

No. _____

IN THE
SUPREME COURT OF THE UNITED STATES

CURUMULATHU JACOB- PETITIONER

vs.

COMMONWEALTH OF VIRGINIA-RESPONDENT(S)

ON PETITION FOR A WRIT OF CERTIORARI TO

THE SUPREME COURT OF VIRGINIA

PETITION FOR WRIT OF CERTIORARI

CURUMULATHU JACOB
AUGUSTA CORRECTIONAL CENTER
1821 ESTALINE VALLEY ROAD
CRAIGSVILLE, VA 24430

QUESTIONS PRESENTED

1. Can a state maintain a judgment which was entered absent jurisdiction under its own *stare decisis* ruling and which is a violation of the Sixth Amendment's Notice Clause and the Fourteenth Amendment's Due process Clause?
2. Did the state, under its own laws, acquire jurisdiction to enter a judgment in this case?
3. Is the judgment in this case void *ab initio* due to a due process violation?

LIST OF PARTIES

All parties appear in the caption of the case on the cover page.

All parties **do not** appear in the caption of the case on the cover page. A list of all parties to the proceeding in the court whose judgment is the subject of this petition is as follows:

TABLE OF CONTENTS

TABLE OF AUTHORITIES.....	5
OPINIONS BELOW.....	6
JURISDICTION	7
CONSTITUTIONAL AND STATUTORY PROVISIONS INVOLVED	8
STATEMENT OF THE CASE	9
REASONS FOR GRANTING THE WRIT.....	11
CONCLUSION	13

TABLE OF AUTHORITIES

Cases

<i>Broyhill v. Dawson</i> , 168 Va. 321 (1937)	11
<i>Com. v. Frye</i> , 48 Va. Cir. 216 (Va.Cir.Ct. 1999)	12
<i>Finkel Products v. Bell</i> , 205 Va. 927 (1965)	11
<i>Slaughter v. Com.</i> , 222 Va. 787 (Va. 1981).....	11
<i>U.S. v. Cruikshank</i> , 92 U.S. 542 (U.S.La. 1875)	11

IN THE SUPREME COURT OF THE UNITED STATES
PETITION FOR WRIT OF CERTIORARI

Petitioner respectfully prays that a writ of certiorari issue to review the judgment below.

OPINIONS BELOW

For cases from **federal courts**:

The opinion of the United States court of appeals appears at Appendix _____ to the petition and is

reported at _____; or,
 has been designated for publication but is not yet reported; or,
 is unpublished.

The opinion of the United States district court appears at Appendix _____ to the petition and is

reported at _____; or,
 has been designated for publication but is not yet reported; or,
 is unpublished.

For cases from **state courts**:

The opinion of the highest state court to review the merits appears at Appendix A to the petition and is

reported at _____; or,
 has been designated for publication but is not yet reported; or,
 is unpublished.

The opinion of the Virginia Supreme Court court appears at Appendix B to the petition and is

reported at _____; or,
 has been designated for publication but is not yet reported; or,
 is unpublished.

JURISDICTION

For cases from **federal courts**:

The date on which the United States Court of Appeals decided my case was _____.

No petition for rehearing was timely filed in my case.

A timely petition for rehearing was denied by the United States Court of Appeals on the following date: _____, and a copy of the order denying rehearing appears at Appendix _____.

An extension of time to file the petition for a writ of certiorari was granted to and including _____ (date) on _____ (date) in Application No. A _____.

The jurisdiction of this Court is invoked under 28 U.S.C. §1254(1).

For cases from **state courts**:

The date on which the highest state court decided my case was May 8th, 2018. A copy of that decision appears at Appendix B.

A timely petition for rehearing was thereafter denied on the following date: _____, and a copy of the order denying rehearing appears at Appendix _____.

An extension of time to file the petition for a writ of certiorari was granted to and including _____ (date) on _____ (date) in Application No. A _____.

The jurisdiction of this Court is invoked under 28 U.S.C. §1257(a).

CONSTITUTIONAL AND STATUTORY PROVISIONS INVOLVED

1. United States Constitution Amendment Six, Notice Clause.
2. United States Constitution Amendment Fourteen, Due Process Clause.
3. Code of Virginia §19.2-220.

STATEMENT OF THE CASE

Judgment was entered against the petitioner absent jurisdiction. The Virginia General Assembly mandates in the statutory Code of Virginia §19.2-220 that an indictment for a criminal offense must contain a "certain date." Virginia Supreme Court precedent holds that until process is served in the manner required by statute, the court acquires no jurisdiction over the person of the defendant to enter any judgment. That is what happened in this case. Process was never served in strict conformity with the legislative mandate and the resulting judgment is a violation of federal due process and is void *ab initio*. The following facts will establish this.

Curumulathu Jacob was indicted and tried for 8 counts of rape and two counts of indecent exposure in 2007. The court delivered to Jacob indictments that charged that:

"CURUMULATHU JACOB, during the period from on or about January 1, 2004, to on or about May 25, 2004, in the County of Loudoun, did feloniously and unlawfully have sexual intercourse with a person not the spouse of the accused, to-wit: M.J., against the will of M.J. by force, threat or intimidation, in violation of Section 18.2-61 of the Code of Virginia; VCC:RAP-1162-F9,"

"CURUMULATHU JACOB, during the period from on or about January 1, 2006, to on or about May 25, 2006, in the County of Loudoun, did feloniously and unlawfully have sexual intercourse with a person not the spouse of the accused, to-

wit: M.J., against the will of M.J. by force, threat or intimidation, in violation of Section 18.2-61 of the Code of Virginia; VCC:RAP-1162-F9," and

"CURUMULATHU JACOB, during the period from on or about January 1, 2006, to on or about May 25, 2006, in the County of Loudoun, did feloniously and unlawfully, with lascivious intent, knowingly and intentionally expose his sexual or genital parts to M.J., who was then his child and who was at least fifteen years of age but less than eighteen years of age in violation of Section 18.2-370(D) of the Code of Virginia; VCC: SEX-3644-F5."

Jacob was tried by a jury, found guilty, and sentenced for these alleged crimes based on the above notices. Jacob's trial counsel filed appeals to the Virginia Court of Appeals and to the Virginia Supreme Court without success. Jacob then filed collateral attacks, (habeas petitions), *pro se*, in both state and federal court, also without success. Finally, Jacob filed a Motion to Vacate Void Judgment in the trial court in 2017. Jacob challenged the jurisdiction of the court to enter the judgment complained of. The trial court denied Jacob's Motion. Jacob appealed to the Virginia Supreme Court which upheld the trial court's denial of Jacob's claim. Jacob now brings this issue to this court as a last resort to obtain relief for federal constitutional violations.

REASONS FOR GRANTING THE WRIT

Code of Virginia §19.2-220 states that:

"The indictment or information shall be a plain, concise and definite written statement, (1) naming the accused, (2) describing the offense charged, (3) identifying the county, city or town in which the accused committed the offense, and (4) reciting that the accused committed the offense on or about a certain date." (Emphasis added).

The Virginia Supreme Court holds that:

"A court acquires no jurisdiction over the person of a defendant until process is served in the manner provided by statute, [Emphasis added] *Broyhill v. Dawson*, 168 Va. 321 (1937) and a judgment entered by a court which lacks jurisdiction over a defendant is void as against that defendant", *Finkel Products v. Bell*, 205 Va. 927 (1965). *Slaughter v. Com.*, 222 Va. 787 (Va. 1981).

This Court, in reference to the U.S. Constitution's Sixth Amendment's Notice Clause, which applies to Virginia through the Fourteenth Amendment's Due Process Clause, has recognized that: "A crime is made up of acts and intent; and these must be set forth in the indictment, with reasonable particularity of *time*, place, and circumstances." *U.S. v. Cruikshank*, 92 U.S. 542 (U.S.La. 1875) (Emphasis added).

Ironically, the same judge who conducted Jacob's trial was well aware of the fact that process has to be served "in strict conformity" with the legislative mandate. In a case from Judge Thomas Horne's bench, he stated that: "Where notice is required, a failure to give actual notice or notice in strict conformity with the statute is violative of due process and void. The record must affirmatively show, as in the instant case, actual notice, or a strict compliance with the statute as to the giving of such notice. A failure to give notice implicates a substantive due process violation." (Emphasis added). *Com. v. Frye*, 48 Va. Cir. 216 (Va.Cir.Ct. 1999).

CONCLUSION

This case is very simple. The Virginia General Assembly has mandated the process of "reciting that the accused committed the offense on or about a certain date" when indicting someone for a criminal offense. In this case, there was no "certain date" given in the indictments that the petitioner received. Under Virginia's *stare decisis* precedent, until process is served in the manner required by statute, the court acquires no jurisdiction over the person of the defendant. The judgment entered against the petitioner was entered without lawful jurisdiction to do so and is a violation of the federal due process clause embodied against the states in the U.S. Constitution's Fourteenth Amendment. The petitioner is entitled to relief as a matter of law.

The petition for a writ of certiorari should be granted.

Respectfully submitted,

 6/8/18

Curumulathu Jacob #1197563
Augusta Correctional Center
1821 Estaline Valley Road
Craigsille, Virginia 24430

APPENDIX A
attached