

IN THE SUPREME COURT OF THE UNITED STATES

ORIGINAL

19-7229

ASATA D. LOWE

Petitioner

v.

MIKE PARRIS

BRIAN WHITMAN

CAPTAIN LOWELL H. RIDINGS

DALE BORING

ERNEST KEMPER III

ALCOA POLICE DEPT.

EDWARD P. BAILEY

KIRK E. ANDREWS

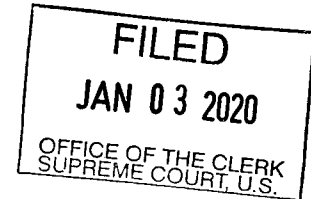
F.D. GIBSON

BLOUNT COUNTY DIST. ATTY OFFICE

BLOUNT COUNTY SHERIFF'S DEPT.

TENNESSEE DEPT. OF CORR.

Defendantss



Case No. \_\_\_\_\_

**PETITION FOR THE WRIT OF CERTIORARI**

Asata D. Lowe

*Petitioner/Plaintiff, Pro Se*

Herbert Harrison Slatery III, Atty. Gen.

Laura Miller AAG,

Thomas J. Aumann AAG

Craig L. Garrett, Attorney at Law

Benjamin K. Lauderback

*Counsel for the Defendants*

**Oral Argument Requested**

## QUESTIONS PRESENTED FOR REVIEW

- I Does the Petitioner have a property interest in (1) Rule 13 and 36 of the Tennessee Rules of Appellate Procedure and the (2) Right to relief secured by the 14<sup>th</sup> Amendment to the U.S. Constitution; and was the Petitioner denied these rights, without due process of law, when the Tennessee Court's were silent on the issue of "Does the Petitioner have a constitutionally protected liberty and/or property interest in the (1) infeasible right of personal security, personal liberty, and private property, (2) right to be heard by himself and by counsel, (3) right to assistance of counsel from time of arraignment until beginning of trial for purpose of consultation, investigation, and preparation for trial, (4) right not to be compelled to give evidence against himself, (5) freedom from unreasonable searches and seizures, (6) freedom from invidious discrimination, (7) right to generally to enjoy those privileges long recognized at common law as essential to the orderly pursuit of happiness by freemen, (8) freedom from cruel and unusual punishments, (9) right of each individual to a private enclave where he may lead a private life, (10) right to take, hold, and dispose of property either real or personal, (11) Freedom of action and movement, (12) freedom from bodily restraint and punishment, (13) right of privacy, (14) right to be let alone, (15) T.C.A. § 39-13-302 (False imprisonment), (16) right to come to the seat of government to assert any claim he may have upon that government, to transact any business he may have with it, to seek its protection, to share its offices, to engage in administering its functions, the right of free access to its seaports, through which all operations of foreign commerce are conducted, to the sub treasuries, land offices, and courts of justice in the several States, (17) right to enjoyment of life and liberty, the right to acquire and possess property of every kind, and to pursue and obtain happiness and safety, (18) right to pass through, or to reside in any other state, for purposes of trade and commerce, agriculture, professional pursuits, or otherwise, to claim the benefit of the writ of habeas corpus, to institute and maintain actions of any kind in the courts of the state, and an exemption for higher taxes or impositions than are paid by the other citizens of the state, the elective franchise, as regulated and established by the laws or constitution of the state in which it is to be exercised, (19) right to pursue my profession without the imposition of unequal

or discriminatory restrictions, (20) right to demand the care and protection of the Federal government over his life, liberty, and property when on the high seas or within the jurisdiction of a foreign government, (21) right to peaceably assemble and petition for redress of grievances, the privilege of the writ of habeas corpus, the right to use the navigable waters of the United States, however they may penetrate the territory of the several States, (22) inviolability of the person and the inestimable right of personal security, (23) Freedom to assert the supremacy of one's own will and rightfully dispute the authority of any human government, especially the state and federal government existing under a written constitution, to interfere with the exercise of that will, (24) right to contract engaging in any of the common occupations of life, to acquire useful knowledge, to marry, establish a home and bring up children, to worship God according to the dictates of my own conscience, and generally to enjoy those privileges long recognized at common law as essential to the orderly pursuit of happiness by free men, and (25) right not to be haled into court at all upon the felony charge, secured by Article 1 § 8 cl. 3 and Article 4 § 2 of the Federal Constitution, the 4th, 5th, 6th, 13th, and 14th Amendments to the United States Constitution, and Did each defendant conspire, under color of state law, to deprive the Petitioner of these liberty/property interests, without due process of law in violation of the Due Process Clause of the 14th Amendment to the United States Constitution?.

- II Does the Petitioner have a property interest in (1) Rule 13 and 36 of the Tennessee Rules of Appellate Procedure and the (2) Right to relief secured by the 14<sup>th</sup> Amendment to the U.S. Constitution; and was the Petitioner denied these rights, without due process of law, when the Tennessee Court's were silent on the issue of "Did the trial court/judge have subject matter jurisdiction to provide prospective and equitable relief on the Procedural and Substantive Due Process Claims in the Complaint for Extraordinary Process and the construction the written instrument titled Estate of Asata Dia Lowe pursuant to T.C.A. § 29-1-101 et. seq., T.C.A. § 16-1-101 et. seq., Article VI § 1 of the Tennessee Constitution, T.C.A. § 17-1-201 et. seq., T.C.A. 29-21-101 et. seq., and T.C.A. § 66-1-101 et. seq?"

## LIST OF PROCEEDINGS IN THE STATE COURTS

1. The Petitioner filed a Complaint for Extraordinary Process and a document titled Estate of Asata D. Lowe in the Chancery Court of Blount County Tennessee on March 18<sup>th</sup>, 2018. (*see Appendix A-1 Complaint for Extraordinary Process*) On April 11<sup>th</sup> 2018 the Chancery Court transferred the case to the law division of the circuit court of Blount County. (*see Appendix A-4*)
2. All Defendants filed motions to dismiss. On August 13, 2018 the trial judge conducted a hearing on the defendant's motions to dismiss. (*see Appendix H-1 Transcript of Proceedings*)
3. On August 16, 2018, the Petitioner filed a motion for summary judgment. (*see Appendix B-1 Motion for Summary Judgment on Subject Matter Jurisdiction Cause of Action and Other Legal Claims*)
4. On August 23, 2018 the trial court enter the Order granting the defendants motions to dismiss. (*see Appendix D-1 trial court order*)
5. On August 28 2018 the Plaintiff filed a (1) Motion to Alter or Amend and/or Relief from Judgment, (2) Affidavit in Support of Motion to Alter or Amend and/or Relief from Judgment, and (3) Complaint for Declaratory Judgment. (*see Appendix C-1, C-2, and C-3*)
6. The Petitioner mailed a letter, dated September 5 2018, to Judge David R. Duggan requesting a hearing for the motions that were pending before the trial court. (*see Appendix B-4 letter to judge*)
7. On September 5, 2018 the trial court entered an order dismissing all claims. (*see Appendix D-2 trial court order*)
8. On or around December 10, 2018 the Petitioner filed a Brief of Appellate to the Tennessee Court of Appeals. (*see Appendix E-1 Brief of Appellate*) On June 25<sup>th</sup>, 2019 the Court of Appeals entered an order affirming the trial court decision. (*see Appendix E-2 Court of Appeals order*)

9. On July 5<sup>th</sup> the Petitioner filed a Petition to Rehear in the Court of Appeals. (*see Appendix F-1 Petition to Rehear*) The Petition to Rehear was denied on July 10<sup>th</sup> 2019. (*see Appendix F-2 Court of Appeal order*)
10. In August 2019 the Petitioner filed an Application for Permission to Appeal to the Tennessee Supreme Court. (*see Appendix G-1 Application for Permission to Appeal*) On October 11<sup>th</sup>, 2019 the Tennessee Supreme Court entered an Order denying the application to appeal. (*see Appendix G-2 TN Supreme Court order*)

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## **JURISDICTIONAL STATEMENT**

1. The Petitioner states that this Court has subject matter jurisdiction pursuant to 28 U.S.C.A. § 1257.
2. The Tennessee Supreme Court issued the order sought to be reviewed on 10/11/19.

## FACTS RELEVANT TO THE QUESTIONS PRESENTED

The facts of this case are undisputed by all parties. In the initial complaint filed in the Blount County trial court titled 'Complaint for Extraordinary Process' the Petitioner (Asata D. Lowe) alleged as basis for the trial court's subject matter jurisdiction the following Tennessee statutes; (1) T.C.A. § 29-1-101 et. seq., (2) T.C.A. § 16-1-101 et. seq., (3) Article VI § 1 of the Tennessee Constitution, (4) T.C.A. § 17-1-201 et. seq., and (5) T.C.A. § 29-21-101 et. seq. (*see Appendix A-1 Complaint for Extraordinary Process pg. 1 in the section titled 'Jurisdictional Statement of the Claim'*) These statutes gave the trial court subject matter jurisdiction to issue injunctions, declarations of rights, writs, and other extraordinary processes. These statutes have nothing to do with awarding damages and none contain any statute of limitations.

The trial court was silent on the above mentioned allegations of jurisdiction. The trial court's Orders and Opinions are silent on any explanation as to why the trial court does not have subject matter jurisdiction to declare what liberty or property interest that the Petitioner is entitled. The trial court's Orders are silent on why the trial court does not have subject matter jurisdiction to determine if the Petitioner made a knowing and intelligent waiver of any of his liberty/property interest secured by the Due Process Clause (see Constitutional Questions 1 thru 26 above) The trial court's Orders are silent on why the trial court does not have subject matter jurisdiction to determine if the Petitioner was deprived of his liberty/property interest without procedural safeguards. The trial court's Order's are silent on why the trial court does not have subject matter jurisdiction to determine what process is due for the deprivation of the Petitioner's liberty/property interest.

The trial court makes three different determinations as to why the initial complaint was dismissed. First, the trial court dismissed the complaint because it lacked subject matter jurisdiction because it did not have authority to award damages and because the Petitioner was attempting to invalidate the conviction. Second, the trial court dismissed the complaint because the statute of limitation ran out. Third, the trial court dismissed the complaint because the claims have been previously determined. The Petitioner disagrees with

the ruling of the trial court. The facts and evidence, taken as true, are contrary to the Blount County Court's rulings.

First in regards to subject matter jurisdiction of the initial complaint. The statutes alleged in the "Complaint for Extraordinary Process," as the jurisdictional basis of the trial court's authority, has nothing to do with money damages or the validity of the conviction. These statutes deal with the trial court's authority to issue writs and other process, including but not limited to the writ of habeas corpus. At the very least the trial court could have issued an order to determine if the Petitioner knowingly or intentionally waived any of his fundamental rights secured by the due process clause. see *Johnson v. Zerbst* 58 S.Ct. 1019; Nevertheless, the Blount County Trial Court's judgments makes no final decisions on the Petitioner's entitlement to any of his constitutional rights, no final decision on the Petitioner's knowing waiver of his liberty/property interest, and/or no final decision on the deprivation of these rights without procedural safeguards. see *Wolff v. McDonnell* 94 S.Ct. 2963; None of these forms of relief has anything to do with the validity of the conviction or an award for money damages.

The Petitioner specifically informed the court, at the August 13<sup>th</sup>, 2018 hearing, that the petition raised these statutes as the basis of the courts subject matter jurisdiction (see *Appendix H-1 Transcript of Proceedings* pg. 43. Ln. 8-23) and also requested different forms of prospective relief in accordance with *Ex Parte Young* 28 S.Ct. 441. (see *Appendix H-1 Transcript of Proceedings* pg. 64 Ln. 5-7) The trial court did not respond to the Petitioner in regards to the requested prospective relief. The trial court would not acknowledge these statutes and ignored the Petitioner's claims pursuant thereto.

The Petitioner has a property interest in the statutes alleged as the jurisdictional basis of the complaint. The Blount County Trial Court's final judgment does not contain any waiver by the Petitioner of his right to proceed with the case pursuant to the statutes alleged as the basis of the trial court's subject matter jurisdiction. The judgment does not contain any findings of fact and legal conclusions on the Petitioner's alleged basis of the trial court's jurisdiction. The final judgment is absent of any written determinations that the trial court is without authority to issue prospective relief on the due process claims. The trial court

refused to provide notice that it would not consider or apply the state statutes as the jurisdictional basis of the complaint, a hearing, and a written determination of the court's findings as why the statutes fail to give the trial court subject matter jurisdiction to provide some type of prospective relief.

Second, in regards to the statute of limitations, the T.C.A. statutes and the Tennessee constitutional provision, alleged as basis of the trial courts subject matter jurisdiction, does not contain a statute of limitation. Furthermore, due process requires a hearing at a meaningful time and in a meaningful manner. The Petitioner relies on the holding of this court in *Armstrong v. Manzo* 85 S.Ct. 1187 which held, "A fundamental requirement of due process is 'the opportunity to be heard.' *Grannis v. Ordean* 243 U.S. 385, 394, 34 S.Ct. 779 783. It is an opportunity which must be granted at a meaningful time and in a meaningful manner."

The facts of this case, taken as true, shows that the Defendants intentionally withheld notice that the Petitioner had any entitlements to rights secured by Due Process Clause of the 14<sup>th</sup> Amendment and the Petitioner has never enjoyed a hearing to determine if he knowingly and intelligently waived any of his liberty and property interest. Moreover, the Petitioner was never provided with procedural safeguards before the final deprivation of these rights. The determination that the trial court lacked authority, due to a statute of limitation defense, to order prospective relief in accordance with the Due Process Clause runs contrary to this Court's rulings that due process requires a hearing at a meaningful time and in a meaningful manner.

The third and final ground for dismissal was that the claims have been previously determined over the twenty years that the Petitioner has been incarcerated. The claims raised by the Petitioner have never been previously determined in any prior suit. The complaint stated, as a matter of fact, that the Petitioner did not become aware of the claims until April 2017. (*see Appendix A – 1 Complaint for Extraordinary Process pg. 5 paragraph 32*) The facts of the case have never been disputed by the defendants and should have been accepted as true by the trial court. The Blount County Trial Court, without notice to the Petitioner, raised the issue of a previous determination sua sponte at the August 13<sup>th</sup> hearing. At this hearing, the Petitioner disagreed with the trial court that the claims raised in the complaint had been determined in a previous suit.

(see Appendix H-1 Transcript of Proceedings pg. 67 Ln. 9-18) The Petitioner requested that the court provide an order showing that these claims have been previously determined in a prior suit but, the court refused to provide the requested evidence. (see Appendix H-1 Transcript of Proceedings pg. 26 Ln. 12-17) The Petitioner is competent to testify on personal knowledge and these facts are admissible in evidence. The Defendants conceal themselves, so that the ordinary process of law cannot be served upon them. This is the first application for such process and there is not a plain, adequate, and complete remedy at law.

The Underling facts of the case

The Petitioner filed the Complaint for Extraordinary Process on or around March 26 2018 in the Chancery Court of Blount County. The case was transferred to the Blount County Circuit Court. The record of the underlying proceeding pursuant to case no. C – 11329/C – 11330 in the Blount County Court affirmatively shows the facts as alleged in this case. The Petitioner is a citizen of the United States and subject to the jurisdiction thereof. There is no genuine issue as to any material fact in this case, Petitioner is entitled to judgment as a matter of law, and the Defendants will not be able to produce sufficient evidence at trial to withstand a motion for directed verdict. The Defendants in the underlying case are as follows: Mike Parris, Brian Whitman, Captain Lowell H. Ridings, Dale Boring, Ernest Kemper III, Alcoa Police Dept., Edward P. Bailey, Kirk E. Andrews, F.D. Gibson, Blount County Dist. Atty Office, Blount County Sheriff's Dept., Tennessee Dept. of Corr.

On or around October 16, 1998, Brian Whitman, the co-defendant, struck the Petitioner in the head with a gun and forced him to drive back to Knoxville, TN. On the drive back to Knoxville, officer Kemper of the Alcoa Police Department, without warning, began shooting at the vehicle Petitioner was being forced to operate. Officer Kemper rammed the vehicle causing the car to crash. Officer Kemper shot at the Petitioner when he exited the car. Petitioner was and is innocent and did not and has not committed any crimes. Petitioner was not initially charged with a offence, did not commit an offense, and the police did not witness him committing a criminal offense. Officer Kemper initiated a warrantless arrest, although, there was no need or probable cause for the arrest and incarceration of the Petitioner. After sitting at the police department

for several hours, the Petitioner was taken to the Blount County Jail without being taken before the magistrate.

For three days Defendants did not provide written notice of the offense charged or the reason why the Petitioner was being detained, a hearing so that the Petitioner could present a defense, and/or a determination of probable cause by a neutral and detached magistrate. From October 16, 1998 until October 19th, 1998, the Defendants held the Petitioner in jail without a formal charge, without a warrant, and without a judicial determination of probable cause by a neutral and detached magistrate, for the sole purpose of collecting evidence to be used at trial, to coerce the co-defendant into making false statements and claims against the Petitioner, and to confiscate the weapons and other evidence used in the crime, i.e., a bullet proof vest, a car, and drugs, and testimony from Brian Whitman (co-defendant). During the 72-hour incarceration the Petitioner was not provided with the opportunity to post bail.

On October 19th, 1998, the State conducted a "secret" initial appearance hearing for which the neither Petitioner nor counsel for the defense was present. The Petitioner was not notified of the hearing, did not have a hearing concerning the facts as to the choice of Petitioner to be present at such hearing, and a determination as to a competent and knowing waiver of his right to be present. The Petitioner did not knowingly waive his right to counsel at the initial appearance hearing and did not make an intelligent waiver of such right. It was the intent of the Defendants to hold the Petitioner in the Blount County Jail to prohibit the Petitioner from being present at the initial appearance hearing so it could conduct such hearing without the aid of counsel for the defense. In the secretly held initial appearance hearing, the Defendants, knowingly caused the witnesses to give false testimony, and submitted false and/or perjured statements/testimony, in the affidavit of complaint, provided by Ernest Kemper and Brian Whitman to present to the magistrate to obtain a warrant. It was the intent of the Defendants to prohibit the indigent Petitioner and counsel from being present at the hearing because, the Defendants knew that they would be presenting false and coerced testimony and did not want the defense to be aware of and to challenge its conduct. The Defendants denied the Petitioner the opportunity to locate favorable witnesses, cross-examine, and confront witnesses in a face to face

meeting, and the opportunity to raise defenses or justification. During the initial appearance hearing, the Petitioner was not represented by counsel, could not afford counsel, and the State did not appoint counsel for the indigent. During the secret hearing the Defendants used all the evidence they illegally obtained, in the several days the Petitioner was illegally incarcerated, to present to the magistrate to obtain a warrant to initiate the prosecution against the Petitioner. Minutes or perhaps hours after the secret hearing concluded and the magistrate issued the warrant, the Petitioner was brought before the Blount County Magistrate and informed that a warrant had already issued against him for first-degree murder. The evidence obtained during the illegal search and seizure of the Petitioner was improperly admitted as fruit of an unlawful search and seizure at trial.

The Defendants paid Myron Kellogg to falsely testify against the Petitioner at trial. Mr. Kellogg, a witness for the State, testified at the Petitioner's trial that he did not receive favorable treatment for his testimony. Several months later Mr. Kellogg testified, in another case, the case of State v. Arthur Copeland case number C – 11100 in the Blount County Court, that he received financial compensation and other favorable treatment for his testimony against the Petitioner. Ed Bailey and Kirk Andrews were the prosecuting attorneys in the Petitioner's case and the case of Arthur Copeland. Ed Bailey and Kirk Andrews never corrected Mr. Kellogg in either case and they knew that Myron Kellogg was not being honest about receiving favorable treatment for his testimony against the Petitioner. During the trial against the Petitioner, Ed Bailey and Kirk Andrews both stated in open court that Mr. Kellogg did not receive favorable treatment for his testimony against him (Petitioner). Ed Bailey and Kirk Andrews knew the whole time that Mr. Kellogg received favorable treatment from the DA's Office, but intentionally failed to disclose the facts surrounding the favorable treatment to the defense. Ed Bailey and Kirk Andrews knew that Myron Kellogg committed perjury. Ed Bailey and Kirk Andrews instructed Mr. Kellogg to say that he did not receive favorable treatment. The Defendants has conspired to contrived a conviction through the pretense of a trial, which in truth was used as a means of depriving the Petitioner of liberty through a deliberate deception of the court and jury by the presentation of testimony known to be perjured. The Defendants knowingly conspired

to use perjured testimony to obtain a conviction from the deliberate suppression by those same authorities of evidence favorable to the Petitioner. The Petitioner did not become aware of the favorable treatment given Myron Kellogg until March or April of 2018.

Inadmissible evidence was obtained by an illegal search and/or seizure that was erroneously introduced at trial against the Petitioner. Furthermore, during the course of the criminal proceedings, the Petitioner did not knowingly and intentionally waive any of his liberty and property interests. The Defendants did not inform the Petitioner of his liberty and property interests, did not provide a hearing to inquire into the Petitioner's knowledge of such interest, and no determination was made that the Petitioner knowingly and intentionally made a choice to object to the deprivation of such interest and to appeal any adverse ruling on the objection. At the time, Petitioner was unaware of his rights and lacked the comprehension to make an intelligent waiver of such rights. The Defendants arbitrarily, persistently, and consistently refuses to provide adequate procedures to remedy the otherwise procedurally flawed deprivation of protected interest. The Defendants have conspired to deprive the Petitioner of his liberty and property starting on October 16 1998 and continues to do so to the present day. The Defendants continuously conspires to deprive the Petitioner of his liberty and property interest, by failing to provide, 'some form of hearing', before he is finally deprived of his liberty and property interest secured 14th Amendment to the U.S. Constitution.

The Petitioner was unlearned in the law, could not comply with the State's procedural rules and misapprehended the substantive details of the criminal procedure. The Defendants prohibited the Petitioner from asserting his rights, so the Petitioner was unaware of the significance of the relevant facts that supported such rights. The factual predicate of the claim did not become available to the Petitioner until April 1, 2017.

The Defendants intentionally deprived the Petitioner of his rights because he is black and poor. The Defendants are intentionally treating Petitioner differently because he is poor and black, when they afford others, who are like him in all relevant respects, the equal protection of the laws for the appointment of counsel for the indigent for the initial appearance hearing, the right to be present at the initial appearance

hearing, and other rights as alleged in this case. The Defendants prohibit the Petitioner from the free exercise of the full and equal benefit of the law and proceedings for the security of persons and property as enjoyed by whites and affluent persons. The Defendants his agents, servants, employees, attorneys, and/or those persons in active concert and participation with him conspires to injure, oppress, threaten, and intimidate the Petitioner in the free exercise and enjoyment of his rights and privileges. The Defendants willfully subjects the Petitioner to the deprivation of his rights, privileges, and immunities and willfully subjects the Petitioner to different punishments, pains, and/or penalties, on account of his color and race, by threat. The Defendants, by force, or threat of force willfully injures, intimidates, and/or interferes with, or attempts to injure, intimidate or interfere with, the Petitioner in order to intimidate him from; participating in and/or enjoying the benefit, service, privilege, programs, facilities, and/or activity provided or administered by the United States.

The Defendants has knowledge that the wrongs, conspired to be done, are being committed, or about to be committed, has power to prevent, or aid the preventing of the commission of the same, neglects, and refuses to do so, although they have the power to prevent such wrongs. As a direct consequence of the Defendants actions, the innocent Petitioner is confined to the Tennessee Department of Correction (TDOC) and prohibited from entering other states to conduct trade and commerce.

The Defendants prohibits the Petitioner from buying, selling, and even possessing property of any kind with the unlimited power of disposition, from seeking employment by the federal government, to vote in federal elections, run for elective office, to transact business with the federal government, to engage in the administration of federal governmental offices, and to transact any business with the federal government. The Defendants do not allow the Petitioner to leave the prison to vote in federal elections and if the Petitioner attempts to leave the prison, for any reason, he will be shot and killed by prison officials. The Petitioner is being denied access to the various seaports to conduct foreign commerce, and prohibited from participating in grand and petit juries in the federal courts. The Petitioner is prohibited from using instruments of commerce such as telephones, interstate highways, and computers. The Defendants obstructs hallways, highways, and streets used for the passage of persons and prohibit the Petitioner from visiting federal and state offices to

conduct business equally as other citizens of the state and federal governments, and threatens to injure and/or coerces other persons, under his employment, with the intent to unlawfully intimidate the Petitioner from the free exercise or enjoyment of rights and/or privileges secured by the federal constitution.

The Defendants conspire for the purpose of impeding, hindering, obstructing, or defeating, by the deprivation of rights secured by the Constitution and laws of the United States, the Constitution and laws of the State of Tennessee, the due course of justice in the State of Tennessee, with the intent to deny the Petitioner. The Defendants conspire, for the purpose of depriving, directly or indirectly, the Petitioner, of the equal protection of the laws, or of equal privileges and immunities under the laws. The Defendants prohibit the Petitioner of the same right, in the State of Tennessee, as is enjoyed by white citizens thereof to inherit, purchase, lease, sell, hold, and convey real and personal property.

The Defendants did commit prohibited activities against the Petitioner in violation of T.C.A. 39-12-204 et. seq. when they committed a pattern of racketeering activity as outlined in T.C.A. § 40-35-121. The Defendants, directly or through another, intentionally commands, request or hires others to commit criminal offenses, or attempts to command, request or hire other to commit criminal offenses, with the intent that the criminal offenses be committed. Each defendant, having the culpable mental state that is required for the offenses that is the object of the conspiracy, and each acted for the purpose of promoting or facilitating commission of the offenses, and agree that one (1) or more of them will engage in conduct that constitutes the offense.

The Defendants intentionally or knowingly causes the Petitioner to reasonably fear imminent bodily injury. The Defendants intentionally or knowingly or recklessly committed an assault and the assault, (i.) resulted in serious bodily injury to the Petitioner and/or (iii.) involved the use or display of a deadly weapon. The Defendants knowingly removes or confines the Petitioner unlawfully so as to interfere substantially with his liberty under circumstances exposing the Petitioner to substantial risk of bodily injury. The Defendants knowingly removes or confines the Petitioner unlawfully so as to interfere substantially with his liberty, committed (1) to facilitate the commission of a felony or flight thereafter; (2) to interfere with the

performance of a governmental or political function; (3) with the intent to inflict serious bodily injury or to terrorize the Petitioner; (4) where the Petitioner suffers bodily injury; and/or (5) while the defendant was in possession of a deadly weapon or threatens the use of a deadly weapon. The Defendants knowingly removes or confines the Petitioner unlawfully so as to interfere substantially with his liberty, (1) accomplished with a deadly weapon; (3) committed to hold the Petitioner for ransom or reward, and/or (4) where the Petitioner suffers serious bodily injury. The Defendants with the intent to deprive the Petitioner of property, knowingly and intentionally obtained or exercised control over the property without the Petitioner effective consent, by violence or putting the Petitioner in fear of his life, (1) accomplished with a deadly weapon; and/or (2) where the Petitioner suffered serious bodily injury. The Defendants intentionally or knowingly took a motor vehicle from the possession of the Petitioner by use of (1) a deadly weapon and/or (2) force or intimidation. The Defendants, by means of coercion, influences or attempts to influence a witness or prospective witness in an official proceeding with intent to influence the witness to: (1) Testify falsely, (2) withhold any truthful testimony, truthful information, documents or thing, and/or (3) Elude legal process summoning the witness to testify or supply evidence, or to be absent from an official proceeding to which the witness has been legally summoned.

From October 16, 1998 and continuing until the present day, the Defendants took and currently maintains possession of all assets and property, of the person and Estate of Asata Dia Lowe, including real and personal property, for no consideration and uses said property for personal gain. The value of said property of the Estate of Asata Dia Lowe is four billion dollars (\$4,000,000,000). The Defendants use the Petitioner's name and likeness to obtained funds from other sources without any compensation for the use of his property. The Defendants has conspired to create a trust in the name of the Petitioner that grants them the fiduciary responsibility to manage his corpus assets and income for his economic benefit without his consent or authority. The Defendants willfully intended to trade on the Petitioner's name, reputation and/or to cause dilution of his name, photographs, likeness, and/or other property. The Defendants prohibit the Petitioner from making, performance, modification, and termination of contracts, and the enjoyment of equal benefits,

privileges, terms, and conditions of the contractual relationship. The Defendants prohibit the Petitioner from manufacturing, buying, and/or selling goods and services among the several states, territories of the United State, and foreign counties. The Defendants prohibit the Petitioner from participating in an all trade and commercial activity, injures, destroys, and/or prevents competition with any persons or businesses among the several states, territories of the United State, and foreign counties. The Defendants by, legislated acts, exempts the Petitioner, from collecting rightful profits and is part of a system the object of which is to compel the Petitioner to labor for much less than other citizens and to prohibit the Petitioner from enjoying the fruits of his own labor without his consent or default. The Defendants, by legislative acts that creates the trust, prohibit the Petitioner from pursuing his livelihood or vocation, and for that purpose to enter into all contracts which might be proper, necessary, and essential to his carrying out those object to a successful conclusions. The Defendants, by legislative acts, create the trust, upon an agreement or contract among businessmen in combination and/or conspiracy to restrain commerce and trade of the Petitioner.

The Defendants, without the consent of the Petitioner, uses reproductions, counterfeits, copies, and/or colorable imitation of the Petitioner name and/or other property in connection with the sale, distribution, offering for sale, and/or advertising of goods and/or services on or in connection with which such use is likely to cause confusion, dilution, mistake and/or deception as to the source of origin of such goods or services. The Defendants reproduces, counterfeits, copies, and/or colorably imitates the Petitioner's name and mark and applies such reproduction, counterfeit, copies and/or colorable imitation to labels, financial accounts, signs, prints, packages, wrappers, receptacles, advertisements, and/or other documents intended to be used upon or in connection with the sale or other distribution in this state of such goods or services. The use began after the mark has become famous and/or the Defendants have caused dilution of the distinctive quality of the mark. The Defendants knowingly uses the Petitioner's name, photograph, or likeness, directed to other person than the Petitioner, as an item of commerce for purpose of advertising products, merchandise, goods, or services, or for purposes of fund raising, solicitation of donations, purchases of products, merchandise, goods, or services, without the Petitioner's consent. The Petitioner was issued a birth certificate under his

name/mark on June 18, 1974 pursuant to T.C.A. § 68-3-301 et. seq. The Petitioner has a property right in the use of his name, photograph, or likeness in any medium in any manner pursuant to T.C.A. § 47-25-1103; these rights are exclusive to the Petitioner in accordance with T.C.A. § 47-25-1104. The Defendants have given value for Petitioner's rights when they acquired them. (see T.C.A. § 47-1-204(1), (2), and (3)). The facts of this case have not been disputed.

The Petitioner states that the due process claims herein have never been determined on the merits in any court system in the United States or in the State of Tennessee. There is no evidence that the claims the Petitioner raises have been previously determined in a prior suit. The State of Tennessee cannot produce any evidence that the claims herein have been adjudicated on the merits.

## DISCUSSION OF THE ISSUES

- I Does the Petitioner have a property interest in (1) Rule 13 and 36 of the Tennessee Rules of Appellate Procedure and the (2) Right to relief secured by the 14<sup>th</sup> Amendment to the U.S. Constitution; and was the Petitioner denied these rights, without due process of law, when the Tennessee Court's were silent on the issue of "Does the Petitioner have a constitutionally protected liberty and/or property interest in the (1) infeasible right of personal security, personal liberty, and private property, (2) right to be heard by himself and by counsel, (3) right to assistance of counsel from time of arraignment until beginning of trial for purpose of consultation, investigation, and preparation for trial, (4) right not to be compelled to give evidence against himself, (5) freedom from unreasonable searches and seizures, (6) freedom from invidious discrimination, (7) right to generally to enjoy those privileges long recognized at common law as essential to the orderly pursuit of happiness by freemen, (8) freedom from cruel and unusual punishments, (9) right of each individual to a private enclave where he may lead a private life, (10) right to take, hold, and dispose of property either real or personal, (11) Freedom of action and movement, (12) freedom from bodily restraint and punishment, (13) right of privacy, (14) right to be let alone, (15) T.C.A. § 39-13-302 (False imprisonment), (16) right to come to the seat of government to assert any claim he may have upon that government, to transact any business he may have with it, to seek its protection, to share its offices, to engage in administering its functions, the right of free access to its seaports, through which all operations of foreign commerce are conducted, to the sub treasuries, land offices, and courts of justice in the several States, (17) right to enjoyment of life and liberty, the right to acquire and possess property of every kind, and to pursue and obtain happiness and safety, (18) right to pass through, or to reside in any other state, for purposes of trade and commerce, agriculture, professional pursuits, or otherwise, to claim the benefit of the writ of habeas corpus, to institute and maintain actions of any kind in the courts of the state, and an exemption for higher taxes or impositions than are paid by the other citizens of the state, the elective franchise, as regulated and established by the laws or constitution of the state in which it is to be exercised, (19) right to pursue my profession without the imposition of unequal

or discriminatory restrictions, (20) right to demand the care and protection of the Federal government over his life, liberty, and property when on the high seas or within the jurisdiction of a foreign government, (21) right to peaceably assemble and petition for redress of grievances, the privilege of the writ of habeas corpus, the right to use the navigable waters of the United States, however they may penetrate the territory of the several States, (22) inviolability of the person and the inestimable right of personal security, (23) Freedom to assert the supremacy of one's own will and rightfully dispute the authority of any human government, especially the state and federal government existing under a written constitution, to interfere with the exercise of that will, (24) right to contract engaging in any of the common occupations of life, to acquire useful knowledge, to marry, establish a home and bring up children, to worship God according to the dictates of my own conscience, and generally to enjoy those privileges long recognized at common law as essential to the orderly pursuit of happiness by free men, and (25) right not to be haled into court at all upon the felony charge, secured by Article 1 § 8 cl. 3 and Article 4 § 2 of the Federal Constitution, the 4th, 5th, 6th, 13th, and 14th Amendments to the United States Constitution, and Did each defendant conspire, under color of state law, to deprived the Petitioner of these liberty/property interests, without due process of law in violation of the Due Process Clause of the 14th Amendment to the United States Constitution?.

*Specific stage in the proceeding where this federal question was sought to be reviewed*

1. These questions were initially raised in the original proceedings in the trial court in the document titled Complaint for Extraordinary Process. (*see Appendix A-1 Complaint for Extraordinary Process pgs. 6-13*)
2. These questions were raised again in the trial court in a motion for summary judgment. (*see Appendix B-1 Motion for Summary Judgment on Subject Matter Jurisdiction Cause of Action and Other Legal Claims pgs. 2-9 paragraphs 8-29*) On August 23, 2018 the trial court dismissed the case but made no ruling or determination and was otherwise silent on these issues. (*see Appendix D-1 trial court order*)

3. These questions were again raised in the trial court in a document titled Complaint for Declaratory Judgment. (*see Appendix C-3 Complaint for Declaratory Judgment pgs. 1-21 Declaratory Judgment Questions One - Fifty*) On September 5, 2018 the trial court dismissed the case but made no ruling or determination and was otherwise silent on these issues. (*see Appendix D-2 trial court order*)
4. These questions were raised on appeal as of right in the Tennessee Court of Appeals in the Brief of the Appellate. (*see Appendix E-1 Brief of the Appellate pg. 6 question I*) On June 25<sup>th</sup>, 2019, the appeals court affirmed the trial court's judgment but made no ruling or determination and was otherwise silent on these issues (*see Appendix E-3 Court of Appeals order*)
5. These questions were next raised on a Petition to Rehear in the Tennessee Court of Appeals (*see Appendix F-1 Petition to Rehear pgs. 2 questions B.*) On July 10<sup>th</sup>, 2019, the appeals court denied the petition but made no ruling or determination and was otherwise silent on these issues. (*see Appendix F-2 Court of Appeal order*)
6. These questions were next raised to the Tennessee Supreme Court in an Application for Permission to Appeal. (*see Appendix G-1 Application for Permission to Appeal pgs. 3 question II*) On 10/11/2019 the Tennessee Supreme Court denied the application, but made no ruling or determination and was otherwise silent on these issues. (*see Appendix G-2 TN Supreme Court order*)

Property interest in Rule 13 and Rule 36 of the Tenn. R. Appendix P.

The Petitioner states that he has property interests secured by the Due Process Clause of the 14<sup>th</sup> Amendment in *Rule 13 of the Tennessee Rules of Appellate Procedure* which states, "Except as otherwise provided in Rule 3(e), any question of law may be brought up for review and relief by any party..." and *Rule 36(a) of the Tennessee Rules of Appellate Procedure* states in part, "The Supreme Court, Court of Appeals, and Court of Criminal Appeals shall grant the relief on the law and facts to which the party is entitled or the proceedings otherwise requires and may grant any relief, including the giving of any judgment and making of any order...", and *Rule 36(b) of the Tennessee Rules of Appellate Procedure*

states in part, “A final judgment from which relief is available and otherwise appropriate shall not be set aside unless, considering the whole record, error involving a substantial right more probably than not affected the judgment or would result in prejudice to the judicial process...”

The Petitioner states that the Court’s of Tennessee deprived him of these rules (property interest) without due process of law in violation of the 14<sup>th</sup> Amendment to the United States Constitution. These rules require state courts to review and provide relief on the issues presented.

If the court determines that the person has an interest that is entitled to constitutional due process protection then the court must determine “what process is due.” see *Morrissey v. Brewer* 92 S.Ct. 2593. In *Board of Regents of State Colls. v. Roth* 92 S.Ct. 2701 this Court held, “Property interest, of course, are not created by the Constitution. Rather they are created and their dimensions are defined by existing rules or understandings that stem from an independent source such as state law—rules or understandings that secure certain benefits and that support claims of entitlement to those benefits”.

The trial court entered a judgment that the Petitioner failed to state a claim for relief but did not provide a determination or a final judgment on the Petitioner’s claim of entitlement to his liberty and property interest secured by the Due Process Clause of the 14<sup>th</sup> Amendment to the U.S. Constitution. The appeals court’s judgment affirmed the trial court ruling, but the opinions and subsequent denials of the Petitioner’s claims in each of the Tennessee courts, including the Tennessee Supreme Court, failed to provide a determination on the claim of entitlement to the Petitioner’s fundamental rights.

The Tennessee Courts are silent on the issue of whether the Petitioner made a knowing and intelligent waiver of his fundamental rights. See *Johnson v. Zerbst* 58 S.Ct. 1019. The Tennessee Courts are silent on the issue of whether the Petitioner was provided with procedural safeguards before the final deprivation of his liberty and property interest. See *Wolff v. McDonnell* 94 S.Ct. 2963.

*Right to Relief on the Due Process Claim of Entitlement Issue is secured by the Due Process Clause of the 14<sup>th</sup> Amendment*

The Petitioner also states that he has a property interest in the cause of action asserting a due process claim for relief. This interest is secured by the Due Process Clause of the 14<sup>th</sup> Amendment to the

United States Constitution. The Petitioner relies on *Logan v. Zimmerman Brush Co.* 102 S.Ct. 1148 where the U.S. Supreme Court said, “The first question, we believe was affirmatively settled by the *Mullane* case itself, where the Court held that a cause of action is a species of property protected by the Fourteenth Amendment’s Due Process Clause.”

The U.S. Courts have traditionally held that the Due Process Clause protect civil litigants who seek recourse in the courts, either as defendants hoping to protect their property or as plaintiffs attempting to redress grievances. In *Societe Internationale v. Rogers* 78 S.Ct. 1087, for example—where a plaintiff’s claim had been dismissed for failure to comply with a trial court’s order—the Court read the “property” component of the Fifth Amendment’s Due Process Clause to impose “constitutional limitations upon the power of courts, even in aid of their own valid processes, to dismiss an action without affording a party the opportunity for a hearing on the merits of his cause. Similarly, the Fourteenth Amendment’s Due Process Clause has been interpreted as preventing the States from denying potential litigants use of established adjudicatory procedures, when such an action would be “the equivalent of denying them an opportunity to be heard upon their claimed rights”. See *Boddie v. Connecticut* 91 S.Ct. 780.

The Petitioner has not waived his right to relief on the deprivation of his fundamental rights without procedural safeguards in the Tennessee Court’s nor has he waived his right to relief on the merits. The Petitioner was not given notice, has not received a hearing to determine in fact that he chooses to exercise or waive his rights, and a written determination by an impartial jurist, before the final deprivation of his protected interest. Instead the Petitioner has attempted in every court to have his due process claims decided on the merits.

In this case the state courts failed to provide any type of remedy to determine that the Petitioner has an interest entitled to due process protection, a determination that the Petitioner was deprived of such interest without procedural safeguards, or a determination of what process is due. The Tennessee Courts’ could have made these determinations without awarding damages or invalidating the convictions.

The Petitioner and the Defendants agree on the fact that the claims and facts of this case have never been previously determined in a prior suit. No evidence disputing this fact is present in the record of this case. The facts of this case taken as true shows the Petitioner did not become aware of these claims until March 2017. The Tennessee courts arbitrarily refuses to provide adequate procedures to remedy the otherwise procedurally flawed deprivation of these interest.

Underlying Constitutional Issues not decided on the merits by the Tennessee courts

The undisputed facts and evidence of this case establishes a Due Process Clause violation and a violation of Petitioner's rights under the Privileges and Immunities Clause. (see *Appendix A – 1 Complaint for Extraordinary Process* pgs. 1–36, *Appendix A –5 Affidavit* pgs. 1–13 paragraphs 1–108, *Appendix B – 3 Affidavit in Support of Motion for Summary Judgment on Subject Matter Jurisdiction Cause of Action and other Legal Claims* pgs. 1–14 paragraphs 1–124)

In the Complaint for Extraordinary Process the Petitioner alleged several liberty and property interest and the courts of the state failed to make any rulings or determination and was otherwise silent on the Petitioner's entitlement to the following liberty and property interest; (1) Indefeasible right of personal security, personal liberty, and private property recognized by *Mapp v. Ohio* 81 S.Ct. 1684/*Boyd v. United States* 6 S.Ct. 524, (2) right to be heard by himself and by counsel recognized by *Powell v. State of Ala.* 53 S.Ct. 55, (3) right to assistance of counsel from time of arraignment until beginning of trial for purpose of consultation, investigation, and preparation for trial recognized by *Powell v. State of Ala.* 53 S.Ct. 55, (4) right not to be compelled to give evidence against himself explicit in 5th Amendment to the United State Constitution, (5) freedom from unreasonable searches and seizures explicit in 4th Amendment to the United States Constitution (6) freedom from invidious discrimination recognized by *McLaughlin v. State of Fla.* 85 S.Ct. 283, (7) right to generally to enjoy those privileges long recognized at common law as essential to the orderly pursuit of happiness by freemen recognized by *Ingraham v. Wright* 97 S.Ct. 1401, (8) freedom from cruel and unusual punishments explicit in 8th Amendment to the United States Constitution, (9) right of each individual to a private enclave where he may lead a private life recognized by *Miranda v. Arizona* 86 S.Ct.

1602, (10) the right to take, hold, and dispose of property either real or personal recognized by *McBurey v. Young* 133 S.Ct. 1709/*Corfield v. Coryell* case no. 3230 4, Wash, C.C. 371, 6 F. Cas. 546, (11) Freedom of action and movement recognized by *Hickman v. State* 153 S.W.3d 16, (12) freedom from bodily restraint and punishment recognized by *Ingraham v. Wright* 97 S.Ct. 1401, (13) the right of privacy recognized by *Katz v. U.S.* 88 97 S.Ct. 507/*Davis v. Davis* 842 S.W.2d. 588, (14) right to be let alone *Katz v. U.S.* 88 97 S.Ct. 507/*Davis v. Davis* 842 S.W.2d. 588, (15) T.C.A. § 39-13-302 (False imprisonment) protected by the Due Process Clause of the *14th Amendment to the United States Constitution*, (16) right to come to the seat of government to assert any claim he may have upon that government, to transact any business he may have with it, to seek its protection, to share its offices, to engage in administering its functions, the right of free access to its seaports, through which all operations of foreign commerce are conducted, to the sub treasuries, land offices, and courts of justice in the several States recognized by *Crandall v. State Nevada* 73 U.S. 35 WL 11151, (17) right to enjoyment of life and liberty, the right to acquire and possess property of every kind, and to pursue and obtain happiness and safety recognized by *Slaughter House Cases* 83 U.S. 36 1872 WL 15386, (18) right to pass through, or to reside in any other state, for purposes of trade and commerce, agriculture, professional pursuits, or otherwise, to claim the benefit of the writ of habeas corpus, to institute and maintain actions of any kind in the courts of the state, and an exemption for higher taxes or impositions than are paid by the other citizens of the state, the elective franchise, as regulated and established by the laws or constitution of the state in which it is to be exercised recognized by *Slaughter House Cases* 83 U.S. 36 1872 WL, 15386, (19) The right to pursue my profession without the imposition of unequal or discriminatory restrictions recognized by *McDonald v. City of Chicago, Ill* 130 S.Ct. 3020, (20) The right to demand the care and protection of the Federal government over his life, liberty, and property when on the high seas or within the jurisdiction of a foreign government recognized by *Maxwell v. Dow* 20 S.Ct. 448, (21) right to peaceably assemble and petition for redress of grievances, the privilege of the writ of habeas corpus, the right to use the navigable waters of the United States, however they may penetrate the territory of the several States recognized by *De Jonge v. State of Oregon* 57 S.Ct. 255, (22) inviolability of the person and the inestimable

right of personal security recognized by *Terry v. Ohio* 88 S.Ct. 1868, (23) Freedom to assert the supremacy of one's own will and rightfully dispute the authority of any human government, especially the state and federal government existing under a written constitution, to interfere with the exercise of that will recognized by *Roe v. Wade* 93 S.Ct. 756, (24) right to contract engaging in any of the common occupations of life, to acquire useful knowledge, to marry, establish a home and bring up children, to worship God according to the dictates of my own conscience, and generally to enjoy those privileges long recognized at common law as essential to the orderly pursuit of happiness by free men recognized by *Meyer v. Nebraska* 43 S.Ct. 625, and (25) right not to be haled into court at all upon the felony charge recognized by *Blackledge v. Perry* 94 S.Ct. 2098.

Procedural Due Process Violation – The Petitioner proved that the Defendants conspired to withhold information concerning his liberty and property interest secured by the Due Process Clause of the United States Constitution. The Defendants provide the Petitioner notice that he had liberty and property interest. The Defendant did not provide a hearing to determine if the Petitioner was fully aware of these rights and to inquire into his choice to exercise such rights. Furthermore, the Petitioner proved that an impartial jurist did not make a determination that the Petitioner knowingly waived such rights. See *Johnson v. Zerbst* 58 S.Ct. 1019; *Logan v. Zimmeran Co.* 102 S.Ct. 1148; *Mathews v. Eldridge* 96 S.Ct. 893. The Defendants refuses to provide adequate procedures to remedy the procedurally flawed deprivation of protected interest.

II Does the Petitioner have a property interest in (1) Rule 13 and 36 of the Tennessee Rules of Appellate Procedure and the (2) Right to relief secured by the 14<sup>th</sup> Amendment to the U.S. Constitution; and was the Petitioner denied these rights, without due process of law, when the Tennessee Court's were silent on the issue of "Did the trial court/judge have subject matter jurisdiction to provide prospective and equitable relief on the Procedural and Substantive Due Process Claims in the Complaint for Extraordinary Process and the construction the written instrument titled Estate of Asata Dia Lowe pursuant to T.C.A. § 29-1-101 et. seq., T.C.A. § 16-1-101 et. seq., Article VI § 1of the Tennessee Constitution, T.C.A. § 17-1-201 et. seq., T.C.A. 29-21-101 et. seq., and T.C.A. § 66-1-101 et. seq?"

Specific stage in the proceeding where this federal question was sought to be reviewed

1. This question was initially raised in the original proceedings in the trial court in the document titled Complaint for Extraordinary Process. (*see Appendix A-1 Complaint for Extraordinary Process (pg. 2 in the section titled Jurisdictional Statement of the Claim)*)
2. This question was raised again in the trial court in a motion for summary judgment. (*see Appendix B-1 Motion for Summary Judgment on Subject Matter Jurisdiction Cause of Action and Other Legal Claims pgs. 1-2 paragraphs 1-5*) On August 23, 2018 the trial court dismissed the case but made no ruling or determination and was otherwise silent on these issues. (*see Appendix D-1 trial court order*)
3. This question was again raised in the trial court in a document titled Complaint for Declaratory Judgment. (*see Appendix C-3 Complaint for Declaratory Judgment pgs. 1-21 Declaratory Judgment Questions One - Fifty*) On September 5, 2018 the trial court dismissed the case but made no ruling or determination and was otherwise silent on these issues. (*see Appendix D-2 trial court order*)
4. These questions were raised on appeal as of right in the Tennessee Court of Appeals in the Brief of the Appellate. (*see Appendix E-1 Brief of the Appellate pg. 7 question IV*) On June 25<sup>th</sup>, 2019, the appeals court affirmed the trial court's judgment but made no ruling or determination and was otherwise silent on these issues (*see Appendix E-3 Court of Appeals order*)
5. These questions were next raised on a Petition to Rehear in the Tennessee Court of Appeals (*see Appendix F-1 Petition to Rehear pg. 5 question D*) On July 10<sup>th</sup>, 2019, the appeals court denied the petition but made no ruling or determination and was otherwise silent on these issues. (*see Appendix F-2 Court of Appeal order*)
6. These questions were next raised to the Tennessee Supreme Court in an Application for Permission to Appeal. (*see Appendix G-1 Application for Permission to Appeal pg. 4 question IV*) On 10/11/2019 the Tennessee Supreme Court denied the application, but made no ruling or determination and was otherwise silent on these issues. (*see Appendix G-2 TN Supreme Court order*)

Property interest in Rule 13 and Rule 36 of the Tenn. R. Appendix P.

The issue of the subject matter jurisdiction of the trial court has been presented to each court in every proceeding in the courts of the State of Tennessee. The state courts refuse to review the issue and refuse to provide relief on the issue. Therefore, the decisions and opinions of the Tennessee courts are issued in direct violation of *Rule 13 and Rule 36 of the Tennessee Rules of Appellate Procedure*. The Petitioner has a property interest in these rules of court. *Rule 13(b) of Tennessee Rules of Appellate Procedure* states in part, "...The Appellate court shall also consider whether the trial and appellate court have jurisdiction over the subject matter, whether or not presented for review..." This rule requires the Tennessee Appellate Courts to determine whether the trial court has subject matter jurisdiction. These rules also require state appellate courts to review and provide relief. Therefore, reviews of subject matter jurisdiction by the state courts of Tennessee are not optional. Moreover, since a determination of whether subject matter jurisdiction exists is a question of law, the standard of review is de novo without a presumption of correctness. See *Chapman v. Davita, Inc* 380 S.W.3d 710; *Northland Ins. Co. v. State* 33 S.W.3d 727.

In the Petitioner's case, the Tennessee Appellate Courts failed to make a de novo review or any review of the trial court's subject matter jurisdiction based on the jurisdictional statutes alleged by the Petitioner in the initial complaint, failed to provide any relief on the issue, but instead affirmed the trial court decision without any consideration of the issues presented to the courts by the Petitioner.

The Petitioner has a property interest in the Tennessee Rules of Appellate Procedure secured by the Due Process Clause of the 14th Amendment to the United States Constitution. The courts of the State of Tennessee have deprived the Petitioner of these property interests. The courts of the state have arbitrarily refused to provide adequate procedures to remedy the otherwise procedurally flawed deprivation of the protected interest in these rules of court. The procedural defect resulted in prejudice to the judicial process and has a harmful effect on the state court's judgment.

UNDERLYING CONSTITUTIONAL ISSUE – Property interest in state law pursuant to T.C.A. § 29-1-101 et. seq., T.C.A. § 16-1-101 et. seq., Article VI § 1 of the Tennessee Constitution, T.C.A. § 17-1-201 et. seq.,

T.C.A. 29-21-101 et. seq., and T.C.A. § 66-1-101 et. seq. secured by the Due Process Clause of the 14th Amendment

The Petitioner has a property interest in these statutorily granted rights and these property interests are secured by the Due Process Clause of the 14th Amendment to the United States Constitution. The Petitioner alleged these state statutes as jurisdictional basis in the Complaint of Extraordinary Process. (see *Appendix A-1 Complaint for Extraordinary Process pg. 1 in the section titled 'Jurisdictional Statement of the Claim; see also Appendix – I TENNESSEE CODE ANNOTATED (T.C.A.) – Statutes*)

The courts of the State of Tennessee have deprived the Petitioner of these statutorily granted rights. These statutory provision grants the court/judge subject matter jurisdiction to provide prospective relief for the deprivation of Petitioner's procedural due process rights. The right to be heard in a meaningful manner is a fundamental requirement of due process guaranteed by the 14th Amendment. The Petitioner relies on the holding of this Court in *Armstrong v. Manzo* 85 S.Ct. 1187 which held, "A fundamental requirement of due process is 'the opportunity to be heard.' Grannis v. Ordean 243 U.S. 385, 394, 34 S.Ct. 779 783. It is an opportunity which must be granted at a meaningful time and in a meaningful manner."

The Defendants violations of Petitioner due process rights are ongoing because he still has not received a hearing and determination that he knowingly waived any of his rights. Ultimately, the Petitioner sought a hearing before an impartial hearing officer to determine that he is entitled to such rights, that he has been deprived of such rights without procedural safeguards, a determination that he in fact knowingly and intentionally waived such rights, and a determination of what process is due for the deprivation of his liberty and property interest secured by the U.S. Constitution. The Petitioner sought prospective relief in the trial court in the form of an injunction requiring defendants to comply with the Due Process Clause by providing a hearing with constitutionally adequate procedural protections. The Petitioner states that when he alleged that state officials has refused to do an act that is required by the U.S. Constitution, an injunction requiring the act to be performed has long been held to be proper relief under *Ex Parte Young* 28 S.Ct. 441. The Petitioner states that an injunction ordering a hearing to determine waiver of rights qualifies as prospective relief under *Ex Parte Young*.

The complaint requested equitable relief for such legal and equitable relief that may be available and/or required. (see *A – 1 Complaint for Extraordinary Process* pgs. 8–9 paragraphs A. 1–6, C. 1–4) Furthermore, the trial court/judge has authority to construct the written instrument, titled Estate of Asata D. Lowe, and/or declare the Petitioner rights in regards to the property describe therein. The written instrument describes the Petitioner s name, use of name, photographs, likeness, and social security number. *T.C.A. § 47-25-1103* states in part, “Every individual has a property right in the use of that person’s name, photograph, or likeness in any medium in any manner.” A declaration of rights concerning the ownership of property, statutorily proscribed and belonging to the Petitioner, has nothing to do with the state’s treasury or funds and does not compel state officials to do any act.

The courts of the State of Tennessee have deprived the Petitioner of these statutorily granted rights. The Petitioner has a property interest in such rights. The courts of the State of Tennessee have arbitrarily refused to provide adequate procedures to remedy the otherwise procedurally flawed deprivation of these protected interest.

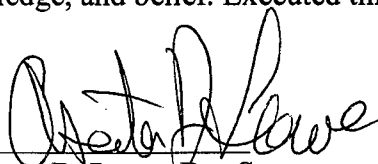
### **DEMAND FOR JUDGMENT**

**WHEREFORE** the Petitioner requests that following relief:

- 1 That this Court enters an Order for such legal and equitable relief that may be available and/or required.
- 2 That this Court issues a Writ of Certiorari.

### **VERIFICATION**

I Asata Dia Lowe, do hereby declare, swear, and affirm, under penalty of perjury, that the contents herein are true and exact to the best of my information, knowledge, and belief. Executed this the 2 day of January 2020. 28 U.S.C.A. § 1746

  
Asata D. Lowe, Pro Se