

No. 21-1277

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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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**REPLY BRIEF OF PETITIONER**

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**TABLE OF CONTENTS**

TABLE OF AUTHORITIES . . . . .	ii
INTRODUCTION. . . . .	1
ARGUMENT . . . . .	1
Prior Denial of Certiorari is Irrelevant . . . . .	1
Res Judicata is not Applicable Here . . . . .	2
Petitioner’s Constitutional Rights Were Violated . . . . .	4
Bankruptcy Court Did Discharge the Debt of the County . . . . .	5
CONCLUSION. . . . .	6

## TABLE OF AUTHORITIES

### CASES

<i>Abatti v. Commissioner</i> , 88-2 USTC ¶ 9548, 859 F.2d 115 (9th Cir. 1988) . .	3
<i>Abeles v. Commissioner</i> , Dec. 44,530, 90 T.C. 103 (1988) . . . . .	3
<i>Billingsley v. Commissioner</i> , 89-1 USTC ¶ 9194, 868 F.2d 1081 (9th Cir. 1989) . .	3
<i>Brannon’s of Shawnee, Inc. v. Commissioner</i> , 69 T.C. 999 (U.S.T.C. 1978) . . . . .	3
<i>Kahle v. Commissioner</i> , Dec. 43,871, 88 T.C. 1063 (1987) . . . . .	3
<i>Kenner v. Commissioner</i> , 63-2 USTC ¶ 9519, 387 F.2d 689 (7th Cir. 1968), <i>cert. denied</i> 393 U.S. 841 (1968). . . . .	3
<i>Normac, Inc. &amp; Normac Int’l v. Commissioner</i> , Dec. 44,539, 90 T.C. 142 (1988) . . . . .	3
<i>Slavin v. Commissioner</i> , 58 T.C.M. (CCH) 1299, TC Memo 44 (T.C. 1990). .	3
<i>Toscano v. Commissioner</i> , 71-1 USTC ¶ 9382, 441 F.2d 930 (9th Cir. 1971). .	3

## INTRODUCTION

Crawford County, a government entity, hired counsel to do a job. Counsel's job was to step into the shoes of County Attorney to represent the County Coroner to petition the Court for a decision that the government, Crawford County, refused to make on its own. Was it frivolous that Crawford County refused to provide their Coroner the necessary items to do his job? Was it frivolous to not provide the Coroner with a proper office to prepare paperwork or vehicle for transporting dead bodies? Was it frivolous that Crawford County pushed the decision off on the Court instead of handling it internally?

Perhaps. But nevertheless, Counsel was hired to do a job, and paid to do a job as a role of County Attorney for the Public Official, the County Coroner. The claim was denied, and the case deemed frivolous by the Court. Both parties were in roles as County Officials wearing hats of the County, to decide a dispute that the County could not or would not decide on its own.

The petition should be granted or summarily, per curiam disposed of by order of the Court.

## ARGUMENT

### **Prior Denial of Certiorari is Irrelevant**

Crawford County argues that because other issues in this case have been previously before the Court and certiorari was denied, then this petition also must be denied. That argument is irrelevant and without merit.

Multiple petitions on the same case does not render the underlying petition invalid or without merit. Further, the issue in the previous petition involved the assessment of the attorney fees. The issue in this petition is the personal jurisdiction of enforcement of a FIFRA for those fees and bankruptcy invalidating a third-party debt. (Petitioner's Brief, i).

### **Res Judicata is not Applicable Here**

Res Judicata is not applicable here, because these are new issues. At the time of the previous petition, no enforcement proceedings were started, and there was no discharge of the debt by the bankruptcy court. Those issues could not have been brought up in the first case as those issues were not yet ripe for review. The cases cited by the respondent are irrelevant, and misstatements.

Crawford County changed the case caption pro forma to substitute the Attorney as Defendant when in the original complaint the Plaintiff was the Coroner of Crawford County, a public official. The Attorney was paid by the County to assume the position of County Attorney for the Coroner. (Petitioner's Brief, 3-4). The Attorney was never a party to the original litigation, yet was unilaterally substituted in enforcement proceedings. (Petitioner's Brief 4, and App. 5, Appendix C).

Respondent is aware that personal jurisdiction does not exist, otherwise the case caption would not have been unilaterally changed.

In the federal tax court case *Slavin v. Commissioner*, 58 T.C.M 2399 (1990), the federal tax

court clarified a similar jurisdictional argument in this way:

a jurisdictional issue can be raised by either party or by the Court sua sponte at any stage of the proceedings. *Normac, Inc. & Normac International v. Commissioner*, Dec. 44,539, 90 T.C. 142, 146 (1988); *Kahle v. Commissioner*, Dec. 43,871, 88 T.C. 1063 n.3 (1987) and cases cited therein. Indeed we can determine jurisdictional issues even after a decision has become “final” (n.2, *supra*), because in the absence of jurisdiction such a decision is in effect a legal nullity and void. *Abeles v. Commissioner*, Dec. 44,530, 90 T.C. 103, 105-106 (1988); *Brannon’s of Shawnee, Inc. v. Commissioner*, *supra*. Cf. *Toscano v. Commissioner*, 71-1 USTC ¶ 9382, 441 F.2d 930 (9th Cir. 1971) (final decision vacated for fraud upon the Court); *Kenner v. Commissioner*, 63-2 USTC ¶ 9519, 387 F.2d 689 (7th Cir. 1968), cert. denied 393 U.S. 841 (1968) (final decision vacated for fraud upon the Court). Thus, the Tax Court clearly has authority to set aside even a final decision if that decision is shown to be void, a legal nullity, for lack of jurisdiction over the subject matter or the party. *Billingsley v. Commissioner*, 89-1 USTC ¶ 9194, 868 F.2d 1081 (9th Cir. 1989), affg. on this issue and remanding an order of this Court; *Abatti v. Commissioner*, 88-2 USTC ¶ 9548, 859 F.2d 115, 118 (9th Cir. 1988), affg. Dec. 43,138 86 T.C. 1319 (1986); *Abeles v. Commissioner*, *supra*; *Brannon’s of Shawnee, Inc. v. Commissioner*, 69 T.C. at 1001-1002. *Slavin v.*

*Commissioner*, 58 T.C.M. (CCH) 1299, 1990 TC Memo 44 (T.C. 1990).

Jurisdiction always compels consideration by the Court.

### **Petitioner's Constitutional Rights Were Violated**

Petitioner's constitutional rights have been violated and continue to be violated in this case. Crawford County seems to forgo that O'Neal was not a private citizen or client. Counsel was not a private attorney for a private citizen.

Rather, both O'Neal and Counsel were in fact wearing the job of "county" in both positions. This means that any debt incurred by either was a debt owed by the County. Further, the bankruptcy court discharged the third-party County debt.

An attorney does not lose his or her constitutional rights of equal protection and due process, merely by undertaking to represent a client. (Petitioner's Brief, 4-5). Respondent suggests that a civil litigator should always know that his or her personal assets can be seized without personal jurisdiction by merely undertaking representation in an unpopular case for a public official.

The Coroner was doing his job as a public official. The Coroner's attorney was doing her job for the public official. What remedy do either the Coroner or his County paid attorney have when apparently no remedy exists?

The County would not decide the issue on what the Coroner needed to perform his job. So the County paid the Coroner's attorney to do a job. The Coroner's attorney's job was to file a petition for the Court to decide if the Coroner needed an adequate office or vehicle to perform his public duties.(Petitioner's Brief, 2).

Any sanctions were then shouldered by the responsible party: the County. At a minimum, any assessment would have required the Attorney to be sued in her home jurisdiction before any taking or enforcement could take place. A judgment without jurisdiction over a person is void and voidable. (Petitioner's Brief 4-5).

### **Bankruptcy Court Did Discharge the Debt of the County**

Crawford County argues that the bankruptcy court could not accord relief to counsel since counsel was not a debtor to O'Neal. O'Neal was also not a debtor to the Crawford County debt in bankruptcy court, either, yet the debt was avoided in bankruptcy court.

Crawford County opines to this Court that the split in authority regarding release of third-party debts is inapplicable because it does not apply to consumer debt. This is not consumer debt. This debt is a commercial, County debt.

Because the case was initiated in the capacity as a public official by an attorney paid to be in the capacity as a County attorney, then the debt is in fact a commercial, county debt. Any debt, if owed, is assumed to be a valid debt of Crawford County.



Crawford County knows this to be true, which is why no objection was filed in bankruptcy court to avoid the lien established by the FIFA in the Coroner's case against the County. (Petitioner's Brief, 5-6).

Debts by public officials in official capacities belong to the governments of which they served. To assign otherwise is unconstitutional, unconscionable, and in direct contradiction to what the founders of our constitution intended. To continue to pursue this county debt against a private citizen who was paid by the County to do just this hired "job", is an injustice. Such zealous pursuit of a clear government debt is a "threat to justice everywhere." Even if Crawford County thinks otherwise.

Personal jurisdiction exists for a reason. Further, a third-party discharge at bankruptcy vitiates the debt.

### **CONCLUSION**

The petition should be granted, or in the alternative, summarily, per curiam disposed of by notifying this rural, county government that the county debt belongs to Crawford County.

Respectfully submitted,

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