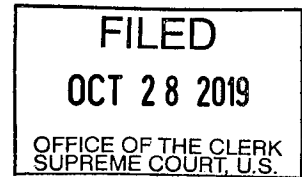


No. 19-6868

ORIGINAL

IN THE
SUPREME COURT OF THE UNITED STATES



LEIGH LAZ LEPON — PETITIONER

Vs.

THE STATE OF IOWA — RESPONDENT

ON PETITION FOR A WRIT OF CERTIORARI TO
THE IOWA COURT OF APPEALS

LEIGH LAZ LEPON Pro se
IOWA STATE PENITENTIARY
P.O. BOX 316
FORT MADISON, IA 52627

QUESTIONS PRESENTED

- I. WHETHER THE STATE DISTRICT-COURT JUDGE VIOLATED THE FOURTEENTH AMENDMENT'S PRIVILEGES AND IMMUNITIES CLAUSE AS WELL AS THE FIFTH AND FOURTEENTH AMENDMENTS' DUE PROCESS GUARANTEE THAT A CAUSE SHALL BE HEARD BY A FAIR AND IMPARTIAL TRIBUNAL VIA THE JUDGE ACTING IN A MANNER TANTAMOUNT TO PARTISAN ADVOCACY?
- II. WHETHER THE STATE OF IOWA VIOLATED THE UNITED STATES FOURTEENTH AMENDMENT WHEN THE IOWA COURT OF APPEALS REFUSED TO APPLY CLEARLY ESTABLISHED AND WELL-SETTLED LEGAL PRINCIPLES OF STATE LAW TO THE FACTS OF THE INSTANT MATTER IN ORDER TO CONVERT A NONJURISDICTIONAL CLAIM PROCESSING RULE INTO A RULE WITH JURISDICTIONAL CONSEQUENCES?
- III. WHETHER THIS COURT'S DECISIONS DEFINING THE LEGAL TERM "SUBJECT-MATTER JURISDICTION" — AND THE CORRESPONDING AUBURN BRIGHT LINE TEST CONCERNING NONJURISDICTIONAL STATUTORY TIME LIMITS AND CLAIMS PROCESSING RULES — ARE ENFORCEABLE UPON THE STATES VIA THE UNITED STATES CONSTITUTION'S SUPREMACY CLAUSE, FULL FAITH AND CREDIT CLAUSE, PRIVILEGES AND IMMUNITIES CLAUSE, THE SIXTH AMENDMENT, AND THE FOURTEENTH AMENDMENT'S PRIVILEGES AND IMMUNITIES, EQUAL PROTECTION, AND DUE PROCESS PROVISIONS?

LIST OF PARTIES

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

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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

This petition for writ of certiorari is from the Final Order of a State Court.

The highest State Court to have addressed the merits of the instant cause is the Iowa Court of Appeals. The opinion of the Iowa Court of Appeals appears at Appendix A to the petition, and, at the time of authoring this petition, petitioner has no knowledge of an official decision from the Iowa Court of Appeals regarding the publication of its opinion.

JURISDICTION

This petition for writ of certiorari is from the Final Order of a State Court.

The date on which the Iowa Court of Appeals decided the merits of the instant controversy was June 5th, 2019. A copy of that decision appears at Appendix A.

A timely application for further review was filed with the Iowa Supreme Court, being thereafter denied on July 31st, 2019.

A copy of the order denying further review appears at Appendix C.

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

CONSTITUTIONAL AND STATUTORY PROVISIONS INVOLVED

FEDERAL CONSTITUTIONAL AND STATUTORY PROVISIONS:

U.S. Const. Amend. V — No person shall be held to answer for a capital, or otherwise infamous crime, unless on a presentment or indictment of a Grand Jury, except in cases arising in the land or naval forces, or in the Militia, when in actual service in time of War or public danger; nor shall any person be subject for the same offence to be twice put in jeopardy of life or limb; nor shall be compelled in any criminal case to be a witness against himself; nor be deprived of life, liberty, or property, without due process of law; nor shall private property be taken for public use without just compensation.

U.S. Const. Amend. VI — In all criminal prosecutions, the accused shall enjoy the right to a speedy and public trial, by an impartial jury of the State and district wherein the crime shall have been committed; which district shall have been previously ascertained by law, and to be informed of the nature and cause of the accusation; to be confronted with the witnesses against him; to have compulsory process for obtaining witnesses in his favor; and to have the assistance of counsel for his defence.

U.S. Const. Amend. XIV — No state shall make or enforce any law which shall abridge the privileges or immunities of citizens of the United States; nor shall any State deprive any person of life, liberty, or property, without due process of law; nor deny to any person within its jurisdiction the equal protection of the laws.

U.S. Const. Art. IV § 1 — Full faith and credit shall be given in each state to the public acts, records, and judicial proceedings of every other state. And the Congress may by general laws prescribe the manner in which such acts, records, and proceedings shall be proved, and the effect thereof.

U.S. Const. Art. IV § 2, cl. 1 — The citizens of each state shall be entitled to all privileges and immunities of citizens in the several states.

U.S. Const. Art. VI, cl. 2 — This Constitution, and the laws of the United States which shall be made in pursuance thereof; and all treaties made, or which shall be made, under the authority of the United States, shall be the supreme law of the land; and the judges in every state shall be bound thereby, anything in the Constitution or laws of any State to the contrary notwithstanding.

STATE OF IOWA CONSTITUTIONAL AND STATUTORY PROVISIONS:

Iowa Const. Art. V § 1 — The judicial power shall be vested in a supreme court, district courts, and such other courts, inferior to the supreme court, as the general assembly may, from time to time, establish.

Iowa Const. Art. V § 6 — The district court shall be a court of law and equity, which shall be distinct and separate jurisdictions, and have jurisdiction in civil and criminal matters arising in their respective districts, in such manner as shall be prescribed by law.

Iowa Const. Art. XII § 1 — This constitution shall be the supreme law of the state, and any law inconsistent therewith, shall be void. The general assembly shall pass all laws necessary to carry this constitution into effect.

Iowa Code Section 602.6101 (2018) — A unified trial court is established. This court is the “Iowa District Court”. The district court has exclusive, general, and original jurisdiction of all actions, proceedings, and remedies, civil, criminal, probate, and juvenile, except in cases where exclusive or concurrent jurisdiction is conferred upon some other court, tribunal, or administrative body. The district court has all the power usually possessed and exercised by trial courts of general jurisdiction, and is a court of record.

Iowa Rule of Criminal Procedure 2.24(2)(b)(8) (2018) — The court may grant a new trial... [w]hen the defendant has discovered important and material evidence in the defendant’s favor since the verdict, which the defendant could not with reasonable diligence have discovered and produced at the trial. A motion based upon this ground shall be made without unreasonable delay and, in any event, within two years after final judgment, but such motion may be considered thereafter upon a showing of good cause. When a motion for a new trial is made upon the ground of newly discovered evidence, the defendant must produce at the hearing, in support thereof, the affidavits or testimony of the witnesses by whom such evidence is expected to be given, and if time is required by the defendant to procure such affidavits or testimony, the court may postpone the hearing of the motion for such length of time as, under all circumstances of the case, may be reasonable.

STATEMENT OF THE CASE

This case presents several questions of national importance regarding the operation of law in State judiciaries within the confines of our adversarial system of justice...

In order for any process to be due — as guaranteed by our Constitution — there must be some semblance of an underlying framework inherent in all courts of the Nation, be they State or Federal. For anything to be “due” there must be something which compels the debt. This Petition for Certiorari seeks to explore and have questions answered regarding the underlying legal principles which require that cases be litigated pursuant to a legal framework that does not infringe upon the privileges and immunities of the citizenry while also realizing the guarantee to receive “Due Process” of law.

In this case the Petitioner was denied his right to due process of law and the State of Iowa infringed upon his privileges and immunities when it chose to uphold a district court decision wherein the district court judge overstepped his bounds as a neutral and impartial arbiter of the cause by inserting himself into the controversy in a partisan manner on behalf of the State.

This case concerns a miscarriage of justice and stems from the wrongful conviction of Leigh Laz LePon.

On December 20th, 2013, Devlin Lockman was injured as the result of an accidental self-inflicted gunshot wound, and later died. LePon was with Devlin the night of the accident. Sadie Book, who was LePon's paramour at the time, was also present.

After a series of events the State later accused LePon of shooting Devlin Lockman, and charged him with first degree murder, and, in 2016, LePon was convicted by a Story County jury of second degree murder.

Many "facts" regarding the underlying criminal court proceedings and appeal therefrom remain in dispute. The history and facts of this case will be discussed to the extent required by the issues presented herein.

After being convicted, LePon filed a timely notice of appeal, and his conviction was affirmed by the Iowa Court of Appeals. Further review was denied by the Iowa Supreme Court.

During the pendency of his direct review, more specifically, after the Iowa Court of Appeals issued its decision, and while awaiting a decision on his applications for further review, LePon learned of several things material to his case of which he was previously unaware.

After his receipt of the information LePon had to figure out what to do, so he contacted his State Appellate Defender attorney. LePon was informed by his State Appellate Defender that she would not give him legal advice or otherwise discuss legal issues collateral to the issues she was presenting in her brief. Left to find his own way forward, LePon looked to the Iowa Rules of Court for guidance. It was in that compilation where he learned of Iowa Rule of Criminal Procedure 2.24(2)(b)(8).

Upon reading the rule LePon believed that the appropriate course of action was to file a motion for new trial pursuant to the rule. LePon did indeed file the motion.

LePon's motion for new trial was filed in the Story County District Court on November 20th, 2017.

The following day, November 21st, 2017, district court Judge Timothy J. Finn denied the motion citing a lack of jurisdiction.

LePon then filed a motion to reconsider. On that same day the district court, Judge Timothy J. Finn, denied the motion to reconsider.

The court did not address the legal contentions asserted in the motion to reconsider, nor did the court otherwise explain itself. The court simply reaffirmed its prior ruling which had stated in pertinent part: “This case is on appeal and this matter needs to be ruled on by the appellate courts.”

LePon was never directed by the district court to request a limited remand.

Again, trying to figure out how to proceed, LePon looked to the Iowa Rules of Court and studied case law. After reviewing material on the issue LePon believed the appropriate course of action was to file a petition for writ of certiorari in the Iowa Supreme Court. In good faith LePon did file the petition.

The State filed a resistance to LePon’s petition.

LePon filed a reply to the State’s resistance.

In a single Justice ruling LePon’s petition was denied.

LePon moved for a court review of the single Justice ruling, and the single justice ruling was upheld by a three-Justice panel.

In dismissing LePon’s petition, the Iowa Supreme Court did not analyze LePon’s claim or otherwise issue an opinion adjudicating the merits thereof.

During the pendency of LePon’s attempt to litigate the issue of jurisdiction in the higher court, the Iowa Supreme Court denied LePon’s pending applications for further review, thereby concluding the appeal of the underlying criminal case.

Thereafter, on February 9th, LePon re-filed his motion for new trial in the district court.

On February 12th, 2018, the motion was ordered set for hearing by district court judge Adria Kester. The hearing was scheduled to commence at 2:30 P.M., on February 26th, 2018, at the Story County Courthouse in Nevada, Iowa.

The hearing was held at said time, and at said location, however LePon was not physically present. (Appendix D — Transcript of Hearing — 2/26/2018).

At the outset of the proceeding the Petitioner (hereinafter LePon) submitted an oral motion to the court requesting that Judge Timothy Finn recuse himself from the matter.

LePon sought Judge Finn's recusal because up to that point it appeared to LePon that Judge Finn was not concerned with LePon's interests in justice, and it seemed as though Judge Finn was unconcerned with seeing that LePon was not hindered in his ability to pursue his claims. (Appendix D — Transcript of Hearing — 2/26/2018).

At the hearing LePon requested the court to appoint standby counsel and further requested the appointment of a private investigator. LePon requested the appointment of such persons because, as he made clear to the court, he had discovered there was potentially new evidence of which he was previously unaware, and — though LePon had recently ascertained knowledge of the existence of the evidence — he had yet to actually obtain the evidence, and, given his current state of incarceration, he couldn't very well go and secure affidavits from potential witnesses.

LePon never submitted the substance of his newly discovered evidence to the court, and he specifically stated that he did not consider the motion for new trial submitted to the court — as he needed to actually procure the evidence before it could be submitted. (Appendix D — Transcript of Hearing — 2/26/2018).

The court never addressed LePon's request for standby counsel, or his request for a private investigator. Rather, in order to circumvent LePon's opportunity to present the substance of his newly discovered evidence, Judge Finn — upon raising the issue of timeliness on his own motion — denied LePon's motion as untimely. At the hearing the State resisted LePon's motion generally; however, the State never alleged that LePon's motion was untimely. ***Timeliness was never addressed at the hearing.*** (Appendix E — Transcript of Hearing — 2/26/2018).

Indeed, it was Judge Finn who raised the issue of timeliness. He did so sua sponte ex post facto. Rather than entertain LePon's interest in presenting the substance of his newly discovered evidence, the court disposed of LePon's claim via a "drive-by ruling" premised upon the assertion that LePon's motion was untimely.

LePon was blindsided by the Court's ruling, and he filed a motion to reconsider. The motion to reconsider was denied.

LePon filed a Notice of Appeal, and appealed the decision to the Iowa Supreme Court. LePon presented nine (9) divisions of argument in his opening appellate brief. The issues presented overlapped in many respects.

LePon's appeal was transferred to the Iowa Court of Appeals. The Iowa Court of Appeals treated LePon's Notice of Appeal and corresponding briefs as a petition for certiorari, granted the petition, and annulled the writ.

The Iowa Court of Appeals upheld the judgment of the District Court by grounding its decision on the premise that the District Court did not overstep its bounds or otherwise act illegally when it raised the timeliness issue *ex post facto sua sponte* — because, according to the Court of Appeals — the question was “jurisdictional”, and, therefore, an appropriate issue for the Court to raise *sua sponte*. In reaching its' conclusion the Iowa Court of Appeals did not address the constitutionally enacted subject-matter jurisdiction of the Iowa District Court and failed to apply controlling case precedent under State law — which aptly made it clear that the issue was never one of the Court's subject-matter jurisdiction — but rather was an issue affecting only the authority of the court to act in the particular case then occupying its attention. In order to hold out the issue as one of “jurisdiction”, the Iowa Court of Appeals relied on a single Iowa Supreme Court case, the case of *State v. Olsen*, 794 N.W.2d 285 (Iowa 2011), wherein the Iowa Supreme Court ruled that absent a valid post-trial motion a district court loses jurisdiction over the case.¹ However, *Olsen* was apparently analyzed under civil case-law and *Olsen* is also distinguishable and inapposite to the case at bar because there was no independent rule of court under which *Olsen* filed his motion, therefore, *Olsen*'s post-trial motion was not a “proper” motion. LePon filed his motion under an existing court rule which implicitly indicates (aside from the constitutional empowerment of the Iowa District Court), that the District Court always maintains “jurisdiction” over its criminal cases. (*See*: Appendix A — Opinion of the Iowa Court of Appeals, pg. 28). LePon filed an application for further review which was denied. (Appendix C)

Of the issues raised in his appeal, and at issue here, are the claims that: 1) – Judge Finn overstepped his bounds and violated LePon's right to a fundamentally fair proceeding in an impartial tribunal when he raised the timeliness defense for the State *sua sponte ex post facto*; and, 2) – the reason it was inappropriate for Judge Finn to raise the issue is because the issue did not go to the Court's subject-matter jurisdiction and was therefore a defense incumbent upon the State to raise, waive, or forfeit under the principle of party presentation.

¹ It should be noted that in *Olsen* the Iowa Supreme Court uses the term “jurisdiction”; however, when viewed in the context of applicable state-law regarding subject-matter jurisdiction — it appears that the Court was using the term in a manner actually consistent with what the law terms “the authority of the court” which is the authority of the court to act in the case then occupying the court's attention, as opposed to the court's subject-matter jurisdiction — which delineates the “general class of cases” within the courts adjudicatory authority.

REASONS FOR GRANTING THE WRIT

I. THE STATE DISTRICT-COURT JUDGE VIOLATED THE FOURTEENTH AMENDMENT'S PRIVILEGES AND IMMUNITIES CLAUSE; AS WELL AS THE FIFTH AND FOURTEENTH AMENDMENTS' DUE PROCESS GUARANTEE THAT A CAUSE SHALL BE HEARD BY A FAIR AND IMPARTIAL TRIBUNAL WHEN HE ACTED IN A MANNER TANTAMOUNT TO PARTISAN ADVOCACY.

Fundamental fairness in all judicial proceedings is an inescapable aspect of the constitutional guarantee to due process of law: "A fair trial in a fair tribunal is a basic requirement of due process... [For a judge] not to hold the balance nice, clear and true between the State and the accused denies the latter due process of law." *In Re Murchison*, 349 U.S. 133, 136 (1955)

To this end, "*Due process requires a competent and impartial tribunal.*" *Peters v. Kiff*, 407 U.S. 493, 501 (1972) (Emphasis added).

"[I]mpartiality in the judicial context – and of course its root meaning – is the lack of bias for or against either party to the proceeding. Impartiality in this sense assures equal application of the law. That is, it guarantees a party that the judge who hears his case will apply the law to him in the same way he applies it to any other party." *Republican Party of Minn. v. White*, 536 U.S. 765, 75-76 (2002).

In pursuit of impartiality under our adversarial system of justice courts are to exist as neutral, detached, and impartial forums; where it is generally beyond the role of a judge to become a partisan advocate for or against any party; wherefore, the courts are generally expected to adhere to the doctrine of party presentation.

"In our adversary system, in both civil and criminal cases, in the first instance and on appeal, we follow the principle of party presentation. That is, we rely on the parties to frame the issues for decision and assign to courts the role of neutral arbiter of matters the parties present. To the extent courts have approved departures from the party presentation principle in criminal cases; the justification has usually been *to protect a pro se litigant's rights*. But as a general rule, our adversary system is designed around the premise that the parties... are responsible for advancing the facts and arguments entitling them to relief. We wait for cases to come to us, and when they do *we normally decide only questions presented by the parties.*" *Greenlaw v. United States*, 171 L.Ed.2d 399, 408 (2008) (Cleaned up, emphasis added)

In the instant matter LePon was denied his due process right to have his claim litigated in an impartial tribunal.

As outlined above in the statement of the case, this petition for direct review stems from a motion for new trial filed by LePon in the Iowa District Court in and for Story County. The motion was duly filed pursuant to Iowa Rule of Criminal Procedure 2.24(2)(b)(8); it was filed in the criminal case, and it was filed in the court of original jurisdiction. The motion was originally filed in November of 2017, although after being dismissed on jurisdictional grounds it was re-filed on February 9th, 2018, after the conclusion of LePon's direct appeal.

Iowa rule of criminal procedure 2.24(2)(a) states in relevant part: "an application for a new trial based upon newly discovered evidence may be made after judgment." *Iowa R. Crim. P. 2.24(2)(a)* (2017). The corresponding portion of the rule at issue here; Iowa Rule of Criminal Procedure 2.24(2)(b)(8), states:

"When the defendant has discovered important and material evidence in the defendant's favor since the verdict, which the defendant could not with reasonable diligence have discovered and produced at the trial. *A motion based upon this ground shall be made without unreasonable delay and, in any event, within two years after final judgment, but such motion may be considered thereafter upon a showing of good cause...* the defendant must produce at the hearing, in support thereof, the affidavits or testimony of the witnesses by whom such evidence is expected to be given, and *if time is required by the defendant to procure such affidavits or testimony, the court may postpone the hearing of the motion for such length of time as, under all circumstances of the case, may be reasonable.*" *Iowa R. Crim. P. 2.24(2)(b)(8)* (2017), (emphasis added).

Ultimately, after a hearing which LePon considered to be preliminary in nature, the district court summarily denied LePon's motion, holding that LePon filed his motion beyond the two-year time limit without establishing good cause.

The issue here is that "timeliness" was never addressed at the hearing. The State never challenged the timeliness of LePon's motion. (Appendix **D** — Transcript of Hearing — 2/26/2018). Judge Finn simply took it upon himself to raise the issue for the State after the hearing had concluded.

The court's act of dismissing LePon's motion is most troubling in the following ways:

1) By virtue of raising the issue of timeliness sua sponte ex post facto, Judge Finn's actions prejudicially affected LePon's statutory right to seek a new trial based upon his newly discovered evidence; because, 2) LePon was never afforded an opportunity to submit the substance of his newly discovered evidence to the court — as the preliminary matters of LePon receiving aid via an investigator and standby counsel in order to procure the evidence, as the clear text of the rule allows — was never addressed by the court.

Clearly, the question here presented for resolution is the question of whether it was within the valid legal authority of the district court judge to raise the issue of timeliness for the State after conclusion of the preliminary hearing on Petitioner's motion for new trial.

The Iowa Court of Appeals explicitly condoned the district courts act by holding that the issue of timeliness was jurisdictional, and, therefore, not only proper, but mandatory for the court to raise on its own. (Appendix A — Opinion of the Iowa Court of Appeals, pg. 28)

LePon agrees that if the question is truly one of the court's subject-matter jurisdiction then it is not only within the court's authority to raise the issue sua sponte, it is the court's obligation.

“Branding a rule as going to a court's subject-matter jurisdiction *alters the normal operation of our adversarial system*. Under that system, courts are generally limited to addressing the claims and arguments advanced by the parties. *Courts do not usually raise claims or arguments on their own.*” *Henderson v. Shinseki*, 179 L.Ed.2d 159, 166 (2011) (Emphasis added).

However, as will be further addressed in the following division of this petition, the problem here is that the term “jurisdictional” shouldn't exist as a legal changeling of which a court is free to invoke talismanically at will in order to dispose of a litigant's cause of action. The citizens of this country should expect and receive basic uniformity and stability within the courts of this country. It should matter not whether such courts are federal courts or state courts. Any litigant in this country should feel confident walking into court that the judge to whom their cause is tried will be impartial — and will refrain from partisan advocacy.

Under our adversarial system of justice — (at this time Petitioner is forced to hand-write the remaining portions of this Petition — as the administration of Iowa State Penitentiary took away the inmate population's access to the word processor computer systems.)

Under our adversarial system of justice, and pursuant to the separation of powers, criminal defendants should be confident that they will walk into any courtroom in the country without being challenged by both the executive and judicial branches of the government.

II. THE STATE OF IOWA VIOLATED THE UNITED STATES CONSTITUTIONS FOURTEENTH AMENDMENT WHEN THE IOWA COURT OF APPEALS REFUSED TO APPLY CLEARLY ESTABLISHED AND WELL-SETTLED LEGAL PRINCIPLES OF STATE LAW TO THE FACTS OF THE INSTANT MATTER IN ORDER TO CONVERT A NON-JURISDICTIONAL CLAIM PROCESSING RULE INTO A RULE WITH JURISDICTIONAL CONSEQUENCES.

The Fourteenth Amendment to the U.S. Constitution guarantees due process and equal protection of the law to the citizens of the U.S. It should therefore invariably follow that pursuant to the 14th Amendment, State courts are required to apply State law evenhandedly.

In this case that did not happen. As outlined in the Statement of the case, LePon filed a motion for new trial (hereinafter MENT) in the district court pursuant to the applicable and available IOWA R. Crim. P. 2.24(2)(b)(8). After a preliminary hearing on the motion the district court summarily dismissed the motion by saying it was untimely. The State never challenged the timeliness of LePon's motion. The district court raised the issue on its own. LePon appealed the district court's judgment, and challenged the legality of the court's action of raising a timeliness challenge on its own. Ultimately the Iowa Court of Appeals condoned the district court's action, and said it was legal for the court to raise the issue sua sponte ex post facto

because the issue went to the district court's subject-matter jurisdiction.

"This Court has cautioned against profligate use of the label 'jurisdictional'."

EPA v. EME Homer City Generation, L.P., 188 L.Ed.2d 775, 795 (2014) (cleaned up).

In concluding that the two year caveat in the rule was 'jurisdictional,' the Iowa Court of Appeals ignored or failed to apply controlling precedent from a plethora of cases which would necessarily have mandated a different outcome. This failure on the part of the court violated LePon's 14th Amendment rights. The fighting issue as to whether or not the district court violated LePon's due process rights turned on whether or not the two year caveat in Iowa R. Crim. P. 2.24(2)(b)(8) is "jurisdictional." On appeal LePon argued that under controlling law it is not and cannot be jurisdictional.

"Our analytical approach to subject-matter jurisdiction mirrors the [United States Supreme Court's] analysis: jurisdiction of the subject-matter is conferred by operation law, and not by act of the parties or by procedure of the court. It cannot be ousted by acts of the parties, if it exists, nor conferred by such acts, if it does not exist. [The] existence [of a court's jurisdiction] antedates the particular litigation, and is not conferred by the litigation or by its procedure."

Simon Seeding & Sod, Inc., v. Dubuque Human Rights Comm'n,
895 N.W.2d 446, 458 (Iowa 2017)

Moreover, Iowa law furthers the dynamic of its courts subject-matter jurisdiction by explicitly distinguishing ~~ad~~ and delineating a court's authority to act from its jurisdiction.

"Subject-matter jurisdiction refers to the authority of the court to hear and determine cases of the general class to which the

proceedings in question belong, not merely the particular case then occupying the court's attention... Where the court has subject matter jurisdiction but for some other reason cannot hear the case, the court lacks authority. This is sometimes referred to as lack of jurisdiction of the case. However... where subject matter jurisdiction exists, an impediment to a court's authority can be obviated by... waiver." *Shrier v. State*, 573 N.W.2d 242, 44-45 (Iowa 1997)

The following Iowa Supreme Court cases state and reaffirm the controlling law regarding the subject-matter jurisdiction versus authority dichotomy in the Iowa courts: *In re Marriage of Seyler*, 559 NW2d 7, 12 n.3 (Iowa 1997); *STATE v. Mandicino*, 509 NW2d 481, 482-83 (Iowa 1993); *In re Marriage of Engler*, 532 NW2d 747, 748-49 (Iowa 1995); *Linn County Sherriff v. State Dist. Court for Linn County*, 545 NW2d 296, 299-300 (Iowa 1996); *State v. Yodprasit*, 564 NW2d 383, 384-85 (Iowa 1997); *STATE v. Davis*, 581 NW2d 614, 615-616 (Iowa 1998); *STATE v. Emery*, 636 NW2d 116, 119-120 (Iowa 2001); *In re Estate of Falk*, 672 NW2d 785, 789-790 (Iowa 2003); *Klinge v. Bentien*, 725 NW2d 13, 15-16 (Iowa 2006); *Alliant Energy-Interstate Power & Light Co., v. Duckett*, 732 NW2d 869, 875-76 (Iowa 2007); *MC Holdings, L.L.C. v. Davis Cnty Bd. of Review*, 830 NW2d 325, 329 (Iowa 2013); *Schaefer v. Putnam*, 841 NW2d 68, 83, n.13 (Iowa 2013); *State v. Letscher*, 888 NW2d 880, 886 (Iowa 2016); *Ney v. Ney*, 891 NW2d 446, 450, 453 (Iowa 2017)

All of the above cited & referenced cases make one thing clear: under Iowa law the timeliness of any legal action taken pursuant to a controlling statute or applicable court rule can only ever work to affect the district court's authority to act, not its

subject-matter jurisdiction, and, as the cases also make clear, a challenge to the court's authority can be forfeited or waived if not properly raised.

In this case the district court judge invoked an authority challenge by raising the timeliness issue *sua sponte* *ex post facto*. In so doing the district court assumed the role of partisan advocate, and in order to condone and uphold the district court's action, the Iowa court of Appeals said it was fine because the court was addressing its jurisdiction. The Iowa Court of Appeals has thus violated LeBon's right to equal protection, as its decision necessarily places him in a class of one regarding controlling legal precedent concerning a court's subject-matter jurisdiction. The blatant disregard of state law should not be condoned by this court, and States should be reminded that the U.S. Constitution mandates equal protection of the law.

III. THIS COURT'S DECISIONS DEFINING THE LEGAL TERM "SUBJECT-MATTER JURISDICTION" - AND THE CORRESPONDING AUBURN BRIGHT LINE TEST CONCERNING NONJURISDICTIONAL STATUTORY TIME LIMITS AND CLAIM PROCESSING RULES - SHOULD BE ENFORCEABLE UPON THE STATES VIA THE U.S. CONSTITUTION'S SUPREMACY CLAUSE, FULL FAITH AND CREDIT CLAUSE, PRIVILEGES AND IMMUNITIES CLAUSE, THE SIXTH AMENDMENT, AND THE FOURTEENTH AMENDMENT'S PRIVILEGES AND IMMUNITIES, EQUAL PROTECTION, AND DUE PROCESS PROVISIONS.

"Characterizing a rule as jurisdictional renders it unique in our adversarial system. Objections to a tribunal's jurisdiction can be raised at any time, even by a party that once conceded the

~~the~~ tribunals subject-matter jurisdiction over the controversy. Tardy jurisdictional objections can therefore result in a waste of adjudicatory resources and can disturbingly disarm litigants. We these untoward consequences in mind, we have tried in recent cases to bring some discipline to the use of the term 'jurisdiction.' To ward off profligate use of the term 'jurisdiction', we have adopted a readily ~~admirable~~ administrable bright line for determining whether to classify a statutory limitation as jurisdictional. [The inquiry is] whether Congress has clearly stated that the rule is jurisdictional; absent such a clear statement, we have cautioned, courts should treat the restriction as nonjurisdictional in character." *Sebelius v. Auburn Reg'l Med. Ctr.*, 184 L.Ed.2d 627, 638 (2013).

This straightforward legal paradigm and related bright line test should be the law of the land, enforceable within state courts for many reasons. First is the full faith and credit concern: "A State cannot escape [the] constitutional obligation to enforce the rights and duties validly created under the laws of other States by the simple device of removing jurisdiction from courts otherwise competent. Similarly, a State may not evade the structure of the Privileges and Immunities Clause by denying jurisdiction to a court otherwise competent." *Howlett v. Rose*, 110 L.Ed.2d 332, 357 (1990) Accordingly, "With respect to judgments, the Full Faith and credit obligation is exacting. A final judgment in one State, if rendered by a court with adjudicatory authority over the subject-matter and persons governed by the judgment, qualifies for recognition throughout the land... A State is not required, however, to afford full faith and credit to a judgment rendered by a court that

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did not have jurisdiction over the subject matter or the relevant parties. Consequently, before a court is bound by [A] judgment rendered in another State, it may inquire into the jurisdictional basis of the foreign court's decree."

V.L. v. E.L., 194 L.Ed2d 92, 96-97 (2016) (Cleared up)

Clearly, the full faith and credit clause requires there to be a baseline concerning jurisdictional inquiries, and such a legal foundation should have national uniformity and stability.

"Perhaps the major purpose of the Full Faith and Credit Clause is to act as a ~~can~~ nationally unifying force."

Thomas v. Washington Gas & Light Co., 448 U.S. 261, 289 (1980)

Also, it should be noted that in V.L. v E.L., supra, this Court implicitly ~~ap~~ applied the Auburn bright line test.

LePon respectfully insists that the other constitutional provisions cited in this divisions heading when taken in conjunction mandates a finding that the Auburn bright line test is applicable in the States.

CONCLUSION:

LePon respectfully request that the Court grant his petition, he requests that the court appoint an attorney to present the cause for petitioner more fully through supplemental briefing.

Respectfully submitted,
Leigh Laz LePon, 10-28-2019

