

No. 22-1004

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IN THE SUPREME COURT OF THE UNITED STATES

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Kurt Garrison  
*Petitioner,*

v.

City of Ottawa  
Wynndee Lee, Jim Sherman, Curt Altic  
*Respondents*

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*On petition for rehearing of certiorari from the  
Kansas Supreme Court*

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PETITION FOR REHEARING FOR WRIT OF  
CERTIORARI

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Kurt Garrison, BSME, JD  
Proceeding without counsel

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## REHEARING QUESTIONS PRESENTED

Issue I. Should this Supreme Court take judicial notice of subsequent May 1, 2023 Order of the Kansas Court of Appeals staying all proceedings in later case *Garrison v. Ward, et al*, Kan. App. no. 124662 acknowledging non feasance, prejudice and bias of the same trial judge in this case? Said May 1, 2023 Order was not considered by this Supreme Court when denying certiorari.

Issue II. Does the Kansas Court of Appeals have authority to uphold an erroneous and void judgment of the trial court, grant respondents arbitrary authority, deny Petitioner a trial by jury, and deny Petitioner's common law right to engage in a lawful occupation all without affording Petitioner an opportunity to argue this case?

## PARTIES TO THE PROCEEDING

Petitioner Kurt Garrison, a Kansas State Citizen, a degreed mechanical engineer who graduated law school, is proceeding without counsel.

Respondent City of Ottawa is an incorporated municipality in Franklin County, Kansas. Wynndee Lee is the former director of planning and codes for the City of Ottawa. Jim Sherman is the former chief building inspector for the City of Ottawa. Curt Altic is a former building inspector for the City of Ottawa. Respondents are represented by Andrew Holder, of Kansas.

ii.

## LIST OF ALL PROCEEDINGS

State District Court, Fourth Judicial District, Franklin County, Kansas case no. 2020-CV-12 journal entry (judgment) entered January 19, 2021.

August 12, 2022 Court of Appeals for the State of Kansas entered Memorandum Opinion in case no. 21-124309.

December 15, 2022 Supreme Court of State of Kansas, issued an Order denying Petition for Discretionary Review.

March 13, 2023 original *Petition for Writ of Certiorari to the United States Supreme Court* was filed in this case.

### New Proceedings.

March 27, 2023, Garrison filed a *Motion to Stay All Proceedings Pending Disposition by Supreme Court of the United States* [in this case] in later case *Garrison v. Ward, et al.* Kan. App. no. 124,662 due to non feasance of trial judge in this case and prejudice appearing in the trial court record in this case and later case *Garrison v. Ward, et al.* 20-CV-79. Said motion to stay, signed March 24, 2023, is included as appendix A of this petition for rehearing.

May 1, 2023 Order was issued by the Court of Appeals of the State of Kansas staying all proceedings in *Garrison v. Ward, et al, id.* Said Order

iii.

staying all proceedings is included as appendix B of this petition for rehearing.

May 30, 2023 a *Motion to Take Judicial Notice of Subsequent Order of the Kansas Court of Appeals Acknowledging Non Feasance, Prejudice, and Bias of Trial Judge in Garrison v. Ward, et al. id* was mailed via certified mail to the Supreme Court of the United States (hereinafter "*Motion to Take Judicial Notice ...*") to be filed in this case.

Said May 30, 2023 *Motion to Take Judicial Notice ...* was delivered June 5, 2023 to the United States Supreme Court via USPS certified mail no. 7022 0410 0000 7252 3012 and is included as appendix C.

Said *Motion to Take Judicial Notice ...* is not listed in the electronic record of this case in the Supreme Court of the United States.

June 15, 2023, original petition for writ of certiorari was circulated to this Supreme Court without said May 30, 2023 *Motion to Take Judicial Notice ...* and without said May 1, Order of the Kansas Court of Appeals staying all proceedings in later case *Garrison v. Ward, et al. id* being presented to the Supreme Court for consideration.

June 20, 2023 certiorari was denied without said *Motion to Take Judicial Notice ...* and without said May 1, Order of the Kansas Court of Appeals being considered by this Supreme Court.

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### APPENDIX A:

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## **DECISIONS IN LOWER COURTS**

The Kansas State District Court journal entry (judgment) granting respondents' motion to dismiss and summary judgment of this civil cause is not reported or published.

The Kansas Court of Appeals Memorandum Opinion is not Reported.

The order of the Kansas Supreme Court denying discretionary review of this case is not reported.

## **STATEMENT OF JURISDICTION**

This Court's jurisdiction 28 U.S.C. § 1254 (1).

## **CONSTITUTIONAL PROVISIONS**

This case involves Constitution of United States America (1789), Amendments V, VII, XIV, §1,

## **INTRODUCTION**

This petition for rehearing is brought due to subsequent May 1, 2023 Order of the Court of Appeals of the State of Kansas in later case *Garrison v. Ward, et al.* Kan. App. no. 124662 acknowledging non-feasance by the trial Judge in this case and bias and prejudice committed by the trial judge in this case and later case *Garrison v. Ward, et al, id.* Both cases were presided over by District Judge Godderz.

## STATEMENT OF THE CASE

**1. Facts of the case.** The facts of this case are detailed in original petition for writ of certiorari in this case on file with the Supreme Court of the United States case. no. 22-1004.

**2 New relevant facts.** March 27, 2023, Garrison's *Motion to Stay All Proceedings Pending Disposition by Supreme Court of the United States* was filed in later case *Garrison v. Ward, et al.* Kan. App. no. 124,662 due to nonfeasance of trial judge in this case and prejudice appearing in the trial court record in this case and later case *Garrison v. Ward, et al.* 20-CV-79. Said motion to stay all proceedings is included in appendix A of this petition for rehearing.

May 1, 2023 The Court of Appeals of the State of Kansas issued an Order staying all proceedings in *Garrison v. Ward, et al, id.* Kan. App. no. 124,662. Said Order staying all proceedings is included in appendix B of this petition for rehearing.

May 30, 2023 a "*Motion to Take Judicial Notice of Subsequent Order of the Kansas Court of Appeals Acknowledging Non Feasance, Prejudice, and Bias of Trial Judge in Garrison v. Ward, et al. id.*" (hereinafter "*Motion to Take Judicial Notice ...*") was mailed to the Supreme Court of the United States via certified mail no. 7022 0410 0000 7252 3012 to be filed in this Supreme Court case no. 22-1004.

Said May 30, 2023 "*Motion to Take Judicial Notice ...*" was delivered June 5, 2023 to this United States

Supreme Court and is included as Appendix C of this petition for rehearing.

Said “*Motion to Take Judicial Notice ...*” is not listed in the electronic record of this case no. 22-1004 in the Supreme Court of the United States.

June 15, 2023, original petition for writ of certiorari was circulated to this Supreme Court apparently without said May 30, 2023 “*Motion to Take Judicial Notice ...*” and without said May 1, Order of the Kansas Court of Appeals staying all proceedings in *Garrison v. Ward, et al.* Kan. App. no. 124662 being presented to the Supreme Court.

June 20, 2023 certiorari was denied apparently without said “*Motion to Take Judicial Notice ...*” and without said May 1, Order of the Kansas Court of Appeals being considered by this Supreme Court.

**2. State Court Proceedings.** Proceedings in the State Courts are detailed in original petition for writ of certiorari filed in this case.

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

- I. This Court should grant certiorari and take judicial notice of subsequent May 1, 2023 Order of the Kansas Court of Appeals acknowledging non feasance, prejudice and bias of the trial judge delivered to this Supreme Court with a motion to take judicial notice on June 5,**

**2023 but not appearing in case record in this Supreme Court case no. 22-1004.**

- 1. Petitioner's March 27, 2023 *Motion to Stay All Proceedings Pending Disposition by Supreme Court of the United States (Motion to Stay ...)*.** Petitioner filed in later case *Garrison v. Ward, et al.* Kan. App. no. 124,662 said "motion to stay" (Appendix A attached) which contained a copy of Garrison's original petition for writ of certiorari. Said "Motion to Stay" provided the Kansas Court of Appeals evidence and law proving nonfeasance and prejudice of trial Judge Godderz who presided over this case and later case *Garrison v. Ward, et al.* 20-CV-79.
- 2. May 1, 2023 Order of the Kansas Court of Appeals.** Based upon said "motion to stay .." and included original petition for writ of certiorari in this case, the Kansas Court of Appeals acknowledged facts and law proving trial Judge Godderz committed nonfeasance in this case and prejudice and bias in this case and later case, *Garrison v. Ward, et al., id*, Accordingly, May 1, 2023 the Kansas Court of Appeals issued their Order staying all proceedings in *Garrison v. Ward, et al., id*, pending disposition of this case before the Supreme Court of the United States. (Appendix B)

The fact that the Kansas Court of Appeals issued a stay in *Garrison v. Ward, et al., id*, proves that said "motion to stay ..." (Appendix A) based upon nonfeasance, prejudice and bias of the trial judge listed on Garrison's original Petition for Writ of Certiorari in this case pp. 27-36, has merit.

**3. Petitioner's May 30, 2023 motion to this Supreme Court to take judicial notice of May 1, 2023 Order of Kansas Court of Appeals.** As mentioned in "New Relevant Facts" pp. 2,3 herein, Petitioner timely sent said "*Motion to Take Judicial Notice ...*" with said May 1, 2023 Order of the Kansas Court of Appeals in *Garrison v. Ward, et al.* Kan. App. no. 124,662 to this court for consideration via certified mail 7022 0410 0000 7252 3012. Although delivered to this Supreme Court June 5, 2023, said "*Motion to Take Judicial Notice ...*" and May 1, 2023 Order was not filed nor circulated to this Supreme Court prior to decision which may have changed the outcome of Garrison's original Petition for Writ of Certiorari.

When the lower Kansas appellate court in this case and later case *Garrison v. Ward, et al. id.* acknowledges nonfeasance, prejudice and bias of the trial judge presiding over both cases making judgment of both cases void, this Supreme Court has legal authority to give judicial notice to said subsequent May 1, 2023 Order of the lower Kansas appellate court. "[W]e hold that the courts of the United States can and should take notice of the laws and judicial decisions of the several states of this Union, .." *Pennington v. Gibson*, 57 US (16 How.) 65, 81.

Kansas Statute K.S.A. 60-409. *Facts Which Must be Judicially Noticed*, authorizes said May 1, 2023 Order granting a stay of all proceedings in *Garrison v. Ward, et al.*, *id.* to be given judicial notice regarding grounds applied for, (i.e. nonfeasance, bias and prejudice of trial Judge Godderz in this case and

later case *Garrison v. Ward, et al., id.*) which is material to the outcome of this case and is entitled to judicial notice.

**II. This Court should remand this case to the Kansas district court and assign another trial judge to preside due to nonfeasance, prejudice and bias of the trial judge making judgment(s) void.**

**1. Trial Judge committed nonfeasance of statutory duty, prejudice against Petitioner and bias in favor of parties represented by counsel.** Pages 27 – 36 of original Petition for Writ of Certiorari in this case, and affidavits filed in this case and *Garrison v. Ward, et al.* 20-CV-79 provide facts and evidence of nonfeasance, prejudice and bias committed by the trial Judge Godderz against Petitioner in this case and later trial case *Garrison v. Ward, et al.* 20-CV-79.<sup>1</sup>

**2. Judgments with prejudice and or bias have been historically condemned.** It is generally agreed that Moses of the Old Testament was born about 1520 B.C. and that he recorded the Book of Deuteronomy of the Holy Bible. See: *Unger's Bible Dictionary*, Deuteronomy p. 262, Moses pp. 759-760. For thousands of years and to this day, bias, prejudice, or partiality in judgment, has been universally condemned.

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<sup>1</sup> See original Petition for Writ of Certiorari pp. 27-36

"You shall appoint judges and officers in all your gates [courts], which the Lord your God gives you, according to your tribes, and they shall judge the people with just judgment, Deut. 16:18 NKJV

You shall not pervert justice; you shall not show partiality, nor take a bribe, for a bribe blinds the eyes of the wise and twists the words of the righteous. Deut. 16:19 NKJV

You shall follow what is altogether just, that you may live and inherit the land which the Lord your God is giving you. Deut. 16:20 NKJV

The principle of a fair and impartial judge is a cornerstone of justice in American law.

**3. Judgement issued with prejudice and or bias denies due process, is void and may be attacked anytime and anywhere.** As set forth by past decisions of this Supreme Court and listed in original Petition for Writ of Certiorari in this case pp. 32-36, documented prejudice and bias of trial Judge Godderz in this case and later case *Garrison v. Ward, et al.* 20-CV-79 denies Petitioner due process. The existence of prejudice and bias in legal proceedings create grounds for reversal. *Johnson v. Mississippi*, 403 US 212, *Marshall v. Jerrico, Inc.* 446 US 238, 242.<sup>2</sup> A judgment obtained through prejudice and bias is void *Johnson v. Mississippi, id.*, *Marshall v. Jerrico, Inc. id.*

In addition to noted nonfeasance, prejudice and bias, Petitioner was deprived of the right to a trial by

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<sup>2</sup> See original Petition for Writ of Certiorari pp. 32-36

jury after only one hearing when a trial by jury was demanded.<sup>3</sup> In both this case and *Garrison v. Ward, et al.* 20-CV-79, trial Judge Godderz acted without legal authority by dismissing these cases.

“Though the court may possess jurisdiction of a cause, of the subject matter, and of the parties, it is still limited in its modes of procedure, and in the extent and character of its judgments. It must act judicially in all things, and cannot then transcend the power conferred by the law. *Windsor v. McVeigh*, 93 US 274, 282

“[A] departure from the established modes of procedure will often render the judgment void.” *Windsor v. McVeigh, id.* p. 283.

The Kansas Court of Appeals in this case correctly found that trial Judge Godderz erred in all respects when dismissing this case in the trial court but, allegedly “justified” dismissal on other erroneous grounds without oral argument though requested and without affording Garrison due process.<sup>4</sup> In so doing, the Kansas Court of Appeals granted Respondents arbitrary authority contrary to K.S.A. 74-7033 as well as arbitrary authority regarding cited local ordinances.<sup>5</sup> And denied Petitioner not only the right to due process but the right to carry on a legal occupation that Petitioner has been performing for decades in Kansas.<sup>6</sup>

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<sup>3</sup> See original Petition for Writ of Certiorari pp. 15-16

<sup>4</sup> See original Petition for Writ of Certiorari pp. 22-25

<sup>5</sup> See original Petition for Writ of Certiorari pp. 19-22

<sup>6</sup> See original Petition for Writ of Certiorari pp. 25-27

As shown in original Petition for Writ of Certiorari in this case and herein, the Kansas district court and Kansas Court of Appeals has no legal authority to violate Petitioner's rights of due process, right to carry on a legally recognized occupation, right to a trial by jury, right to equal protection under the law. Further, Kansas courts have no legal authority to grant Respondents *arbitrary* authority. The judgments of the trial court and Kansas Court of Appeals are plainly void under Kansas and United States Supreme Court legal precedent.

"A void judgment is one rendered by a court which ... acted in a manner inconsistent with due process. *Automatic Feeder Co. v. Tobey*, 221 Kan. 17, 21, 558 P.2d 101 (1976); *Producers Equip. Sales, Inc. v. Thomason*, 15 Kan. App. 2d 393, Syl. ¶ 2, 808 P.2d 881 (1991). ... A judgment is void if the court acted in a manner inconsistent with due process. A void judgment is a nullity and may be vacated at any time. *Bazine State Bank v. Pawnee Prod. Serv. , Inc.*, 245 Kan. 490, 495-96, 781 P.2d 1077 (1989), cert. denied 495 U.S. 932 (1990)." *In re Marriage of Hampshire*, 261 Kan. 854, 862, 934 P.2d 58 (1997).

A void judgment is void before reversal. The Kansas Court of Appeals has no authority in this case and later case *Garrison v. Ward, et al.*, 20-CV-79 to make void trial court judgment(s) valid.

"Courts are constituted by authority, and they cannot go beyond the power delegated to them. If they act beyond that authority, and certainly in contravention of it, their judgments and orders are

regarded as nullities. They are not voidable, but simply void, and this even prior to reversal. *Elliott v. Peirsol*, 1 Pet. 328, 26 U. S. 340; *Old Wayne Life Assn. v. McDonough*, 204 U. S. 8." *Valley v. Northern Fire & Marine Ins. Co.*, 254 U.S. 348, 353, 41 S. Ct. 116 ( 1920 ) See also: *Williamson v. Berry*, 49 US (8 How) 945, 540 12 L. Ed. 1170, 1189 ( 1850 ).

The facts in this case and these legal precedents prove that the Kansas Court of Appeals acted without statutory authority when upholding the erroneous and void judgment of the trial court which was void when issued, void prior to appeal and is void now with no legal force or effect.

#### RELIEF

From the foregoing, this Honorable Supreme Court of the United States should issue its Order granting certiorari, vacating void judgment(s), remanding this case and ordering a different judge preside over Garrison's cases at trial.

This 14<sup>th</sup> day of July, 2023



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