

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

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In the  
**Supreme Court of the United States**

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DAVID ALLEN O'NEAL, DULY ELECTED CORONER,  
CRAWFORD COUNTY, GA,  
*Petitioner,*  
v.

CRAWFORD COUNTY, GA,  
*Respondent.*

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**On Petition for Writ of Certiorari to the  
Georgia Supreme Court**

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**PETITION FOR WRIT OF CERTIORARI**

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March 16, 2022

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## QUESTIONS PRESENTED

Under the Georgia Supreme Court Ruling in *Lue v. Eady*, 297 Ga. 321, 773 S.E. 2d 679 (GA 2015), a suit filed against a county employee in his official capacity is, in essence a claim against the county. Enforcement against an attorney for attorney fees requires personal jurisdiction. Under *Williams v. Williams*, 340 Ga. App 740, 798 S.E. 2d. 323 (Ga. App 2017), “a void judgment is one that has a defect apparent on its face.” A bankruptcy court can release a third-party debt, even though jurisdictions are split. For example, the Court of Appeals for the Eleventh Circuit, in the case *In re Seaside Engineering*, 780 F.3d 1070 (11th Cir. 2015), affirmed a Chapter 11 plan containing non-consensual third-party releases over the objection of the debtor's equity holder.

The questions presented are:

1. Without personal jurisdiction over the attorney, where the judgment against the County paid attorney is really a judgment against the County, isn't such a debt unenforceable?
2. Can a bankruptcy court invalidate a third-party debt?

**STATEMENT OF RELATED PROCEEDINGS**

The following proceedings are directly related to the case in this Court within the meaning of Rule 14.1 (b)(iii):

United States Bankruptcy Court for the Middle District of Georgia Macon Division, David Allen O'Neal and Susan B. O'Neal, Chapter 7 16-52380-aed.

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## **OPINION BELOW**

The opinion of the Georgia Court of Appeals and Georgia Supreme Court is unpublished. App.1, App. 3 The bankruptcy discharge is at the appendix. App. 8 The FIFA is at the appendix. App. 10 The lower court ruling denying the motion and ordering discovery is at the appendix. App. 5

## **JURISDICTION**

Motion for reconsideration at the Georgia Supreme Court was denied on October 19, 2021. An application for extension of time to file a petition for writ of certiorari to the United States Supreme Court was granted to March 18, 2022. With the extension, the petition is timely filed. The jurisdiction of this Court is invoked pursuant to 28 U.S.C. § 1254 (1).

## **STATEMENT OF THE CASE**

Crawford County, Georgia is a rural area of about 12,000 residents. David Allen O'Neal was the duly elected Coroner. He had been the Coroner for many years.

On or about 2013 or 2014, the Coroner went to the County for necessary items for his job. Specifically, the Coroner requested a County vehicle. The request was reasonable, and was needed due to contamination of his own vehicle with dead bodily fluids, tissues etc. Other department heads received county vehicles but the Coroner did not. The small county dispute escalated to where the County cut off the Coroner's fax machine, and moved him to an office with no bathroom.

The Coroner advised the County Commissioners that the state statute said that he was to have the necessary items to do his job. The Coroner and County Commissioners disagreed over what was necessary items for the Coroner's job. Because no agreement could be reached, the County agreed to pay for the Coroner to obtain an attorney, since the County attorney could not advise the Coroner of his rights as a conflict of interest. The County agreed to pay the Coroner's Attorney to file suit to allow a Court to decide the items necessary for the Coroner to do his job.

Coroner's attorney filed suit, and the Judge dismissed the suit. Discovery was not yet complete, but the County filed a motion for summary judgment, and the Court would not allow any extension. The Court refused any recusal, even though a conflict of interest was raised. The Court dismissed the suit. The Court *sua sponte* decided the entire case was frivolous and ordered the County to seek attorney fees.

The County sought attorney fees and was granted attorney fees against the Coroner in his official capacity as Coroner, and against the Coroner's County paid attorney. A FIFA was filed in the Superior Court against the Coroner in his official capacity as Coroner and against the Coroner's County paid attorney.

The Coroner filed for bankruptcy, in his individual capacity, and the third-party debt was voided. The County was properly served and never filed any answer to dispute the discharge of the debt. The County filed a motion to compel post judgment discovery from the Coroner's Attorney. Coroner's Attorney filed a motion to invalidate the FIFA and void the judgment. That

motion was denied. The State Attorney General's Office could not intervene because the Georgia Constitution was changed and the Coroner was not a state officer but a county officer only.

Without this Court's intervention, the small, rural County will continue to harass and intimidate the now former Coroner's County paid female attorney, irrespective of any overt constitutional violations.

#### **REASONS FOR GRANTING THE PETITION**

The time is right for this Honorable Court to intervene and grant the petition for certiorari. Personal jurisdiction over a person is a fundamental element of jurisprudence. A Court does not just have personal jurisdiction over an attorney to levy the attorney's personal assets by merely changing the case caption pro forma to substitute the attorney as Defendant when in the original complaint the attorney's client was the Plaintiff, the County Coroner. In the latest long running dispute in this case, the County has substituted the Attorney and completely changed the case caption in all the County filings, but those captions are wrong and inconsistent with the initial complaint.

The County is attempting to circumvent the rule of law by making up a case caption as if the Attorney had already been served. The Attorney does not reside in the County of the initial complaint, and the Attorney has never consented to personal jurisdiction of the County. The Attorney merely undertook representation of the County Coroner in his official capacity as Coroner. The County, by agreement, paid the Attorney

to represent the Coroner. The Attorney stepped into the shoes as County Attorney.

This alone, in and of itself is both unconscionable and unconstitutional. The Constitution guarantees due process and equal protection of the law. (U.S. Const., Amend. 5, and U.S. Const., Amend. 14) An Attorney, even one paid by the County to represent their County Coroner, does not forfeit her constitutional rights. Further, no Attorney forfeits their rights under the constitution merely by undertaking representation of a client. Such intimidation and overt misrepresentation of a fundamental right is egregious and seeks to thwart a client from obtaining representation.

An Attorney does not lose her or his constitutional rights by undertaking representation. Enforcement against an attorney for attorney fees requires personal jurisdiction. Under *Williams v. Williams*, 340 Ga. App 740, 798 S.E. 2d. 323 (Ga. App 2017), “a void judgment is one that has a defect apparent on its face.” Under the holding in *Burgess v. Nabers*, 177 S.E.2d 266 (1970) a personal judgment cannot be rendered in favor of one who is not a party to the lawsuit. “Before the rendition of a judgment in favor of the claimant the claimed lien is only inchoate, and the failure of the claimant to perfect his lien as provided by the statute vitiates it, not only as against third persons, but as against himself.” *Carter-Moss Lumber Co. v. Short*, 66 Ga.App. 330, 18 S.E.2d 61 (Ga. App. 1941). The lien would have had to be perfected against the Attorney by asserting personal jurisdiction over the Attorney and suing the Attorney in the jurisdiction in which she resides, before obtaining the FIFA.

Of course, suing the Attorney in her home jurisdiction would also fail for the County. The County cannot collect upon a debt upon which itself is already liable. Under the Georgia Supreme Court Ruling in *Lue v. Eady*, 297 Ga. 321, 773 S.E. 2d 679 (GA 2015), a suit filed against a county employee in his official capacity is, in essence a claim against the county. Under *Lue v. Eady*, 297 Ga. 321, 773 S.E.2d 679 (Ga. 2015), the Court “stated that a suit filed against a county employee in his official capacity is, in essence, a claim against the county. *See Gilbert v. Richardson*, 264 Ga. 744, 746(2), n. 4, 452 S.E.2d 476 (1994); *see also City of Atlanta v. Harbor Grove Apartments, LLC*, 308 Ga.App. 57, 58(1), 706 S.E.2d 722 (2011). Likewise, we conclude here that plaintiffs’ claim against Lue, in her official capacity as mayor is, in essence, a claim against the City of Gordon.” *Lue v. Eady*, 297 Ga. 321, 773 S.E.2d 679 (Ga. 2015) What this means is, the judgment against the party, the Coroner, was in essence a claim against the County, payable by the County. The County had to pay the debt. Under OCGA § 9-11-60, a judgment void on its face can be attacked at any time, even in Bankruptcy Court.

This of course leads us to the Bankruptcy Court. The Coroner and his wife filed individually for bankruptcy. A motion was made to discharge the debt, which was against the Coroner in his official capacity and the Coroner’s Attorney. The County did not file an answer in Bankruptcy Court. Presumably, the County knew that such a debt was a third-party debt owed by the County, and not filing an answer allowing the Bankruptcy Court to discharge the debt, allowed the County to “save face.” The Bankruptcy Court

discharged the debt. A bankruptcy court can release a third-party debt, even though jurisdictions are split. For example, the Court of Appeals for the Eleventh Circuit, in the case *In re Seaside Engineering*, 780 F.3d 1070 (11th Cir. 2015), affirmed a Chapter 11 plan containing non-consensual third-party releases over the objection of the debtor's equity holder.

Here, the 11th Circuit stance allowing the discharge of a third-party release of a debt would hold in this case. Georgia is within the 11th Circuit. As such if the Court did not want to address the current split in the circuits regarding third-party releases of debt in bankruptcy court, that question would not have to be addressed but for to uphold the 11th Circuit's current case law. The 11th Circuit's current case law would support the contention that the debt against the Coroner and his Attorney would be considered discharged as a third-party debt.

Bankruptcy Courts have always enjoyed a wide range of jurisdiction over financial matters that appear unconscionable or seemingly void on the face of the debt. Bankruptcy Courts may alter terms of security deeds or reduce interest rates of notes, for example. Under 28 U.S.C. § 1334 (b) if an issue or complaint is "related" to the bankruptcy case, the Bankruptcy Court may retain subject matter jurisdiction over the related adversary proceeding. Arguably here, the case could be remanded back to the Bankruptcy Court for further proceedings on violation of the discharge of the debt.

The purported order in this case presumes personal jurisdiction that has never been established, changing

the case caption, attempting to enforce a debt not authorized and already discharged.

## CONCLUSION

If a small, Southern County can pay an Attorney to represent their Coroner to sue them, and then only go after the Coroner's County Paid Attorney relentlessly to recoup the County's debt, even after the State's own Supreme Court has ruled in another case that such debts are against the County, and the Bankruptcy Court has discharged the third-party debt, then that injustice is not relegated to the rural areas of Georgia. Those gross constitutional violations can be repeated again in other places. As Martin Luther King Jr. said in 1963, "injustice anywhere is a threat to justice everywhere."

Petitioner respectfully requests that this Court allow the case to be heard with certiorari granted.

Respectfully submitted,

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