

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

**21 - 5512**

IN THE  
SUPREME COURT OF THE UNITED STATES

\_\_\_\_\_  
"In Re SHANNON RILEY"

(Your Name)

**ORIGINAL**

ON PETITION FOR AN EXTRAORDINARY WRIT OF MANDAMUS

IN THE SUPREME COURT STATE OF KANSAS

\_\_\_\_\_  
(NAME OF COURT THAT LAST RULED ON MERITS OF YOUR CASE)

PETITION FOR WRIT OF CERTIORARI

SHANNON RILEY

\_\_\_\_\_  
(Your Name)

1368 SMITHS LAWN

\_\_\_\_\_  
(Address)

AIKEN, SC 29801

\_\_\_\_\_  
(City, State, Zip Code)

(815) 814-5179

\_\_\_\_\_  
(Phone Number)

FILED

AUG 10 2021

OFFICE OF THE CLERK  
SUPREME COURT U.S.

### QUESTION(S) PRESENTED

1. Did the filing of a nunc pro tunc journal entry correcting default judgment filed as a final order of judgment impeach due process?
2. Did the filing to execute a Kansas foreign judgment in South Carolina prior to adjudication of the appeal in Kansas impeach due process?
3. Does the execution of a Kansas foreign judgment in South Carolina prior to the issuance of a mandate in Kansas impeach due process?
4. Does a second attempt to execute a Kansas foreign judgment in South Carolina after the issuance of a mandate in Kansas impeach due process?
5. Did the filing of a sworn affidavit to execute a Kansas foreign judgment in South Carolina prior to the issuing of a mandate in Kansas impeach due process?

## LIST OF PARTIES

- [ ] All parties appear in the caption of the case on the cover page.
- [x] All parties **do not** appear in the caption of the case on the cover page. A list of all parties to the proceeding in the court whose judgment is the subject of this petition is as follows:

Dione Carroll, Esq.  
Carroll Law Offices, P.A.  
107 Pendleton St N.W.  
Aiken, SC 29801

The Honorable Clifton Newman  
Circuit Court Judge  
Aiken Court of Common Pleas  
109 Park Av S.E.  
Aiken, SC 29801

## RELATED CASES

IN THE DISTRICT COURT OF JOHNSON COUNTY, KANSAS  
CARRIE KATHLEEN MEEHAN, PLAINTIFF v SHANNON RILEY, DEFENDANT  
Case No. 18CV00490  
Division No. 11

IN THE COURT OF APPEALS OF THE STATE OF KANSAS  
CARRIE KATHLEEN MEEHAN, APPELLEE v SHANNON RILEY, APPELLANT  
Case No. 122,380 "A"

IN THE SUPREME COURT STATE OF KANSAS  
CARRIE KATHLEEN MEEHAN, APPELLEE, SHANNON RILEY, APPELLANT  
MEEHAN, RESPONDENT  
KAN R APP P 803 A SUMMARY PETITION FOR REVIEW  
CASE NO., 122, 380 "A"

CARRIE KATHLEEN MEEHAN, PLAINTIFF v SHANNON RILEY, DEFENDANT  
State of South Carolina, County of Aiken In the Court  
of Common Pleas, Case No. 2019CP0200950

IN THE SUPREME COURT OF THE STATE OF SOUTH CAROLINA  
SHANNON RILEY, PETITIONER, CARRIE KATHLEEN MEEHAN,  
RESPONDENT, Appellate Case No. 2019-01987.

SUPREME COURT OF THE UNITED STATES  
592 U.S. Case No. 20-6501  
SHANNON RILEY, PETITIONER v CARRIE KATHLEEN MEEHAN, RESPONDENT

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IN THE  
SUPREME COURT OF THE UNITED STATES  
PETITION FOR WRIT OF MANDAMUS

Petitioner respectfully prays that a writ of Mandamus issue to review the judgment below.

**OPINIONS BELOW**

☐ For cases from **federal courts**:

The opinion of the United States court of appeals appears at Appendix \_\_\_\_\_ to the petition and is

- ☐ reported at \_\_\_\_\_; or,  
☐ has been designated for publication but is not yet reported; or,  
☐ is unpublished.

The opinion of the United States district court appears at Appendix \_\_\_\_\_ to the petition and is

- ☐ reported at \_\_\_\_\_; or,  
☐ has been designated for publication but is not yet reported; or,  
☐ is unpublished.

☒ For cases from **state courts**:

The opinion of the highest state court to review the merits appears at Appendix A to the petition and is

- ☐ reported at \_\_\_\_\_; or,  
☐ has been designated for publication but is not yet reported; or,  
☒ is unpublished.

The opinion of the \_\_\_\_\_ Supreme Court State of Kansas \_\_\_\_\_ court appears at Appendix E to the petition and is

- ☐ reported at \_\_\_\_\_; or,  
☐ has been designated for publication but is not yet reported; or,  
☒ is unpublished.



## JURISDICTION

☐ For cases from **federal courts**:

The date on which the United States Court of Appeals decided my case was \_\_\_\_\_.

☐ No petition for rehearing was timely filed in my case.

☐ A timely petition for rehearing was denied by the United States Court of Appeals on the following date: \_\_\_\_\_, and a copy of the order denying rehearing appears at Appendix \_\_\_\_\_.

☐ An extension of time to file the petition for a writ of certiorari was granted to and including \_\_\_\_\_ (date) on \_\_\_\_\_ (date) in Application No. \_\_\_\_ A \_\_\_\_.

The jurisdiction of this Court is invoked under 28 U. S. C. § 1254(1).

☒ For cases from **state courts**:

The date on which the highest state court decided my case was 8/5/21  
A copy of that decision appears at Appendix \_\_\_\_<sup>E</sup> \_\_\_\_.

☒ A timely petition for rehearing was thereafter denied on the following date: \_\_\_\_\_, and a copy of the order denying rehearing appears at Appendix N/A. see Kan R App P 803(h).

☐ An extension of time to file the petition for a writ of certiorari was granted to and including \_\_\_\_\_ (date) on \_\_\_\_\_ (date) in Application No. \_\_\_\_ A \_\_\_\_.

The jurisdiction of this Court is invoked under 28 U.S.C. 1651(a)

## STATEMENT OF THE CASE

This case is filed under Supreme Court Rule 20, whereby Petitioner seeks the extraordinary Writ of Mandamus, 28 U.S.C. 1651(a). To justify the granting of the writ, Petitioner must show that the writ will be in aid to the Court's appellate jurisdiction, that exceptional circumstances warrant the exercise of the Court's discretionary powers, and that adequate relief can not be obtained in any other form or from any other court.

This case relates directly to the impeachment of Petitioner's due process under the fourteenth amendment when Respondent filed a nunc pro tunc<sup>1</sup>.

journal entry correcting default judgment as an an order of final judgment to execute a Kansas foreign judgment in South Carolina prior to the issuance of a mandate by the Kansas Court of Appeals.

Respondent filed suit in Johnson County District Court on 1/29/18. A sworn affidavit was filed alleging breach of contract regarding Petitioner's sale of two Irish sport horses. Also alleged breach of fiduciary duty, wrongfully converting funds and fraud. The court found subject

1. The function of an order nunc pro tunc is to correct the record of a judgment by entering now for then an order previously made and not to make an order now for then. see *Hinshaw v Hinshaw* 166 Kan 481 203 P2d 201 (1949). It's function is not to alter a judgment rendered by merely to correct the record of a judgment improperly recorded. see *Bush v Bush* 158 Kan 760, 150 P 2d 168.

matter jurisdiction and venue proper a granted default judgment and awarded actual damages of \$45,000 and punitive damages of \$80,000, totaling \$120,000. On 12/3/18 (APX F) a journal entry granting default judgment was filed. On 1/15/19, (APX G) a nunc pro tunc journal entry was filed correcting damages only. On 12/5/19 a order of final judgment was issued

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(see appendix H). In the order #3, states, "The nunc pro tunc journal entry correcting default judgment consistent with the order of the court, entered January 15, 2019, constitutes a final order because it disposed of the action as to all claims by all parties and no appeal was taken during the statutory deadline."

In the 9/25/20 Memorandum Opinion of the Kansas Court of Appeals (see appendix A) states, "In January 2019, the district court entered an order nunc pro tunc adding pre-judgment interest, which has been omitted from the original journal entry of judgment in favor of Meehan on her claim against Riley. AT NO TIME HAS THE DISTRICT COURT TAKEN ACTION ON RILEY'S COUNTERCLAIM AGAINST MEEHAN. THE COUNTERCLAIM REMAINS PENDING. pg 3.

(see appendix D-Show Cause Order-Court of Appeals) pg 1, "Based upon this court's review of the record it appears that appellant's counterclaim for breach of contract is outstanding. The district court's grant of default judgment orders only "Plaintiff Carrie Kathleen Meehan is granted judgment against Defendant Shannon Riley in the amount of \$40,000 in actual damages, pre-judgment interest at the statutory rate on the actual damages of \$40,000, \$80,000 in punitive damages, postjudgment interest at the statutory rate, and the Cost of the Action."

Respondent filed the 1/15/19 pro nunc tunc journal entry correcting default judgment as to damages, as an order of final judgment to execute the Kansas foreign judgment in

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Aiken Court of Common Pleas as Case #2019CP0200950 with a sworn affidavit of Dione C Carroll on 4/19/19, swearing Petitioner as a judgment debtor and that there are "no pretrial motions pending in Johnson County District Court."

When in fact Petitioner filed her appeal from the order of final judgment on 1/16/20 (APX I) and the mandate (APX K) in this case was issued by the Kansas Court of Appeals on 8/18/21, 28 months after the filing of a sworn affidavit on 4/19/19 to execute the Kansas foreign judgment in South Carolina that there were "no pretrial motions pending in Johnson County District Court."

Pursuant to South Carolina Code of Laws, Title 15, Chapter 35, Section 15-35-920, (B), "Upon the filing of the foreign judgment and the affidavit, the foreign judgment must be docketed and indexed in the same manner as a judgment of this State; however no foreign judgment may be indexed if contested until resolved and no execution may issue upon the foreign judgment nor may any other proceeding be taken for its enforcement until the expiration of thirty days from the date of opinion which notice of filing is served in accordance with Section 15-35-930."

2. On 2/3/20, a Motion for Reconsideration (APX L), on executing the foreign judgment was denied and judgment entered, this 18 months prior to the issuance of a mandate by the Kansas Court of Appeals. On 11/4/20, The Supreme Court of South Carolina (APX M), Case No. 2020-000228, declined to entertain Petitioner's Writ of Mandamus in it's original jurisdiction. On 11/17/20 the Court declined a motion for rehearing (APX N). This, 9 months prior to the issuance of the Kansas mandate on 8/18/21.

## JURISDICTION

The two Irish sport horses (CRUZ & LIEUTENANT DAN) were given to Petitioner to board/train/sell in South Carolina. PETITIONER HAS NEVER BEEN IN KANSAS or been involved in the commission of a tortious act in Kansas.

Personal jurisdiction requires a two-step analysis to determine if a Kansas court has jurisdiction. First, the court must determine if Kansas statutes or case law provide a basis for the exercise of jurisdiction over a particular defendant. Second, if statutory and other requirements are satisfied, the court inquires if the exercise of personal jurisdiction complies with the due process requirements of the Fourteenth Amendment of the United States Constitution. see Merriman v Crompton Corp Supreme Court of Kansas 433 (Kan 2006).

The District Court lacked the authority to hear this case under Kansas long arm statute K.S.A. 60-308(b), due process requires that the nonresident defendant have certain minimum contacts with the forum in order of the exercise of jurisdiction to be constitutional see Merriman v Crompton Corp 282 Kan 433 (Kan 2006)

Additionally Kansas Long Arm Statute 60-308(b)(1) & (2) Submitting to jurisdiction requires (1) transaction of any business within this state (2) commission of a tortious act within this state

Questions of subject matter jurisdiction raise issues of law reviewable de novo on appeal. see State v Woolverton 284 Kan 59 Syl 3, 159 P 3d (2007). Yet, the Memorandum Opinion, pg 3, (APX A), states, "Accordingly, there has been no final decision that disposes of all outstanding issues in this case. As a result we have no jurisdiction to consider this appeal and the appeal is dismissed."

The court further impeaching due process.

"The requirement of "due process" is not a fair weather or timid assurance. It must be respected in ~~periods of calm~~ and in times of trouble; it protects aliens as well as citizens. But "due process," unlike some legal rules, is not a technical conception with a fixed content unrelated to time, place and circumstances. Expressing as it does in its ultimate analysis respect enforced by law for that feeling of just treatment which has been evolved through centuries of Anglo-American constitutional history and civilization, "due process" cannot be imprisoned with the treacherous limits of any formula. Representing a profound attitude of fairness between man and man, and more particularly between the individual and government, "due process" is compounded by history, reason, the past course of decisions, and stout confidence in the strength of the democratic faith which we profess. Due process is not a mechanical instrument. It is not a yearstick. It is a delicate process of adjustment inescapably involving the exercise of judgment by those whom the Constitution entrusted with the unfolding of the process. see Joint Anti-Facist Refugee Committee v McGrath 341 US 123, 162-163.

Further, jurisdiction in this case was granted for breach of contract. see Memorandum Opinion, pg 1 (APX A), which states, "Per currium, "Carrie Kathleen Meehan commenced an action for breach of contract and other claims against Shannon Riley."

No contract exists in this case as required by the Statue of Frauds between the two parties regarding the sale of the two Irish sport horses (CRUZ & LIEUTENANT DAN). Further due process impeachment.

## REASONS FOR GRANTING THE PETITION

### EXTRAORDINARY WRIT OF MANDAMUS 28 U.S.C. 1651

Mandamus is a judicial remedy in the form of an order from a court to any government, subordinate court, corporation, or public authority to do some specific act which that body is obliged under law to do, and which is in the nature of public duty, and in certain cases one of a statutory duty.

A writ of mandamus is an order from a court to an inferior government official ordering the government official to properly fulfill their official duties or correct an abuse of discretion.

"The writ of mandamus is the highest judicial writ known to the law and according to long approved and well established authorities, only issues in cases where there is a specific legal right to be enforced or where there is a position of duty to be performed, and there is no other specific remedy." *Willimon v City of Greenville*, 243, S.C. 82, 6-87, 132 S.E. 2d 169, 170-71 (1963).

The primary purpose of function of a writ of mandamus is to enforce an established right, and to enforce a corresponding imperative duty created to or imposed by law." *Id.* "It is designed to promote justice, subject to certain well-defined qualifications." *Id.* Its principal function is to command

and execute and exercise, and not to inquire and adjudicate, therefore, it is not the purpose of the writ to establish a legal right, but to enforce one which has already been established." id.

"For a writ of mandamus to issue, the following must be shown; (1) a duty of the Respondent to perform the act, (2) the ministerial nature of the act;

(3) the Petitioner's specific legal right for which discharge of the duty is necessary; and (4) a lack of any other legal remedy." Edwards, 383 S.C. 97, 678 S.E. 2d, 420. "When mandamus is warranted, "the judiciary cannot properly shrink from its duty." Id. (quoting Blalock v Johnson, 180 S.C. 40, 50, 185 S.E. 51, 55 (1936)).

In this case, jurisdiction/venue were established on a sworn affidavit that Peitioner breached a contract regarding the sale of two Irish sport horses. NO CONTRACT EXSISTS AS REQUIRED BY U.C.C. Art 2 (Sales) 2-106 "Contract?" Further, The statue of frauds requires written contracts for sales of goods over \$500.

The basis elements required for an agreement to be legally enforceable contracts are; mutual assent, expressed by a valid offer and acceptance, adequate consideration, capacity, and legality. see Supreme Court of Kansas, Case No. 101,145 Unified School District 446, Independence, Kansas



v. Deborah L Sandoval. Syllabus by the Court citing, in all action based on contract, the plaintiff bears the burden of proving existence of the contract alleged in the petition. see Steele v Harrison 220 Kan 422, 428 552 P 2d 957 (1976). In order to form a binding contract, there must be a meeting of the minds on all the essential elements. see Albers v Nelson 248 Kan 575, 580 809 P 2d 1194 (1991).

In this case, jurisdiction/venue, default judgment, and execution of a foreign judgment were granted on breach of contract. No contract exists to breach.

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Pursuant to South Carolina law, Section 15-35-920, Filing of foreign judgment and affidavit, (a) requires that the affidavit filed with the clerk states the foreign judgment is final, and whether further contested. Contested judgments include notice of appeal has been filed, or an appeal is pending. At the time Respondent filed to Execute foreign judgment, Petitioner's appeal had not been filed, because the no final order in the Kansas case had been issued. Respondent has no legal standing to Execute judgment and the South Carolina Court has no subject matter jurisdiction to hear the case. Petitioner's fourteenth amendment right to "due process" impeached.

FULL FAITH & CREDIT CLAUSE  
ARTICLE IV, SECTION 1  
U.S. CONSTITUTION

KANSAS OPEN RECORD ACT  
K.S.A. 45-215 et. seq.

Pursuant to the Full Faith and Credit Clause of the U.S. Constitution, Article IV, Section 1, which addresses duties that states within the United States have to respect the "public acts, records and judicial proceedings of every other state." Here the Kansas Open Records Act, K.S.A. 45-215 et. seq. reveal the Johnson County District Court Records reflect a Final Order of Judgment filed 12/5/19. Respondent's Motion to Execute Foreign Judgment, electronically filed in South Carolina on 4/22/19, 8 months prior to a final order in the District Court and 28 months prior to the Kansas Court of Appeals issuing a mandate, from the filing of the nunc pro tunc journal entry correcting default judgment violates Petitioner's fourteenth amendment right to due process of the clause.

Put another way, the public records/judicial proceedings in Kansas reflect a Order of Final Judgment of 12/5/19, not 1/15/19. (which was the nunc pro tunc journal entry filed in South Carolina as a final order and to execute the foreign judgment on 4/22/19). Further, Kansas public records/judicial proceedings reflect the appeal in this case was taken on 1/16/20 (APX J) and was pending until the Kansas Supreme Court denied Petitioner's Kan R App P 803 A Summary Petition for Review and the Court of Appeals issued the mandate on 8/18/21.

The outcome of Petitioner's appeal, pending for 28 months was adjudicated by Respondent on 4/22/19 with the filing of the pro nunc tunc journal entry correcting default judgment as a Order of Final Judgment with the filing to execute the Kansas foreign judgment in South Carolina impeaching Petitioner's due process to procedural law under the fourteenth amendment.

ACTIONABLE FRAUD BEFORE  
THE DISTRICT COURT

Pursuant to K.S.A. 60-250(b)(3) (Relief from judgments or order; Grounds for relief from a final judgment, order, or proceeding)----  
On motion and just terms, the court may relieve a party or its legal representative from a final judgment, order or proceeding for the following reasons; fraud, whether previously called intrinsic or extrinsic, misrepresentation or misconduct by an opposing party.

Actionable fraud includes an untrue statement of fact, known to be untrue by the party making it, made with the intent to deceive or recklessly made with disregard for the truth, where another party justifiably relies on the statement and acts to his injury." See Nordstrom v Miller 227 Kan 59, Syl 6, 605 P 2d 543 (1980).

Statute of Frauds requires contracts for goods over \$500.00 must be in writing and signed by the parties bound by the contract.

In this case, Statute of Frauds apply to plaintiff's alleged claims of breach of contract as to CRUZ and LIEUTENANT DAN which must have been in writing and signed by both parties bound by the contract.

According to Pattern Instructions for Kansas (PIK Civ 3d) the essential elements required to sustain an action for fraud are;

(1) that false (or untrue) representations were made as a statement of existing and material fact, (2) that the representations were known to be false (or untrue) by the party making them, or were recklessly made without knowledge concerning them, (3) that the representations were intentionally made for the purpose of inducing another party to act upon them, (4) that the other party reasonably relied and acted upon the representations made, and (5) that the other party sustained damage by relying on them. PIK CIV 3d 127 40.

In this case the judicial machinery has been tainted by Respondent's sworn AFFIDAVIT (by and through counsel), dated 2/23/18 that a contract existed between the two parties relating to the sale of CRUZ & LIEUTENANT DAN, and that the contract was breached, and the basis for jurisdiction.

Petitioner requests issuance by this Court of an extraordinary Writ of Mandamus, not as a matter of right, but of discretion sparingly exercised. To justify the granting of the writ, the petition has shown that it will be in aid of this Court's jurisdiction, that exceptional circumstances warrant the exercise of this Court's discretionary powers, and that that adequate relief cannot be obtained in any other form or from any other court.

In *Cheney et al v U.S. Dist Ct for the D.C. Circuit*, 542 US 367 (2004), the Court held @ 2(a), Mandamus

is a "drastic and extraordinary remedy" reserved for extraordinary causes." Ex parte Fahey 332 US 258 259-260. While the conditions for obtaining it may be demanding, they are not insuperable.

The Court in its Memorandum Opinion pg 2, (APX A) cites K.S.A. 2019 Supp 60-2101(a)(4) allowing the court to review a <sup>3.</sup> final decision and cites *Kansas Medical Mut Ins Co v Scaty*, 291 Kan 597, 610, 244 P 3d 642 (2010). The phrase "final decision" is self defining and refers to an order that definitely terminates a right or liability involved in an action or that grants or refuses a remedy as a terminal act in the case. *Allison v State*, 56 Kan App 2d 470, 475, 432, P 3d 87 (2018). In Allison, this case was dismissed without prejudice until "we have a final decision from the District Court in K.S.A. 60-1507."

Rule 183-Procedure under K.S.A. 60-1507 involves Habeas Corpus Motion and poverty Affidavit. Not applicable in this case.

As the syllabus in Allison states, "The case was dismissed WITHOUT PREJUDICE until a final decision from the District Court. Due process further impeached when the case was not dismissed without prejudice and until "we have a final decision from the District Court in K.S.A. 60-1507."

In this case, the Court returning to the District Court Petitioner's cross claim for a final decision for the District Court. (APX D, pg 1 & (APX A Memorandum & Opinion, pg 2).

Petitioner seeks an order from this court to the Supreme Court State of Kansas to fulfill their official duties and correct the abuse of discretion under the extraordinary writ of mandamus.

3. The Show Cause Order (APX D, pg 1), inviting both Petitioner & Respondent to Show Cause as to a "final decision" also impeaching due process when citing Allison v State, a case which was dismissed without prejudice until a final decision from the District Court. Then in the Memorandum Opinion (APX A) applied the Allison incorrectly by not returning the case to the District Court so Petitioner could prosecute the cross claim, but dismissing the appeal.

**CONCLUSION**

The petition for an extraordinary Writ of Mandamus  
should be granted.

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Respectfully submitted,



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Date: 8/23/21