

IN THE FIFTH DISTRICT COURT OF APPEAL,
IN AND FOR VOLUSIA COUNTY, FLORIDA

MICHAEL and KATHERINE HENRY, Petitioners,	5DCA CASE NO: 24-0915
vs	CIRCUIT CASE NO: 2023-30711 CICI
CITY OF ORMOND BEACH, FLORIDA Respondents.	Lower Court CASE NOS: 22-112237 22-112246 22-112247

Henrys' Motion for Oral Argument

This motion is submitted by Petitioners, MICHAEL AND KATHERINE HENRY, in support of their request for Oral Argument, pursuant to FRAP 9.300 and 9.320.

1. Rule 9.320 of the Florida Rules of Appellate Procedure allows for oral argument in any proceeding at the request of a party.
2. Rule 9.320(a)(2) requires the request to be filed within 15 days after the reply is due to be served. The reply was served 5/12/24.
3. In the paragraphs below, Henrys explain how oral argument will enhance this court's consideration of the issues.
4. On 3/3/23, the Special Magistrate rendered 3 orders, each being a separate order finding violation under FS 162.07. App 85-106.
5. On 3/24/23, Henrys filed their Notice of Appeal, and appellate review proceedings commenced in the circuit court.

6. On 3/7/24, the circuit court rendered its decision in Henrys' appeal, finding Magistrate's orders departed from the essential requirements of the law in allowing OB to physically step onto Henrys' homestead and remove their privacy fence, pavers, and 2 small conexes. App 264. Thus, that portion of Magistrate's orders were stricken by the circuit court. That circuit court order otherwise affirmed the 3 Magistrate's orders.
7. Henrys filed their 5DCA Petition and Appendix 4/7/24, with their second amended Petition and Appendix filed on 4/11/24.
8. On 4/12/24, OB was ordered to respond to Henrys' Petition by 5/2/24.
9. On 5/2/24, OB filed their response. Although OB was *required* to support their factual allegations with references to the record (per FRAP 9.100(j)), they did *not* reference Henrys' Appendix, nor file their own Appendix, leaving *all* of their factual allegations *without* references to the record. See, Henry's Motion to Strike, filed 5/7/24.
10. Furthermore, their response is replete with *untrue statements* that only serve to slander Henrys and/or skew the issues before this court, some of which are identified at p2-5 of Henry's Reply.
11. OB cited many nonbinding and/or irrelevant cases, and even misstated state statutes (see, Henrys' Reply p5-16). OB also

completely ignored *all* but one of the legal issues raised by Henrys' Petition, constructing their response from general topics that do not control here. (See, Henrys' Reply p1-2). Further, OB's response misleads the court about what Henrys are challenging in their Petition. (See Henrys' Reply starting at p16.) Each of these issues has the opportunity to create confusion about the laws of this case.

12. Several of Henrys' fundamental rights are at stake here, many of which require strict scrutiny review. (See, Henrys' Reply p7-10.) Moreover, the lower tribunals committed multiple harmful errors in denying Henrys due process *and* materially departing from the essential requirements of the law. Thus, this court's action is *needed* to stop this miscarriage of justice and safeguard the Henrys' substantive rights.
13. Further, this case involves several complex legal issues, and as such, oral argument would best help the court flesh out the full legal picture involved.
14. While this case might be just another day at work for those representing OB, this case literally impacts the Henrys' entire home, and has caused turmoil and stress for the entire Henry family for the last 21 months. The Henrys want to ensure the Court can get

questions answered and any areas of ambiguity resolved. Oral argument is the best avenue to do that.

15. Henrys thus ask for oral argument of 30 minutes for each side.

16. Henrys also reiterate their prior request for ADA accommodations, due to Katherine Henrys' hearing disability, and thus request this hearing be held with all parties appearing in person, where she can best hear those speaking and read the lips of all participants.

17. Per the local court procedures, Henrys also submit their Oral Argument Preference Request form along with this filing.

Respectfully Submitted: /s/ Katherine Henry /s/ Michael Henry
May 13, 2024 Petitioners, Pro Se
PO Box 333, Ormond Beach FL 32175
Katherine@RestoreFreedomKH.com
616-303-0033 Michigan Bar No P71954

Certificate of Service

I certify that the foregoing document has been furnished to Abraham C McKinnon (lynn@mckinnonandmckinnonpa.com, amckinnon@mckinnonandmckinnonpa.com), Noah McKinnon (nmckinnon@mckinnonandmckinnonpa.com), H. Pope Hamrick, Jr. (phamrickjr@cfl.rr.com), Circuit Court Judge Mary G. Jolley (kmccoy@circuit7.org, Division32@circuit7.org), Florida State Attorney General (oag.civil.eserve@myfloridalegal.com), via the electronic filing portal on May 13, 2024.

Respectfully Submitted: /s/ Katherine Henry /s/ Michael Henry
May 13, 2024 Petitioners, Pro Se
PO Box 333, Ormond Beach FL 32175
Katherine@RestoreFreedomKH.com
616-303-0033 Michigan Bar No P71954

ORAL ARGUMENT PREFERENCE REQUEST

Michael and Katherine Henry

_____,
Appellant,

v.

CASE NO. 5D 2024 -0915

City of Ormond Beach, FL

LT CASE NO. 2023-30711 CICI

_____,
Appellee.

Comes now Michael and Katherine Henry and advises the Court that Appellant Appellee requests oral argument in this case be held:

in-person via remote access video (such as Zoom)

Additional information you want the Court to consider regarding your request:

Katherine Henry is hearing disabled, and reads lips, so in-person oral argument without any barrier to seeing all participants faces is requested per the ADA.

Submitted By: _____ Date: 5/12/24

Name/Attorney No. Katherine Henry

Address PO Box 333 Ormond Beach FL 32175

Telephone No. & Email address 321-300-3037 Katherine@RestoreFreedomKH.com

CERTIFICATE OF SERVICE

I certify that on 5/12/24, a true and correct copy of this document was furnished to Abraham McKinnon, Noah McKinnon, Hon Hamrick, Hon Jolley, FL Atty General at their email addresses listed in the e-service system, this 12 day of May, 2024.

/s/ Katherine Henry
Signature