

**IN THE DISTRICT COURT OF APPEAL
SIXTH DISTRICT STATE OF FLORIDA**

Case No.: **6D2025-2094**
LT NO.: **11-2025-CA-001290-0001-01**

**STATE OF FLORIDA ex rel.
MICHAEL COLOSI,**

Appellant.

vs.

**ZACH STAMP, as Chairperson, and
DEAN BRITT, as Chairperson,**

Appellees,

_____/

ANSWER BRIEF OF APPELLEES

**Appeal of final order from the Circuit Court of the Twentieth
Judicial Circuit in and for Collier County, Florida**

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CERTIFICATE OF INTERESTED PERSONS AND ENTITIES

The undersigned counsel of record certifies that the listed persons and/or entities have an interest in the outcome of the case. These representations are made in order that the judges of this court may evaluate possible disqualification or recusal.

Dean Britt, as chairperson of the Quarry CDD, Appellee

Micheal Colossi - Plaintiff/Appellant

Flow Way Community Development District

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Quarry Community Development District

Zach Stamp, chairperson of Flow Way CDD, Appellee

Hon. James F. Stewart, trial court judge

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PRELIMINARY STATEMENT

In this brief, the Appellee Dean Britt, as chairperson of the Quarry Community Development District will be referred to as Britt, Appellee or Defendant. Similarly, Appellee Zach Stamp as chairperson of the Flow Way Community Development District will be referred to as Stamp, Appellee or Defendant. Appellant State ex. Rel. Michael Colosi, will be referred to as Colosi or Appellant. Defendant Esplanade Golf & Country Club of Naples Inc. or Esplanade Homeowners Association (HOA) will be referred to as Esplanade. Citations to the record on appeal will be made by the letter R with succeeding numbers indicating the record page. Emphasis added in italics or bold is that of Appellees except as otherwise noted.

STATEMENT OF THE CASE AND FACTS

A. Nature of the Case

This appeal arises from a final order issued by the Circuit Court of the Twentieth Judicial Circuit denying Appellant Colosi's Petition for Writ of Quo Warranto against Respondents Zach Stamp, in his official capacity as the chairperson of the Board of Supervisors of the Quarry Community Development District and Dean Britt in his official capacity as the chairperson of the Flow Way Community Development District. *R-5*.¹ Colosi apparently alleged that the chairpersons acted illegally when he was denied access to his vacant land across the respective CDD properties. After the trial court reviewed the Petition per Colosi's insistence, it entered its order dismissing the petition for insufficiency to support the claims alleged.

B. Statement of the Facts

Colosi is the titled owner of a 10-acre parcel of property in Collier County. *R-11*. Apparently, there is no dedicated right of way access to the property. Several potential points of access were

¹ Colosi also included a petition for writ of mandamus which was also denied. *R-240*. Colosi also sued the Esplanade Golf & Country Club of Naples, Inc., but this defendant was voluntarily dismissed.

identified. *R-12*. The one favored by Colosi required obtaining access rights or easements from Quarry Community Development District (Quarry), Flow Way Community Development District (Flow Way) and the Esplanade Golf & Country Club of Naples Inc. Homeowners Association (Esplanade).

Colosi made requests for access rights over their property to Esplanade, Flow Way and Quarry. *R-15*. The CDD's considered Colosi's requests at their regular scheduled meetings. *R-14-15*. Simultaneously filed with the complaint as exhibits were copies of meeting minutes of certain meetings of Flow Way and Quarry. *R-96-148*. At the November 16, 2023 Flow Way monthly meeting it was reported that Chairman Zach Stamp was absent. *R-99*. The general counsel of Flow Way presented the request for access to the Board of Supervisors for discussion. *R-102*. The Board members discussed the issue, but no formal action was taken. *R-102-103*. At the January 18, 2024 Board meeting there was further discussion of the request, but again, no formal decision was made. *R-49; R-51; R-111-112*.

The minutes of the August 14, 2023 Quarry Community Development District meeting reports that Dean Britt was the Vice Chair of the Board, not the Chairperson. *R-129*. The "land access

request” of Mr. Colosi was discussed and “the Board agreed to deny the request.” *R-48; R-132*. Mr. Colosi was notified of the Board’s decision. *R-33*. Subsequently, at the October 9, 2023 monthly Board meeting, the Board, upon motion of vice chair Britt voted unanimously to authorize Mr. Cantwell (Board Chair) to work with Mr. Haber (general counsel) on the request for statutory easement presented by Mr. Colosi. *R-147*.

Colosi alleges that each Board of the Defendants voted to deny the requests for access easements. *R-20*. Colosi requested Flow Way, Quarry and Esplanade to reconsider their decisions, but no action was taken on these requests. *R-20*.

Thereafter, Colosi sent “a notice asserting access rights” to Quarry, Flow Way and Esplanade claiming access under “Florida Property Code 704.01”. *R-20; R-52*.² Quarry responded “asserting a denial of access rights, requesting the reason for access, and conditioning access on payment to the District”. *R-21*.

² Presumably, this was meant to be a reference to §704, Florida Statutes, “Easements”. However, a proceeding was not commenced under this statute.

C. Procedural History of the Case

On June 16, 2025, Colosi filed his complaint against Zach Stamp as chairperson of the Flow Way Community Development District, Dean Britt as chairperson of the Quarry Community Development District and the Esplanade Golf & Country Club of Naples, Inc. *R-4*. Copies of the complaint were sent to the Defendants/Respondents by Plaintiff Colosi prior to any review by the trial court or issuance of an alternative writ under either petition. The complaint essentially claimed that chairpersons exceeded their legal authority in denying an access easement to plaintiff. *R-7; R-9; R-11*.

In the prayer for relief, Colosi sought a “Writ of Quo Warranto removing Dean Britt and Zach Stamp from their official positions for exceeding the lawful scope of their authority as public officers.” *R-25-26*. A Quo Warranto writ was also sought declaring that the actions of the CDD respondents were *ultra vires* and without lawful authority. *R-26*.

Zach Stamp, in his official capacity as chairperson of Flow Way and Dean Britt in his official capacity as chairperson of the Quarry filed a joint motion to dismiss the complaint on July 7, 2025 and an

amended motion to dismiss on July 10, 2025 *R-168-177; R-181-190*.
Therein, they asserted among other grounds, that the petitions failed to sufficiently allege detailed facts entitling plaintiff to the relief sought. *R-171-2; R-184-5*.

On July 11, 2025, Colosi filed an opposition memorandum to the joint motion to dismiss filed by Stamp and Britt. *R-191-214*. Therein, Colosi complained that a motion to dismiss was improper or premature and that the motion should be stricken. *R-194*.

Alternatively, the filing presented an opposition to the motion to dismiss. *R-198*. Therein, Colosi argued that “in quo warranto, the action must be brought against the individuals who are exercising the questioned authority, not the agency or entity itself.” *R-201*. Colosi reiterated that “the Petition seeks not only the removal of the chairpersons ... but also invalidation of the ultra vires actions taken under their authority ...”. *R-202*.³

On July 23, 2025, Defendant Esplanade filed a motion to dismiss. *R-217-226*. On August 7, 2025, Colosi filed a “motion for

³ In an addendum to the complaint, Colosi advised the Florida Attorney General’s office that he intended to file a petition for writ of quo warranto “to remove elected officials and invalidate their rulings.” *R-56*.

ruling”. *R-227-236*. Therein, Colosi demanded the trial court to proceed with one of two options: “4.1 summarily deny the petition if it is facially insufficient, or 4.2 Issue the writ, or alternative writ, or show cause order if the petition is facially sufficient.” *R-229*. Colosi again contended that filing a motion to dismiss prior to an alternative writ being issued, was inappropriate. *R-231*. This filing also contained an alternative or conditional notice of voluntary dismissal of Esplanade Golf and Country Club (sic). *R-225-226*.

Ten days later, upon reviewing the verified Petition for Quo Warranto and Petition for Mandamus, the trial court found the petition for each writ to be insufficient and thus, they were denied. *R-239-240*. The order noted that the petitioner asked the court to remove Zack Stamp and Dean Britt from their official capacities of their Community Development Districts and to invalidate decisions taken by those Community Development Districts which the Petitioner believes deprived him of certain legal rights and to compel Mr. Stamp and Mr. Britt to make decisions that they are legally obligated to legally perform *R-239*. The general principle of Quo Warranto law from *Fouts v. Boulay*, 795 So.2d 1116, 1117 (Fla. 5th DCA 2001) was cited: “Quo Warranto is a writ of inquiry through

which a Court determines the validity of a party's claim that an individual is exercising a public office illegally." *Id.*

Likewise, the general principle of law for mandamus was cited from *Davis v. State*, 861 So.2d 1214, 1216 (Fla. 2nd DCA 2003). Applying those general principles to the petitions, the trial court found that both petitions were insufficient and therefore, denied. *R-240*.

On August 19, 2025, Colosi filed a notice of appeal of the order entered. *R-241-244*. On October 28, 2025, Colosi and counsel for Esplanade signed and filed a Joint Notice of Voluntary Dismissal as to Esplanade only from this appeal.

STANDARD OF REVIEW AND JURISDICTION

"Since the nature of an extraordinary writ is not of absolute right, the granting of such writ lies within the discretion of the court. *Topps v. State*, 865 So.2d 1253, 1257 (Fla. 2004). Accordingly, we generally review a circuit court's decision on a petition for writ of quo warranto for an abuse of discretion. *See Detzner v. Anstead*, 256 So.3d 820, 822 n.4 (Fla. 2018);" *Israel v. DeSantis*, 269 So.3d 491, 494 (Fla. 2019); *Bailey v. DeSantis*, 418 So.3d 781, 783 (Fla. 1st DCA

2025). This court has jurisdiction to review a final order of the circuit court under *Fla. R. App. P.* 9.030(b)(1)(a).

SUMMARY OF ARGUMENT

The circuit court correctly denied Appellant's underlying petition because it was legally insufficient on its face to invoke the limited jurisdiction of quo warranto. Quo warranto is reserved for testing the lawful authority of a person to hold a public office or inquire as to whether that public official has the legal authority to take a certain action. The writ of quo warranto is not applicable here because there were no facts alleged that Zach Stamp was not legally elected to the position of Chair of the CDD, nor are there any facts alleged that Stamp took any action, much less one that he had no legal authority.

Dean Britt was not even the chairman of the CDD. Similarly, there are no facts alleged that Britt was not lawfully elected to his position as vice chair. Nor are there any facts alleged that Britt personally took an illegal action. As Colosi recognized in his papers, Quo Warranto is directed to individual official's actions, not actions of the Board of Supervisors of the CDDs.

Colosi's alleged claim that the CDD's Board decisions were without authority or were illegal is nonsensical. If the Board lacked authority to deny an easement, then it would also lack authority to grant it, which is what the complaint wanted the court to compel them to do. Only the Board of Supervisors by affirmative vote has the authority to grant easements. The individual Supervisors have no such authority individually and the minutes show that they took no such actions. Quo Warranto tests the authority to take the action, not the efficacy of the action taken.

ARGUMENT

I. The Circuit Court correctly denied the petition.

A. Scope of Appeal

At the outset, it should be noted that the circuit court's final order denied both counts of Appellant's petitions: Count I (Quo Warranto) and Count II (Mandamus). Appellant's notice of appeal and initial brief, however, only challenges the denial of the petition for Writ of Quo Warranto. *Apt. Brf. P. 1*. Under well settled precedent, issues not argued in the initial brief are deemed abandoned, and appellate review is limited to those rulings properly assigned as error. *See Rosier v. State*, 270 So.3d 403, 405 (Fla. 1st DCA 2019) (argument

waived if not raised in initial brief); *Anheuser-Busch Companies, Inc. v. Staples*, 123 So.3d 309, 312 (Fla. 1st DCA 2013) (Issue is waived or abandoned when no argument made on appeal); *David M. Dresdner M.D., P.A. v. Charter Oak Fire Ins. Co.*, 972 So.2d 275, 281 (Fla. 2nd DCA 2008) (issue not argued is waived or abandoned).

Secondly, *Fla. R. Civ. P.* 1.630(b) explicitly states that the petition may not be brought in the relation to the State but must be brought in the name of Plaintiff. As noted in the allegations of the complaint, there was no consent from the state Attorney General to pursue the petition. *R-55-58*. Colosi alleged that he was entitled to bring the petition under §80.01 *Fla. Stat.* if the Attorney General refused. *R-55*. However, §80.01 applies only to a person claiming title to the office which is exercised by another and requires proof of his title to the office. Colosi has not made a claim of entitlement to either the offices of Chairperson of either CDD and has presented no proof of his alleged title to either office. Thus, there is no jurisdictional basis under for the petition under §80.01 *Fla. Stat.*

B. The Petition was correctly denied

The writ of quo warranto is an extraordinary remedy narrowly confined to testing the right of a public official to hold a public office

or to test whether the public official has the legal power or authority to take certain actions in that position. As noted in *Fouts v. Boulay*, 795 So.2nd 1116, 1117 (Fla. 5th DCA 2001) “Quo Warranto is a writ of inquiry through which a court determines the validity of a party’s claim that an individual is exercising a public office illegally. *State ex rel. Bruce v. Kiesling*, 652 So.2d 601 (Fla. 1994).” As the supreme court has noted, quo warranto is a common law remedy that has been historically used to “ ... test the right of a person to hold an office of franchise or exercise some right or privilege the peculiar powers of which are derived from the state. *State v. Gerow*, 79 Fla. 804, 85 So. 144, 145 (1920).” *West Flagler Associates, Ltd. v DeSantis*, 382 So3d 1284, 1286 (Fla. 2024). This general principle has been found to encompasses two inquiries.

The first inquiry is whether the public official lawfully holds the office. It is a petition to oust the presiding official from the office. *Bruce*, 652 So.2d at 602. A person bringing this petition must provide proof that not only was the person in the office not lawfully appointed or elected, but the petitioner was the person who was lawfully appointed or elected. *Id.* Colosi clearly claimed that Stamp and Britt should be ousted from their respective public official

positions. *R-25-26*. However, there are no allegations, much less proof, that Colosi was entitled to be serving in the chairperson position of either the Quarry or the Flow Way Community Development Districts.⁴ Thus, this aspect of the petition was legally insufficient. Colosi implicitly conceded this in his initial brief by failing to make any argument on this issue.

The second inquiry of Quo Warranto is to challenge a public officer's exercising some right or privilege derived from the state. *Bruce*, 652 So.2d at 603. This issue here is whether the public official has the lawful authority to take certain actions or in other words, for the respondent "to show by what warrant or authority he holds the said office and exercises the powers, rights and duties appertaining thereto ...". *State ex rel Watson v. Hurlbert*, 20 So.2d 693, 694 (Fla. 1945). The writ is "... granted only upon a showing that the challenged official lacked the authority to exercise the power he or she did; not when the official- who clearly had the authority and *improperly exercised said power.*" *Worrell v. DeSantis*, 386 So.3d 867, 872 (Fla. 2024). *See State v. Tampa Waterworks Co.* 56 Fla. 858, 47

⁴

It is not alleged that Colosi is a landowner in either CDD.

So. 358, 359 (Fla.1908) (“The question is the existence of authority, not the proper exercise of it.”).

In *Hurlbert*, the petitioner claimed that the County Detective had no lawful authority to act because the statute creating the position was unconstitutional. Therein, the supreme court held that when the legal authority was apparent from the petition, it “will be adjudged insufficient and the writ will be denied.” *Id.*

Under §190 *Fla. Stat.*, Community Development Districts are special-purpose local units of government created to manage and finance basic community infrastructure. More specifically, §190.11(1) *Fla. Stat.* provides that the Community Development Districts have the power:

to acquire, by purchase, gift, devise or otherwise, and to dispose of, real and personal property, or any estate therein; and to make and execute contracts and other instruments necessary or convenient to the exercise of its powers.

Additionally, §190.011(7)(a) *Fla. Stat.* gives the power to Community Development Districts:

To hold, control, and acquire by donation, purchase, or condemnation, or dispose of, any public easement, dedications to public use, platted reservations for public purposes, or any reservations for purposes authorized by

this act and to make use of such easements, dedications or reservations for any of the purposes in this act.

Clearly, the Board of Supervisors collectively, on behalf of the District, have the power to obtain or grant easements over its real property. Colosi explicitly recognized that power because he requested the Board to grant him an access easement. Implicitly, if the Board has the power to grant an easement, it has the power to decline to grant it. The chairperson does not have that authority; but the request was not made to the chairperson to act on it but to the boards of the CDD's. As to Quarry, it was not the chairperson but "the Board [who] agreed to deny the request." *R-48; R-132*. As to Flow Way, at the first meeting, the board members discussed the issue, but no formal action was taken. *R-102-103*. At the January 18, 2024 board meeting there was further discussion of the request, but again, no formal decision was made. *R-49; R-51; R-111-112*.

Quo Warranto is not the appropriate action to challenge a denial of a grant of an easement. *Detzner v. Anstead*, 256 So.3d 820, 823 (Fla. 2018) (improper to challenge merits of decision by writ of quo warranto). Nor is quo warranto proper to challenge the constitutionality of a statute underlying a public official's decision.

West Flagler Associates, Ltd. v. DeSantis 382 So.3d 1284, 1287 (Fla. 2024). Moreover, petitions for the writ of quo warranto are properly filed only *after* the public official has acted. *League of Women Voters of Florida v. Scott*, 232 So.3d 264, 265 (Fla. 2017). Colosi's petition did not allege any power or action exercised by Britt or Stamp, much less one that was not legally authorized.

What Colosi sought by his petition was for the court to review the exercise of the authority, not that the Chair or the Board lacked the authority to act. Under clear precedent, this is not a function of a quo warranto writ; and thus, it was legally insufficient.

II. The motion to dismiss was not inappropriate.

Under *Fla. R. Civ. P.* 1.630(b), the procedure for writs is for the petition filed to be first reviewed by the court for facial sufficiency. Upon a finding of sufficiency, an alternative writ is issued and then served, along with the petition upon the defendant/respondents. *Id.* See *Quigley v. Satz*, 596 So.2d 753 (Fla. 4th DCA 1992). Here, however, petitioner Colosi proceeded to serve the petition upon the Defendant/Respondents before the court reviewed it. Out of an abundance of caution and because they were dealing with a pro se' litigant who has a penchant for filing inappropriate motions and

matters, the Defendant's/Respondents proceeded to respond to the petitions with motions to dismiss within the time provided for responding to a complaint.

Fla. R. Civ. P. 1.630(e) provides that a response to the writ shall be made as provided in *Fla. R. Civ. P.* 1.140. *Fla. R. Civ. P.* 1.140(b) provides that a motion to dismiss for failure to state a cause of action may be filed.

Appellant cites to no authority stating that filing a motion to dismiss is improper and is grounds for reversal. In *Conner v. Mid Florida Growers, Inc.*, 541 So.2d 1252 (Fla. 1989) there is no mention of a motion to dismiss being filed. The case holding was that the writ of mandamus was vacated because there was no alternative writ issued providing Conner a time for filing a response. *Id.* at 1257 (when mandamus sought, rules require proper notice and adequate opportunity to respond.)

Similarly, in *Holcomb v. Department of Corrections*, 609 So.2d 751 (Fla. 1st DCA 1992) there is no mention of a motion to dismiss being filed or that it filing it would be improper. The petition for writ of mandamus required detailed facts showing that the petitioner “has a clear legal right to the performance of a clear legal duty by a public

officer and that he has no other legal remedies available to him.” *Id.* at 753. Since the petition lacked detailed allegations, the trial court’s dismissal for insufficiency was affirmed. *Id.* at 755. Indeed, the trial court dismissal here, cited to *Holcomb* as authority for the insufficiency dismissal. *R-240*.

Moreover, here, the trial court’s order makes no mention of the motions to dismiss filed by defendants. *R-239*. The order of denial entered is addressed solely at the sufficiency of the complaint allegations and the relief sought. As the order states: “[T]his cause came before the Court on Petitioner’s ‘Verified Petition for Writ of Quo Warranto and Petition for Writ of Mandamus,’ filed June 16, 2025 (Docket No. 3)”. *Id.* Essentially, the trial court was following the procedure outline in *Fla. R. Civ. P.* 1.630(d) by first determining the facial, legal sufficiency of the complaint. No hearing was set to argue any of the motions that were filed. Since both petitions were insufficient, the order of denial/dismissal was properly entered.

CONCLUSION

The circuit court properly denied Colosi's Petition for Writ of Quo Warranto because it was facially and legally insufficient. The petition failed to allege any acts of the Chairpersons of the CDD's at all, much less ones that they were not legally authorized to make. There were no allegations that the Chairpersons were not lawfully elected to their positions and the Petitioner provided no allegations of fact showing his entitlement to either position. The order should be affirmed in all respects.

Respectfully submitted,

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CERTIFICATE OF SERVICE

I HEREBY CERTIFY that a true and correct copy hereof has been furnished by e-service to all parties on the attached Counsel List this **23rd** day of **January, 2026**.

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CERTIFICATE OF FONT COMPLIANCE AND LENGTH

I certify that this petition complies with the font requirements of Fla. R. App. P. 9.210(a) being presented in Bookman Old Style 14 font and does not exceed the word limitation in that the entire brief contains no more than 4541 words.

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