

IN THE DISTRICT COURT OF APPEAL
FOR THE SECOND DISTRICT
STATE OF FLORIDA

CLAY G. COLSON,

Petitioner,

Case No.:
L.T. No.: 21-005793-CI

v.

JUDGE PATRICIA ANN MUSCARELLA
and THE CITY OF TARPON SPRINGS,
FLORIDA,

_____ Respondents. _____ /

**PETITION TO REVIEW ORDER EXCLUDING PRESS COVERAGE
OF PROCEEDINGS IN THE CIRCUIT COURT OF THE SIXTH
JUDICIAL CIRCUIT, IN AND FOR PINELLAS COUNTY, FLORIDA**

I. BASIS FOR INVOKING JURISDICTION

Pursuant to Florida Rule of Appellate Procedure 9.100(d),
Petitioner, CLAY G. COLSON, respectfully petitions this Court for
an order allowing me to make audio and/or video recordings of all
proceedings in the lower court.

II. STATEMENT OF FACTS

The proceedings in the lower court have been brought because
the City of Tarpon Springs, Florida hereinafter referred to as the
“City” violated the City’s comprehensive plan by approving a
development order concerning nearly 74 acres of greenspace along

the Anclote River allowing development of a proposed 404-unit multifamily project with a clubhouse, on-site recreational amenities, parking, and stormwater facilities hereinafter referred to as the “development.” See Appendix 1, page 3.

Thousands of citizens like me are concerned that this development would have significant negative impacts on the Anclote River, on traffic on U.S. 19, and on City and County services to residents of and visitors to the area. See Appendix 1, page 3.

The actions taken by the City in considering and approving such development have been featured and criticized in multiple news reports by the Tampa Bay Times, the Tarpon Springs Beacon, local television stations, and online news outlets. See Appendix 1, page 3.

During its consideration and approval of such development, the City enacted various measures to restrict the First Amendment rights of those opposed to such development in an apparent effort to minimize criticism, news coverage and awareness of the many grounds and arguments raised in opposition to such development, the overwhelming opposition of citizens to such development, the lack of public support for such development, and the significant

negative impacts that such development would have on the Anclote River, on traffic on U.S. 19, and on City and County services to residents of and visitors to the area. See Appendix 1, pages 3 – 4.

In spite of the City's efforts to reduce awareness of and opposition to such development, a number of members of the City's commission were voted out of office in the recent election, and I believe that such election results show that the citizens overwhelmingly disapprove of such development. See Appendix 1, page 4.

On May 2, 2022, a hearing on the City's Motion to Dismiss for Failure to Join Indispensable Parties, specifically Kamil Salame and Morgan Group Development, LLC, was held before JUDGE PATRICIA ANN MUSCARELLA, and I believed that due to the public interest in this development, this hearing and these proceedings would be considered newsworthy. See Appendix 1, page 4.

As a result, I decided to exercise my First Amendment right to gather news by recording the hearing on May 2, 2022, and as soon as possible, I informed Judge Muscarella that I was recording the hearing. See Appendix 1, page 5.

Judge Muscarella told me that it was against the rules to record hearings and directed me to stop recording and erase the recording. See Appendix 1, page 5.

Naturally, I was surprised by Judge Muscarella's statement because I have seen and heard recordings of hearings in Florida's courts. See Appendix 1, page 5.

Judge Muscarella did not enter a written order prohibiting me from recording the hearing on May 2, 2022, directing me to stop recording such hearing or directing me to erase the recording. See Appendix 1, page 5.

III. NATURE OF THE RELIEF SOUGHT

The nature of the relief sought is an order compelling JUDGE PATRICIA ANN MUSCARELLA and any other judge presiding over the proceedings in the lower court to allow me to make audio and/or video recordings of all proceedings.

IV. ARGUMENT

The City's approval of a development order concerning nearly 74 acres of greenspace along the Anclote River allowing development of a proposed 404-unit multifamily project has been featured and criticized in multiple news reports by the Tampa Bay

Times, the Tarpon Springs Beacon, local television stations, and online news outlets which shows that there is public interest in the proceedings, and I attempted to record the proceedings in order to exercise my First Amendment rights to gather news, publicize the information and inform the public. See Appendix 1, pages 3 – 5.

As soon as possible after the hearing began on May 2, 2022, in the lower court, I informed Judge Muscarella that I was recording the hearing, and Judge Muscarella told me that it was against the rules to record hearings and directed me to stop recording and erase the recording. See Appendix 1, page 5.

Florida Rule of General Practice and Judicial Administration 2.450 provides that judges shall allow recording of judicial proceedings.

“Freedom of the press is not, and has never been a private property right granted to those who own the news media. It is a cherished and almost sacred right of each citizen....” State ex rel. Miami Herald Publishing Co. v. McIntosh, 340 So.2d 904, 910 (Fla. 1977).

“News delayed is news denied. To be useful to the public, news events must be reported when they occur. Whatever happens

in any courtroom directly or indirectly affects all the public. To prevent star-chamber injustice the public should generally have unrestricted access to all proceedings.” Id.

“[T]he public and press have a right to know what goes on in a courtroom whether the proceeding be criminal or civil.” Id. At 908.

“A trial is a public event, and there is no special perquisite of the judiciary which enables it to suppress, edit or censor events which transpire in proceedings before it....” Id. at 908-909.

As Judge Muscarella violated my First Amendment rights, Rule 2.450 and Florida Supreme Court precedent, I respectfully request that this Court enter an order compelling JUDGE PATRICIA ANN MUSCARELLA and any other judge presiding over the proceedings in the lower court to allow me to make audio and/or video recordings of all proceedings.

Respectfully submitted,

CLAY G. COLSON

CERTIFICATE OF SERVICE

I hereby certify that a copy of this petition has been served by

U.S. Mail to Jay Daigneault, Esq. of Trask Daigneault, LLP counsel for the City of Tarpon Springs, Florida at 1001 S. Fort Harrison Ave., Suite 201 in Clearwater, FL 33756 and to Judge Patricia Ann Muscarella at 315 Court St., Room 423 in Clearwater, FL 33756 on this _____ day of May 2022.

CLAY G. COLSON
4318 Joy Drive
Land O'Lakes, FL 34637
813-601-3391

CERTIFICATE OF COMPLIANCE

I hereby certify that this petition complies with the applicable font and word limit requirements of the Florida Rules of Appellate procedure.

CLAY G. COLSON

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APPENDIX OF PETITIONER, CLAY G. COLSON

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AFFIDAVIT OF PETITIONER

APPENDIX pages 3 - 6

AFFIDAVIT OF PETITIONER, CLAY G. COLSON

1. The proceedings in the lower court have been brought because I believe that the City of Tarpon Springs, Florida hereinafter referred to as the “City” violated the City’s comprehensive plan by approving a development order concerning nearly 74 acres of greenspace along the Anclote River allowing development of a proposed 404-unit multifamily project with a clubhouse, on-site recreational amenities, parking, and stormwater facilities hereinafter referred to as the “development.”
2. Thousands of citizens like me are concerned that this development would have significant negative impacts on the Anclote River, on traffic on U.S. 19, and on City and County services to residents of and visitors to the area.
3. The actions taken by the City in considering and approving such development have been featured and criticized in multiple news reports by the Tampa Bay Times, the Tarpon Springs Beacon, local television stations, and online news outlets.
4. During its consideration and approval of such development, the City enacted various measures to restrict the First

Amendment rights of those opposed to such development in an apparent effort to minimize criticism, news coverage and awareness of the many grounds and arguments raised in opposition to such development, the overwhelming opposition of citizens to such development, the lack of public support for such development, and the significant negative impacts that such development would have on the Anclote River, on traffic on U.S. 19, and on City and County services to residents of and visitors to the area.

5. In spite of the City's efforts to reduce awareness of and opposition to such development, a number of members of the City's commission were voted out of office in the recent election, and I believe that such election results show that the citizens overwhelmingly disapprove of such development.
6. On May 2, 2022, a hearing on the City's Motion to Dismiss for Failure to Join Indispensable Parties, specifically Kamil Salame and Morgan Group Development, LLC, was held before JUDGE PATRICIA ANN MUSCARELLA, and I believed that due to the public interest in this development, this hearing and these proceedings would be considered newsworthy.

7. As a result, I decided to exercise my First Amendment right to gather news by recording the hearing on May 2, 2022, and as soon as possible, I informed Judge Muscarella that I was recording the hearing.
8. Judge Muscarella told me that it was against the rules to record hearings and directed me to stop recording and erase the recording.
9. Naturally, I was surprised by Judge Muscarella's statement because I have seen and heard recordings of hearings in Florida's courts.
10. Judge Muscarella did not enter a written order prohibiting me from recording the hearing on May 2, 2022, directing me to stop recording such hearing or directing me to erase the recording.

VERIFICATION

Under penalties of perjury, I declare that I have read the foregoing and the facts stated in it are true.


CLAY G. COLSON 05/3/22
Date

CERTIFICATE OF SERVICE

I hereby certify that a copy of this appendix has been served by U.S. Mail to Jay Daigneault, Esq. of Trask Daigneault, LLP counsel for the City of Tarpon Springs, Florida at 1001 S. Fort Harrison Ave., Suite 201 in Clearwater, FL 33756 and to Judge Patricia Ann Muscarella at 315 Court St., Room 423 in Clearwater, FL 33756 on this 31st day of May 2022.



CLAY G. COLSON
4318 Joy Drive
Land O'Lakes, FL 34637
813-601-3391