (Fla. 2005) (table) (mandamus petition denied); *Johnson v. Law Offices of Marshall, Watson, P.A.*, 942 So. 2d 412 (Fla. 2006) (table) (mandamus petition denied); *Johnson v. Mitchell*, 935 So. 2d 499 (Fla. 2006) (table) (review dismissed); *Johnson v. The Florida Bar*, 937 So.

2d 1099 (Fla. 2006) (table) (mandamus petition dismissed); *Johnson v. Judicial Qualifications Comm'n*, 977 So. 2d 576 (Fla. 2008) (table) (mandamus petition denied); *Johnson v. Wilbur*, 979 So. 2d 219 (Fla. 2008) (table) (dismissed for lack of jurisdiction); *Johnson v. Wilbur, etc., et al.*, 979 So. 2d 219 (Fla. 2008) (table) (dismissed for lack of jurisdiction); *Johnson v. Wilbur*, 978 So.

2d 159 (Fla. 2008) (table) (dismissed for lack of jurisdiction); *Johnson v. Law Offices of Marshall Watson, P.A.*, 979 So. 2d 219 (Fla. 2008) (table) (dismissed for lack of -2- Circuit Court of the

Eighth Judicial Circuit, in and for Alachua County, Florida. Petitioner has not obtained relief on the merits in any of the proceedings that have been disposed of in this Court.

Petitioner's cases contain large numbers of individual filings, including motions, notices, and attachments. Many of his filings are handwritten and very difficult to decipher. Petitioner filed a response to the Court's show cause order on December 31, 2012, and he also filed many other motions and requests for relief. Upon consideration of the response to the Court's order, we conclude that he has failed to show cause why he should not be sanctioned.

Accordingly, we now exercise the inherent power of this Court to protect itself from abuse of the judicial process and bar Petitioner Johnson from any future pro se filings of any kind related to his jurisdiction); Johnson v. Wilbur, 992 So. 2d 820 (Fla. 2008) (table) (dismissed for lack of jurisdiction); Johnson v. Wilbur, 982 So. 2d 685 (Fla. 2008) (table) (dismissed as untimely); Johnson v. Wilbur, 982 So.

2d 685 (Fla. 2008) (table) (dismissed for lack of jurisdiction); Johnson v. Wilbur, 982 So. 2d 684 (Fla. 2008) (table) (dismissed as untimely); Johnson v. Wilbur, etc., et al., 982 So. 2d 684 (Fla. 2008) (table) (dismissed for lack of jurisdiction); Johnson v. Bank of N. Y. Mellon Trust Co., Case No. SC10-1472 (Fla. Sept. 27, 2010) (transferred); Johnson v. Bank of N. Y. Mellon Trust Co., 70 So.

3d 587 (Fla. 2011) (table) (prohibition petition dismissed); Johnson v. Bank of N. Y. Mellon Trust Co., Case No. SC11- 1752 (Fla. Oct. 24, 2011) (transferred); Johnson v. Bank of N. Y. Mellon Trust Co., 2012 WL 6653024 (Fla. Dec. 18, 2012) (table) (mandamus petition dismissed); Johnson v. Bank of N. Y. Mellon Trust Co., 2012 WL 6653024 (Fla. Dec. 18, 2012) (table) (mandamus petition dismissed); Johnson v. Bank of N. Y. Mellon Trust Co., Case No. SC13-714 (mandamus petition dismissed); Johnson v. Bank of N. Y. Mellon Trust Co., Case No. SC13-1690 (mandamus petition pending). -3- foreclosure proceedings.

The Clerk of this Court is hereby instructed to reject any future pleadings, petitions, motions, documents, or other filings submitted by Frank C. Johnson pertaining to Alachua County circuit court case numbers 01- 2004-CA-1039 and 01-2008-CA-5581, unless such filings are signed by a member in good standing of The Florida Bar. Counsel may file on Johnson's behalf if counsel determines that the proceeding may have merit and can be brought in good faith.

3 Any and all pending motions or requests for relief filed by petitioner in these consolidated cases are denied. It is so ordered. POLSTON, C.J., and PARIENTE, LEWIS, QUINCE, CANADY, LABARGA, and PERRY, JJ., concur. Original Proceedings – Mandamus Frank C. Johnson, Jr., pro se, Gainesville, Florida, for Petitioner Clive N. Morgan, Jacksonville, Florida, for Respondent 3.

In recent years, we have imposed comparable sanctions on other litigants whose pro se filing practices have exhibited their disregard for abusing the scarce judicial resources of this Court. See, e.g., *McCutcheon v. State*, 117 So. 3d 769 (Fla. 2013); *James v. Tucker*, 75 So. 3d 231 (Fla. 2011); *Johnson v. Rundle*, 59 So. 3d 1080 (Fla. 2011); *Steele v. State*, 14 So.

3d 221 (Fla. 2009); *Pettway v. McNeil*, 987 So. 2d 20 (Fla. 2008). -4-