
23-11231-F

UNITED STATES COURT OF APPEALS
ELEVENTH CIRCUIT

ELIAS MAKERE, FSA, MAAA
(Appellant/Plaintiff)

v.

HON. MARTIN FITZPATRICK, ET AL
(Appellee/Defendant)

On Appeal From The
United States District Court, Florida, Northern District
4:22-cv-000315

APPELLANT'S REPLY BRIEF

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ORAL ARGUMENT REQUESTED

March 5, 2024

UNITED STATES COURT OF APPEALS
ELEVENTH CIRCUIT

Makere v Fitzpatrick et al, 23-11231

**CERTIFICATE OF INTERESTED PERSONS
AND CORPORATE DISCLOSURE STATEMENT**

Lower Tribunal:

Bolitho, Zachary (Hon.)	Magistrate
Winsor, Allen (Hon.)	District Judge

Non-Parties:

Early, Edward Gary	(Tallahassee, FL)
--------------------	-------------------

Parties:

Cannon, Hope (Hon.)	Appellee
Fitzpatrick, Hon. Martin	Appellee
Frank, Hon. Michael	Appellee
Schreiber, Charles JF (Jr.)	Appellee
Walker, Hon. Mark	Appellee
Winsor, Hon. Allen	Appellee
USFLND	Appellee
Makere, Elias (FSA, MAAA)	Appellant

Appellant is not a subsidiary/affiliate of a publicly owned corporation. Pursuant to Rule 26.1-2 11th Cir. R., Appellant does not know of any other entities that have interest in this case. Appellant hereby certifies that this CIP is complete.

the defendant's minimal Answer -
answered nothing/
twas just a maxim of his co-defendants' pact for anti-
black destruction/

thus, this Reply means to briefly close the Opening -
without interruption/
so, may this Court quash the deviated order below -
reverse; and deconstruct it//

STATEMENT REGARDING ORAL ARGUMENT

Appellant hereby repeats his request for oral argument (please see Rule 28-1(c) 11th Cir. R.). He does so for the same reasons as before (ie, Issues I, II, III, and IV), as well as to present the pertinent facts that the lower tribunal never collected (nor tried to collect). Moreover, oral argument will provide Appellant the constitutionally-guaranteed hearing (regarding his substantial rights) which the LT refused to afford him.

Lastly, Appellant asserts that none of the factors listed in Rule 34(a)(2) Fed. R. App. P. exist in this appeal.

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RULES

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REFERENCES

[A_]	Appendix for Opening Brief ^{1/}
[AB_]	Answer Brief ^{1/}
[OB_]	Opening Brief ^{1/}
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{#_}	Docket Entry ^{1/}

ABBREVIATIONS

FCHR	Florida Commission on Human Relations
LT	Lower Tribunal

INTRODUCTION

Appellant, Elias Makere, was the Plaintiff in the lower tribunal; and will be referred to in this brief as "Civilian X" (Rule 28(d) Fed. R. App. P.). Appellees (ie, Judge Martin Fitzpatrick, et al) were the defendants below; and will be referred to as "Those Officials". The person whom Those Officials were covering for was a state hearing officer named Edward Gary Early; hereinafter referred to as "Judge Y".

Incorporating Opening Brief

Civilian X files this Reply Brief in response to Appellee Schreiber's Answer Brief (AB); hereby incorporating Civilian X's Opening Brief in its entirety.

Timeliness

This Reply Brief is timely.

On January 12, 2024, Civilian X submitted his Opening Brief.^{2/}

A few weeks later - on January 30, 2024 - Appellee Schreiber submitted his Answer Brief (please see Rule 31 Fed. R. App. P.). However, none of the other six appellees ever filed an answer brief. According to Rule 31-1(a) 11th Cir. R., the time for serving such a document expired on February 12, 2024.^{3/}

Therefore, Civilian X's reply brief became due today (ie, March 5, 2024). A due date which fell *'21 days after service of the brief of the last appellee'* (citing Rule 31-1(a) 11th Cir. R.).^{3/} Thus, by filing it today (ie, on the 3/5/24 due date), Civilian X has met this Court's time constraint.

Quick Recap of LT Proceeding

As outlined in the Opening Brief, the case below deals with: (a) the LT's unconstitutional local rule; (b) the LT's mutilation of filed court documents; and (c) Appellee Schreiber's perjurous fraud upon the court.

As detailed in the amended civil complaint, Civilian X sought: (a) declaratory relief; and (b) injunctive relief (among other things). Specifically, Civilian X asked the trial court to enjoin the federal appellees from enforcing/creating an unconstitutional/discriminatory local rule. **[R0007]** Importantly, he also asked the judiciary to prevent the federal appellees from *"ever participating (judge, juror, etc) in a case involving [Civilian X]"*. **[R0007]**

Soon after the trial court transferred the case below into the LT,^{4/} four of the federal appellees recused themselves (from both/all of Civilian X's cases). Thereby providing Civilian X with the relief that he sought.

POINTS ON REPLY

- I. Those Officials (individually and in total) failed to address the fact that the order-on-appeal was grounded in a false basis.
- II. Secondly, Those Officials failed to rebut the fact that the order-on-appeal featured a false finding of 'fact' (regarding Civilian X's litigation history).
- III. The same can be said about the third issue-on-appeal (ie, the fact that the order-on-appeal featured a false finding of 'fact' - regarding Civilian X's ongoing discrimination charges). An issue that Those Officials failed to rebut.
- IV. Similarly, Those Officials failed to rebut the fact that the order-on-appeal featured a third false finding of 'fact' (regarding Civilian X's motivations).
- V. Lastly, Those Officials failed to address the remaining two issues-on-appeal.

SUMMARY OF REPLY

Stated briefly, Those Officials failed to address/rebut the six issues-on-appeal. Instead, they rested their laurels on their foreseen discriminatory attacks/smears. [R0005]

Out of the seven appellees on record, only one (ie, Appellee Schreiber) even proffered an appellate brief. The remaining six remained silent. Yet, even in that lone

fractional brief, Appellee Schreiber failed to address/rebut the points-on-appeal (let alone defeat them).

Due to these shortcomings, this Court has many reasons to reject the decision below. A decision that this Court can respond to with the aid of the following points-on-reply.

POINT I

Forfeited Issue-on-Appeal

#1

*Appellees (individually and in total) Failed to Address the Fact
that the District Court Erred by Failing to Recognize the
'Reasonable Factual Basis' Regarding Those Officials'
Unconstitutional Local Rule (which preys on black people)*

OVERVIEW I

1. Civilian X's First Issue-on-Appeal [OB021] detailed how the District Court's order-on-appeal erred by [falsely] claiming that Civilian X's complaint lacked a factual basis. Therein, Civilian X presented the public records (and independently verifiable records) that showcased the reasonable factual basis of Those Officials' discriminatory/unconstitutional local rule.
2. Appellee Schreiber's answer brief, however, failed to address this point (let alone rebut it).
3. Moreover, the federal appellees (ie, Appellees Fitzpatrick/etc) never addressed this point either. They failed to do so, of course, because they never even filed an answer brief.

ARGUMENT I

4. In his opening brief, Civilian X detailed the effort he put forth in researching/analyzing the facts surrounding Those Officials' unconstitutional local rule. [OB023]-[OB025]
 - a. He disclosed the dates that he performed the research;
 - b. He disclosed the hours that he spent analyzing the facts;
 - c. He disclosed the public records that he compiled; and
 - d. He disclosed the results that he freely published.
5. In his Answer Brief, Appellee Schreiber failed to mention (let alone dispute) any of these elements.

- a. In fact, the word "hour" never even appeared in Appellee Schreiber's AB. Nor did "analysis"; "research"; or "rational basis".
6. Of course, none of those elements (or words) appeared in any of the federal appellees' [non-existent] brief.
7. Thus, Those Officials failed to address (let alone rebut) Civilian X's first point-on-appeal.
8. Nevertheless, Civilian X will hereby expound on his original point: *The results of Civilian X's pre-suit research/analysis are independently verifiable.* Since he published his results on his website (ie, TextBookDiscrimination.com), anybody/everybody could have made copies.
9. One such 'body' was Web.Archive.org. An organization that - according its online database - procured a copy [of the aforementioned results] in June 2022. (ie, almost immediately after Civilian X published them). This fact further proves that Civilian X did the research [to arrive at a reasonable factual basis] for his complaint below.
10. A proof, of course, that is fatal to the order-on-appeal. Because, as this Court has long-held, sanctions are inapplicable when a factual basis [for a complaint] exists (highlights added):

"[appellant] also argues that Rule 11 sanctions were not appropriate because [appellee] failed to

provide the district court with evidence that [appellant]'s case or pleadings (1) had no reasonable factual basis...

...We therefore VACATE the order imposing sanctions and REMAND to the district court for further proceedings consistent with this opinion.

- Massengale v Ray, 267 F.3d 1298 (11th Cir. 2001)

CONCLUSION I

11. Therefore, this Court is in prime position to reject the order-on-appeal. Especially since none of Those Officials managed/attempted to address its first faulty issue-on-appeal.

12. Plus, this Court is further primed to reject the LT's appealed order due to its remaining [unaddressed/unrebutted] faulty issues-on-appeal (*infra*).

POINT II

Unrebutted Issue-on-Appeal

#1

*Appellees (individually and in total) Failed to Rebut the Fact
that the District Court's Order-on-Appeal Featured a False
Finding of 'Fact' (regarding Civilian X's Litigation History)*

OVERVIEW II

13. Civilian X's Second Issue-on-Appeal [OB026] detailed how the District Court's order-on-appeal erred by making a false finding of 'fact' (regarding Civilian X's litigation history). Therein, Civilian X presented the fact that he had never been charged (let alone condemned) with filing a "*frivolous complaint*".
14. Appellee Schreiber's answer brief, however, failed to rebut this fact.
15. Moreover, the federal appellees (ie, Appellees Fitzpatrick/etc) failed to rebut this point altogether. Failing to do so, of course, by never even filing an answer brief.

ARGUMENT II

16. In Civilian X's opening brief, he pointed to the fact that he has never had any history of filing "*frivolous complaints*":

"96. Civilian X did not have any history of filing frivolous complaints.

97. No Court had ever entered a "with prejudice" dismissal (which featured a judgment of "frivolity") against any of Civilian X's complaints.

98. In fact, the LT's appealed order failed to cite any case that fit that description."

- [OB028]

17. This was an important point, because it proved that the order-on-appeal was erroneous. An erroneous order that was subject to reversal (highlights added):

"A district court abuses its discretion if it applies an incorrect legal standard, applies the law in an unreasonable or incorrect manner, follows improper procedures in making a determination, or makes findings of fact that are clearly erroneous."

- Taylor v. Pekerol, 760 F. App'x 647 (11th Cir. 2019)

18. This important point, however, was one that Those Officials failed to rebut.

19. At no point in Appellee Schreiber's 39-page AB did he ever rebut the fact that Civilian X had never previously been charged with (let alone been found-guilty-of) "*frivolity*".

20. Of course, neither did the federal appellees (who never even filed an answer brief).

CONCLUSION II

21. Once again - and aided by Those Officials' rebuttal failures - this Court is in prime position to reject the order from below.

22. The next issue-on-reply, valuably, can further factor into this Court's prime position to reject/deconstruct the order-on-appeal.

POINT III

Unrebutted Issue-on-Appeal

#2

*Appellees (individually and in total) Failed to Rebut the Fact
that the District Court's Order-on-Appeal Featured a Second
False Finding of 'Fact' (regarding Civilian X's Ongoing
Discrimination Charges)*

OVERVIEW III

23. Civilian X's Third Issue-on-Appeal [OB030] detailed how the District Court's order-on-appeal erred by making a second false finding of 'fact' (regarding Civilian X's ongoing discrimination charges against Allstate Insurance Company ("Allstate")). Therein, Civilian X presented the fact that he has only filed two (2) charges; contrary to the five (5) that the order-on-appeal [falsely] 'found'.
24. Appellee Schreiber's answer brief, however, failed to rebut this fact.
25. Moreover, the federal appellees (ie, Appellees Fitzpatrick/etc) failed to rebut this point altogether. Failing to do so, of course, by never even filing an answer brief.

ARGUMENT III

26. In Civilian X's opening brief, he pointed to the fact that he has only filed two (2) administrative charges against Allstate.

"108. Civilian X has not filed five administrative claims "seeking redress for his termination [from Allstate].

109. Civilian X has filed two (2).

a. The first was on June 30, 2017 (FCHR 2017-01432) (§4); and

b. The second was on April 10, 2019 (FCHR 2019-19238) (§18a).

110. In fact - and like before (§98, supra) - the LT's [appealed] order failed to cite any of the supposed "five state administrative claims" that it was using in its false statement."

- [OB032]

27. This was an important point, because it proved that the order-on-appeal was erroneous. An erroneous order that was subject to reversal (please see Taylor v. Pekerol, 760 F. App'x 647 (11th Cir. 2019)).
28. However, Those Officials failed to rebut this important point.
29. At no point in Appellee Schreiber's 39-page AB did he ever rebut the fact that Civilian X has only filed two charges of discrimination against Allstate. Nor did Appellee Schreiber ever dispute the fact that the order-on-appeal was wrong for [falsely] claiming that Civilian X had filed five such charges.
30. Of course, neither did the federal appellees (who never even filed an answer brief).

CONCLUSION III

31. Therefore - and aided by Those Officials' rebuttal failures - this Court is in prime position to reject the order from below. Especially considering Those Officials' subsequent failures-to-rebut (ie, Point IV infra)

POINT IV

Unrebutted Issue-on-Appeal

#3

Appellees (individually and in total) Failed to Rebut the Fact that the District Court's Order-on-Appeal Featured a Third False Finding of 'Fact' (regarding Civilian X's Motivations)

OVERVIEW IV

33. Civilian X's Fourth Issue-on-Appeal [OB034] detailed how the District Court's order-on-appeal erred by making a third false finding of 'fact' (regarding Civilian X's motivations for filing suit). Therein, Civilian X presented the fact that he has volunteered thousands of hours to help people secure the justice that they deserve (leaving him no time to engage in the personal exploits that the order-on-appeal [falsely] framed onto him).
34. Appellee Schreiber's answer brief, however, failed to rebut this fact.
35. Moreover, the federal appellees (ie, Appellees Fitzpatrick/etc) failed to rebut this point altogether. Failing to do so, of course, by never even filing an answer brief.

ARGUMENT IV

36. In Civilian X's opening brief, he pointed to the fact that he has volunteered roughly 10,000 hours building a pathway to justice [for himself and for thousands of others]:

"121. Civilian X never acted out of spite/vindictiveness/anger in the LT. Nor did he ever act with those motivations in any of his contemporaneous legal actions (ie, Makere v Allstate; Makere v Early).

124. Additionally, Civilian X has spent thousands of hours developing & updating a free, comprehensive, self-help website for pro se

litigants. As of December 31, 2023, Civilian X has spent 9,806 hours building TextBookDiscrimination.com. It has well-over 35,000 webpages; which are:

- a. Free;
- b. Fast;
- c. Available for all;
- d. Devoid of ads;
- e. Devoid of contracts;
- f. Devoid of sign-ups; and
- g. Devoted to civil rights litigants

Thus, Civilian X has had no time (or interest) to engage in personal exploits with any of the above-named appellees. In fact, Civilian X has never wanted anything to do with any of them; and has been working diligently to repair the damages that they have caused. Damages to Civilian X directly; damages to civilians nationwide; and damages to the United States of America.

125. Moreover, the LT's appealed order failed to produce any evidence to support its false statement. The record shows that the LT never observed Civilian X [do anything - of any kind] (neither via phone nor via in-person hearing). Nor has the LT ever attempted to commandeer Civilian X into its presence for the purpose of questions/observations."

- [OB036]

37. This was an important point, because it proved that the order-on-appeal was erroneous. An erroneous order that was subject to reversal (please see Garrison v. Colvin, 759 F.3d 884 (9th Cir. 2014)).

38. However, Those Officials failed to rebut this important point.

39. At no point in Appellee Schreiber's 39-page AB did he ever rebut the fact that Civilian X has spent roughly 10,000 hours building a pathway to justice. Nor did Appellee Schreiber ever dispute the fact that Civilian X had "no time to engage in personal exploits". [OB037]
40. In fact, the word "hours" never even appeared in Appellee Schreiber's AB. Nor did the terms "personal exploit", "webpage", or "textbookdiscrimination.com".
41. Of course, the federal appellees - who never even filed an answer brief - also failed to rebut this point (let alone dispute these facts).

CONCLUSION IV

42. Therefore, this Court is further positioned to reject the order-from-below. Because - for the third time now - it featured a false finding of 'fact'.
43. A false finding that was further exacerbated by Those Officials' failure to address any of the remaining issues-on-appeal. Issues which they thereby forfeited (Point V, *infra*).

POINT V

Forfeited Issues on Appeal

#s 2-3

*Appellees (individually and in total) Failed to Address the Fact
that the District Court Failed to Comport with the Essential
Requirements of Law (regarding the Equal Protections Clause; and
the Due Process Clause of the US Constitution)*

OVERVIEW V

44. In addition to his four points regarding the LT's faulty order, Civilian X put forth two points regarding the illegitimacy of the proceeding below. Those Officials, however, forfeited all resistance to these two remaining issues-on-appeal.

ARGUMENT V

45. For starters, Civilian X's fifth issue-on-appeal detailed how the LT failed to comport with the essential requirements of law (ie, the harmfully discriminatory denial of eFiling) **[OB039]**. Those Officials failed to address Civilian X's argument, though. Thus, they forfeited the point.

46. The same can be said about the sixth issue-on-appeal **[OB044]**. Civilian X sought reversal from the LT's due process violation (ie, lack of impartiality stemming from one of the defendants/appellees being the trial judge below). Yet, Those Officials remained silent on the issue. Thereby yielding another forfeited point to Civilian X.

CONCLUSION V

47. Therefore, Those Officials' avoidance of these two issues-on-appeal further empowers this Court to reject the decision from below. And Civilian X hereby asks this Court to do just that.

*now, with the LT's falsehoods revealing
the LT's smears & corruptions/*

*this Court is well-primed to put an end to
the LT's unconstitutional obstructions//*

CONCLUSION

WHEREFORE, Appellant (ie, Civilian X) asks this Court to reject the lower tribunal's [appealed] order; because - in addition to being false & erroneous - neither the record nor Appellees (ie, Those Officials) can support it.

Dated this 5th day of March 2024.

Respectfully submitted,

/s/ Elias Makere

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3/5/2024

Date

/s/ Elias Makere

Elias Makere, FSA, MAAA

CERTIFICATE OF SERVICE

I HEREBY CERTIFY that on this 5th day of March 2024, I electronically filed the foregoing with the Clerk of Courts by using PACER; which will send a notice of electronic filing to the attached service list.

/s/ Elias Makere

Endnotes:

1/

[A0210] means page 210 from the appendix [to Appellant's Opening Brief]
[OBII] means page ii from the Opening Brief
[AB012] means page 12 from the Answer Brief
[R0210] means page 210 from the appendix [to Appellant's Reply Brief]
{#44} means docket entry 44 from the lower tribunal

2/

Two days later - on Sunday, January 14, 2024 - Appellant filed a corrected brief (thereby fixing technical defects). On February 21, 2024, this Court accepted Appellant's corrected brief.

3/

Please refer to Rule 6 Fed. R. Civ. P. in order to calculate the time window.

4/

the case [below] began in state court before getting transferred into federal court (USFLMD; 7/5/22). USFLMD later transferred this action to the northern district (USFLND; 8/30/22).

Electronic Copy: (text-searchable)

TextBookDiscrimination.com/Files/CA11/23011231_ADD_20240305_152053.pdf

TextBookDiscrimination.com/Files/CA11/23011231_RB_20240305_151300.pdf

TextBookDiscrimination.com/Info/Misc/CrookedCourt/ReplyBrief

Link to Civil Complaint ([HTML](#), [PDF](#), [Video](#)) | *Make v Fitzpatrick, et al*

HTML	TextBookDiscrimination.com/Info/Misc/CrookedCourt/Complaint
PDF	TextBookDiscrimination.com/Files/USFLMD/22000734_AAC_20220729_234622.pdf
Video	https://youtu.be/RaJXfFOCE

Link to Preceding Complaint ([HTML](#), [PDF](#), [Video](#)) | *Make v Early ('Ku Klux Klan Act of 1871')*

HTML	TextBookDiscrimination.com/Info/Misc/ALJPerjury/Complaint-Amended
PDF	TextBookDiscrimination.com/Files/USFLND/21000096_AAC_20211231_123954.pdf
Video	https://youtu.be/RaJXfFOCE

Link to Originating Case ([HTML](#), [PDF](#), [Video](#)) | *Make v Allstate*

HTML	TextBookDiscrimination.com/Allstate/Complaint-Full
PDF	TextBookDiscrimination.com/Files/USFLMD/20000905_AAC_20211104_230439.pdf
Video	https://youtu.be/e3mgBPHesXg

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