

No. _____

In The
Supreme Court of the United States

STANLEY V. CAMPBELL,

Petitioner,

v.

EAGLE FORCE HOLDINGS, LLC AND
EF INVESTMENTS, LLC,

Respondent.

**On Petition For A Writ Of Certiorari
To The Delaware Supreme Court**

PETITION FOR A WRIT OF CERTIORARI

DAVID L. FINGER
Counsel of Record for Petitioner
FINGER & SLANINA, LLC
One Commerce Center
1201 N. Orange St., 7th fl.
Wilmington, DE 19801
(302) 573-2525
dfinger@delawgroup.com

QUESTION PRESENTED

1. Can a finding of civil contempt and the imposition of a sanction be sustained consistent with the Due Process Clause of the 14th Amendment to the Constitution of the United States when the defense is expressly preserved and it is subsequently determined that the court lacks personal jurisdiction over the claimed contemnor?

**PARTIES TO THE PROCEEDINGS AND RULE
29.6 CORPORATE DISCLOSURE STATEMENT**

The parties to the proceedings include only those listed on the cover. The respondents are nongovernmental entities.

**LIST OF ALL PROCEEDINGS
DIRECTLY RELATED**

- *Eagle Force Holdings, LLC and EF Investments, LLC v. Stanley V. Campbell*, Civil Action No. 10803, Court of Chancery of the State of Delaware. Judgment entered on August 28, 2017.
- *Eagle Force Holdings, LLC and EF Investments, LLC v. Stanley V. Campbell*, No. 399, 2017, Supreme Court of the State of Delaware. Judgment entered on May 24, 2017.
- *Eagle Force Holdings, LLC and EF Investments, LLC v. Stanley V. Campbell*, Civil Action No. 10803, Court of Chancery of the State of Delaware. Order Granting Plaintiffs' Three Motions for Contempt, dated April 23, 2019.
- *Eagle Force Holdings, LLC and EF Investments, LLC v. Stanley V. Campbell*, Civil Action No. 10803, Court of Chancery of the State of Delaware. Order Addressing Plaintiffs' Motion for Contempt, dated April 23, 2019.

**LIST OF ALL PROCEEDINGS
DIRECTLY RELATED – Continued**

- *Eagle Force Holdings, LLC and EF Investments, LLC v. Stanley V. Campbell*, Civil Action No. 10803, Court of Chancery of the State of Delaware. Order Resolving Plaintiffs' Motion for Contempt, dated May 17, 2019.
- *Eagle Force Holdings, LLC and EF Investments, LLC v. Stanley V. Campbell*, Civil Action No. 10803, Court of Chancery of the State of Delaware. Judgment on remand entered on August 29, 2019.
- *Eagle Force Holdings, LLC and EF Investments, LLC v. Stanley V. Campbell*, No. 399, 2017, Supreme Court of the State of Delaware. Judgment on appeal after remand entered on July 8, 2020.

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INTRODUCTION

For over 140 years it has been a settled rule of due process that a court may not enter a judgment binding on an individual in the absence of personal jurisdiction over that individual.

The Delaware Supreme Court has created a new and unsupportable exception to that rule, holding that a person can be held in civil contempt and sanctioned even if it is ultimately determined that the court lacks personal jurisdiction over the person, as long as the contempt finding occurs before the court determines that there is a lack of personal jurisdiction.

This decision erodes important protections provided to out-of-state parties by the 14th Amendment to the Constitution of the United States as well as the idea that states have geographically-limited judicial power.

The Delaware Supreme Court has decided an important federal question in a way that clearly conflicts with relevant decisions of this Court. For this reason, this Court should grant certiorari.



OPINIONS BELOW

The initial decision of the Court of Chancery is unreported. (App. A). The decision of the Delaware Supreme Court reversing and remanding that decision is reported at 187 A.3d 1209 (Del. 2018). (App. B).

The Order Granting Plaintiffs' Three Motions for Contempt, dated April 23, 2019, is unreported. (App. C).

The Order Addressing Plaintiffs' Motion for Contempt, dated April 23, 2019, is unreported. (App. D).

The Order Resolving Plaintiffs' Motion for Contempt, dated May 17, 2019, is unreported. (App. E).

The remand decision of the Court of Chancery is unreported. (App. F). The post-remand decision of the Delaware Supreme Court is, as of this date, unreported. (App. G).

JURISDICTION

The Delaware Supreme Court entered its judgment on July 8, 2020. This Court has jurisdiction under 28 U.S.C. §1257(a).

CONSTITUTIONAL PROVISIONS INVOLVED

Section 1 of the Fourteenth Amendment to the Constitution of the United States reads as follows:

All persons born or naturalized in the United States, and subject to the jurisdiction thereof, are citizens of the United States and of the state wherein they reside. 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.

STATEMENT

On March 17, 2015, Respondents Eagle Force Holdings, LLC and EF Investments, LLC, two limited liability companies organized (with no involvement by or knowledge of the petitioner) and existing under the laws of the State of Delaware, filed a lawsuit in the Court of Chancery of the State of Delaware against petitioner Stanley V. Campbell, a resident of the Commonwealth of Virginia, alleging breach of contract, fraud and breach of fiduciary duty.

On May 7, 2015, Respondents filed a Motion for Interim Emergency Relief, seeking to restrict Campbell's actions as owner of non-party Eagleforce Associates, LLC.

On June 5, 2015, Respondents filed their First Amended Complaint. On June 19, 2015, Campbell filed a Motion to Dismiss on the ground, among others, of lack of personal jurisdiction. (App. H). That same day, Campbell filed his Opposition to Plaintiffs' Motion for Interim Emergency Relief, raising the issue of personal jurisdiction.

At the hearing on the Motion for Interim Relief on July 9, 2015, the Court granted the motion, and stated:

I don't think the Court's going to be able to resolve whether there is or isn't personal jurisdiction without resolving whether there were or were not agreements reached between these parties. And I, frankly, don't really have any intention, now that we've gotten at this point, to probably even hear the personal jurisdiction until – until I hear the whole thing or someone else hears it on the merits.

(App. 268).

During the ensuing litigation, Respondents filed several motions for contempt against Campbell. The Court of Chancery held hearings on those motions. Campbell asserted lack of personal jurisdiction, among other defenses. At Campbell's request, the Court of Chancery deferred its decision on the contempt motions during which Campbell raised the issue of personal jurisdiction until the Court ruled on the merits.

On September 1, 2017, the Court of Chancery issued a Memorandum Opinion, finding in favor of Campbell on the ground that the claimed contracts were too vague to be enforceable, and ended the Opinion as follows: "Because this Court lacks personal jurisdiction over Campbell, he was not bound by the Order and cannot have committed contempt by violating the Order. Plaintiffs' motions for contempt are denied." (App. 60).

On September 28, 2017, Respondents filed a Notice of Appeal to the Delaware Supreme Court. On May 24, 2018, the Delaware Supreme Court issued its Opinion reversing and remanding the matter to the Court of Chancery. 187 A.3d 1209 (Del. 2018). (App. 61-142). On the merits, the Delaware Supreme Court determined that the contracts were clear enough to be enforceable.

Even though the parties had neither briefed nor argued any issue regarding the contempt dismissal, the Delaware Supreme Court *sua sponte* held that “when a Delaware court issues a status quo order pending its adjudication of questions concerning its own jurisdiction, it may punish violations of those orders with contempt and for sanctions, no matter whether it ultimately finds that it lacked jurisdiction.” (App. 128). The Delaware Supreme Court reasoned that Campbell was before the Court at the time the Status Quo Order was entered (even though he had objected on the ground of lack of personal jurisdiction at the outset) and that orders granting ancillary injunctive relief to protect its jurisdiction over (and the parties’ entitlement to a meaningful adjudication of their rights in) the property would be meaningless absent the power to enforce them. (App. 127). The Delaware Supreme Court remanded the case to the Court of Chancery for further proceedings on the merits and on the contempt motions.

On April 23, 2019, the Court of Chancery issued an Order Granting Plaintiffs’ Three Motions for Contempt. (App. 143-153). The Court ordered Campbell to disgorge \$213,886.80 in company funds he had used to

pay commissions and expenses during the litigation and to pay respondents' attorneys' fees in the amount of \$148,830.50, which Plaintiffs incurred in bringing those Motions.

That same day, the Court of Chancery issued an Order Addressing Plaintiffs' Motion for Contempt. (App. 154-157). In that Order the Court, addressing a separate contempt motion, found Campbell in contempt for withdrawing money from his business shortly after the issuance of the September 1, 2017, finding in Campbell's favor. The Court of Chancery so found notwithstanding that there was no stay pending appeal. The Court of Chancery concluded that the reversal by the Delaware Supreme Court retroactively reinstated the Status Quo Order such that Campbell could be held in contempt during the appellate process even though there was no grant of a stay pending appeal.

On May 17, 2019, the Court of Chancery issued an additional Order Resolving Plaintiffs' Motion for Contempt. (App. 158-160).

On August 29, 2019, the Court of Chancery issued its decision on the merits, again finding in favor of Campbell and determining that it lacked personal jurisdiction over Campbell. (App. 161-228).

On September 24, 2019, respondents filed a Notice of Appeal to the Delaware Supreme Court. Campbell filed a Notice of Cross-Appeal as to the Orders finding him in contempt of court. Campbell argued that the

contempt orders were void as a result of the finding (again) of a lack of personal jurisdiction.

The Delaware Supreme Court issued its decision on July 8, 2020. (App. 229-264). The Delaware Supreme Court rejected Campbell’s argument on the ground that he did not file a motion for reargument in the first appeal to address that issue (although there had been no ruling yet from the Court of Chancery on the merits of the contempt motions, and so there was no final appealable order to be addressed).

REASONS FOR GRANTING THE PETITION

The decision of the Delaware Supreme Court subjecting Campbell to contempt and sanctions even though the Delaware courts lacked personal jurisdiction over him flies in the face of over 140 years of this Court’s Due Process jurisprudence and threatens serious erosion of national policy (here, the due process right against subjection to excessive state assertions of personal jurisdiction).

In *Pennoyer v. Neff*, 95 U.S. 714 (1877), this Court determined that no state can exercise direct jurisdiction and authority over persons or property without its territory. *Id.* at 720 (“The authority of every tribunal is necessarily restricted by the territorial limits of the State in which it is established. Any attempt to exercise authority beyond those limits would be deemed in every other forum, as has been said by this court, in illegitimate assumption of power, and be resisted as mere abuse”).

Sixty-eight years later, in *International Shoe Co. v. State of Wash., Office of Unemployment Compensation and Placement*, 326 U.S. 310 (1945), this Court held that “due process requires only that in order to subject a defendant to a judgment in personam, if he be not present within the territory of the forum, he have certain minimum contacts with it such that the maintenance of the suit does not offend ‘traditional notions of fair play and substantial justice.’” *Id.* at 316 (citation omitted).

Ten years later, in *Hansen v. Denkla*, 357 U.S. 235 (1958), this Court again recognized that “[p]rior to the Fourteenth Amendment an exercise of jurisdiction over persons or property outside the forum State was thought to be an absolute nullity, but the matter remained a question of state law over which this Court exercised no authority. With the adoption of that Amendment, any judgment purporting to bind the person of a defendant over whom the court had not acquired in personam jurisdiction was void within the State as well as without.” *Id.* at 250 (footnotes omitted).

In *Kulko v. Superior Court of California In and For City and County of San Francisco*, 436 U.S. 84 (1978), this Court reiterated that “the Due Process Clause of the Fourteenth Amendment operates as a limitation on the jurisdiction of state courts to enter judgments affecting rights or interests of nonresident defendants. It has long been the rule that a valid judgment imposing a personal obligation or duty in favor of the plaintiff may be entered only by a court having jurisdiction over

the person of the defendant.” *Id.* at 91 (citation omitted).

In *World-Wide Volkswagen Corp. v. Woodson*, 444 U.S. 286 (1980), this Court declared: “The Due Process Clause of the Fourteenth Amendment limits the power of a state court to render a valid personal judgment against a nonresident defendant. A judgment rendered in violation of due process is void and in the rendering State and is not entitled to full faith and credit elsewhere. Due process requires that the defendant . . . be subject to the personal jurisdiction of the court.” *Id.* at 292 (citations omitted).

“The consistent constitutional rule has been that a court has no power to adjudicate a personal claim or obligation unless it has jurisdiction over the person of the defendant.” *Zenith Radio Corp. v. Hazeltine Research, Inc.*, 395 U.S. 100, 110 (1969).

This fundamental principle of constitutional law has been applied in the context of contempt proceedings. In *United States v. United Mine Workers of America*, 330 U.S. 258 (1947), this Court stated that “[t]he right to remedial relief falls with an injunction which events prove was erroneously issued, and a fortiori when the injunction or restraining order was beyond the jurisdiction of the court.” *Id.* at 295 (citations omitted).

In *Willy v. Coastal Corp.*, 503 U.S. 131 (1992), this Court said: “Given that civil contempt is designed to coerce compliance with the court’s decree, it is logical that the order itself should fall with a showing that the

court was without authority to enter the decree.” *Id.* at 139.

Federal Courts of Appeals have similarly recognized that the absence of jurisdictional authority renders a contempt decree void. *E.g., United Elec., Radio and Mach. Workers of America v. 163 Pleasant Street Corp.*, 960 F.2d 1080, 1084 (1st Cir. 1992) (citing *Kulko* and *Willy*); *United States v. Thompson*, 921 F.3d 82, 87-88 (2d Cir. 2019) (“Contempt proceedings may move forward upon a showing of actual notice, but only so long as the court making the contempt finding already has personal jurisdiction over the defendant”).

The fact that the Court of Chancery deferred a decision on personal jurisdiction pending a trial on the merits does not mean that Campbell was subject to liability for contempt even if the Court of Chancery ultimately determined (as it did) that it lacked personal jurisdiction over Campbell. In other words, the fact that the contempt orders were issued prior to the finding of a lack of personal jurisdiction does not validate them.

If a party held in contempt can be released from a contempt sanction upon a subsequent determination on appeal that the trial court lacked personal jurisdiction over the claimed contemnor,¹ then it follows logically that a claimed contemnor is free from any contempt finding and sanction if the trial court

¹ *E.g., United Elec., Radio and Mach. Workers of America v. 163 Pleasant Street Corp.*, 960 F.2d 1080 (1st Cir. 1992).

subsequently determines that it lacked personal jurisdiction.

Campbell did not waive his defense of lack of personal jurisdiction. He asserted the defense in both a motion to dismiss and his Answer. At the hearing on the Motion for Preliminary Relief, the Vice Chancellor stated:

I think – I don't think the Court's going to be able to resolve whether there is or isn't personal jurisdiction without resolving whether there were or were not agreements reached between these parties. And I, frankly, don't really have any intention, now that we've gotten at this point, to probably even hear the personal jurisdiction until – until I hear the whole thing or someone else hears it on the merits.

* * *

it doesn't make sense to have them being made available for some truncated purpose related to personal jurisdiction that depends somewhat on whether we had an agreement or not, which is the main issue in the case. I really suggest that you ought to be talking about full-fledged discovery, unfortunately. It's not that complicated. You haven't been dealing with one another for more than a couple of years. *All issues as far as the personal jurisdiction are preserved* and they may come up in a summary judgment context or some sort of thing like that that the Court will have enough before it. And then at that point we'd

have to decide how are we going to go by summary judgment or just have a – you know, a trial.

(App. 268-269, italics added).²

In light of this, there is no legitimate argument that Campbell waived his personal jurisdiction argument by participating in the trial.

Similarly, Campbell did not waive the right to assert the defense as a result of not seeking a rehearing on the issue in the first appeal. At that point there were no final appealable contempt orders, and it was possible that Campbell could win the motions in the trial court, rendering an appeal moot. As such, the issue was not ripe for decision in the first appeal.

The decision of the Delaware Supreme Court represents a significant violation of long-standing principles of due process and personal jurisdiction. This Court should grant certiorari to correct this wrong and avoid any further erosion of due process rights in litigation.



² The Delaware Supreme Court has stated that “where the question of jurisdiction is dependent on the resolution of factual issues going to the merits, the jurisdictional determination should await a determination of the relevant facts on either a motion going to the merits or at trial.” *Appriva Shareholder Litigation Co., LLC v. EV3, Inc.*, 937 A.2d 1275, 1292 (Del. 2007).

CONCLUSION

For the foregoing reasons, petitioner Stanley V. Campbell respectfully requests that his petition for certiorari be granted.

Respectfully submitted,

DAVID L. FINGER
Counsel of Record for Petitioner
FINGER & SLANINA, LLC
One Commerce Center
1201 N. Orange St., 7th fl.
Wilmington, DE 19801
(302) 573-2525
dfinger@delawgroup.com

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