FINANCIAL AUTHORIZATION
TO BE COMPLETED BY PETITIONER

Authorization for Release of Institution Account Information and Payment of the Filing Fees

I, DAVID MOORE, MDOC# 55718, authorize the Clerk of Court to obtain, from the agency having custody of my person, information about my institutional account, including balances, deposits and withdrawals. The Clerk of Court may obtain my account information from the past six (6) months and in the future, until the filing fee is paid. I also, authorize the agency having custody of my person to withdraw funds from my account and forward payments to the Clerk of Court, in accord with 28 U.S.C. Section 1915.

8-25-25
Date

David Moore
Signature of Petitioner

IT IS THE PETITIONER'S RESPONSIBILITY TO HAVE THE APPROPRIATE PRISON OFFICIAL COMPLETE AND CERTIFY THE CERTIFICATE BELOW

CERTIFICATE
(Inmate Accounts Only)
TO BE COMPLETED BY AUTHORIZED OFFICER

I certify that the Petitioner named herein has the sum of $ 2504.14 on account to his credit at C.M.C.F., MDOC Facility, where he is confined. I further certify that the Petitioner has the following securities to his credit according to the records of said institution: C.M.C.F.

I further certify that during the last six (6) months the Petitioner's average monthly balance was $ $ 1500.00

I further certify that during the last six (6) months the Petitioner's average monthly deposit was $ $ 200.00

I further certify that Petitioner has made the following withdrawals within the past thirty (30) days: $ 56.94, $ 51.30, $ 51.75

601-932-2880 Ext 6643
Telephone Number

Yolanda Odom
Authorized Officer of Inmate Accounts

8-25-22
Date

Yolanda Odom
Print Name of Authorized Officer

No. 22-5548

ORIGINAL

IN THE
SUPREME COURT OF THE UNITED STATES

In re: DAVID MOORE Petitioner

ORIGINAL PETITION FOR WRIT OF HABEAS CORPUS

DAVID MOORE
Pro se
Prisoner Mississippi Department of Corrections
MDOC ID Number: 55718
PO Box 88550
3794 Hwy 468
Pearl, MS 39208

Questions Presented

1. Did Congress intend to preclude as successive under the AEDPA a state prisoner habeas claim that he is held unconstitutionally upon conviction and sentence by a court that lacked jurisdiction to both indict and convict him, where that claim is based upon an order that was birth from the State court after the conclusion of the earlier habeas proceeding and that specifically declared it, the State court, did not have jurisdiction to indict nor convict the petitioner for the crimes for which petitioner was convicted and sits imprisoned for the rest of his life a sentence tantamount to the death penalty?

2. Did Congress intend for the federal court to bar a state prisoner's habeas claim as successive where that habeas claim is based on an order by the State court after the conclusion of the earlier habeas proceeding now declaring that the state court lacked jurisdiction to indict and convict?

3. Does an order from the State court which declares the State court lacked jurisdiction to indict and convict petitioner, and which was birthed after the conclusion of the State prisoner's earlier federal habeas proceeding, constitute new conclusive evidence that the State court lacked jurisdiction to indict and convict State prisoner to warrant federal writ of habeas corpus?

4. Did Congress intend for the AEDPA to bar, as successive, or time-barred, federal habeas corpus relief to a State prisoner who claims,after the State court admits that it lacked jurisdiction to both indict and convict petitioner for the crimes for which he is currently in custody, that the he is unconstitutionally in custody by a judgment from a court that lacked jurisdiction?

TABLE OF CONTENTS

	PAGES
Questions Presented.....	i
Table of Contents.....	ii
Table of Authorities.....	iii
Decisions Below.....	1
Statement of Jurisdiction.....	1
Statement Of Reasons For Not Filing In The District Court.....	1
Constitutional And Statutory Provisions Involved.....	3
Statement Of The Case.....	4
Reasons For Granting The Writ.....	6
Conclusion.....	15
Proof of Service.....	16
APPENDIX	

TABLE OF AUTHORITIES

CASES:	PAGES
Ex Parte Bullman, 8 U.S. (4 Cranch) 75 (1807).....	8
Ex Parte Lange, 85 U.S. (18 Wall) 164 (1874).....	10
Ex Parte McCordle, 74 U.S. (7 Wall) 506 (1869).....	10
Ex Parte Snow, 120 U.S. 274 (1887).....	10
Ex Parte Wilson, 114 U.S. 417 (1885).....	10
Felkner v. Turpin, 518 U.S. 651 (1996).....	1, 6
Holland v. State, 773 So.2d 1065 (Fla. 2000).....	10
Holland v. Florida, 560 U.S. 631 (2010).....	10, 13
In re Branch, 478 So.2d 1033 (Miss. 1985).....	6
McQuiggins v. Perkins, 133 S.Ct. 1924 (2013).....	11
Moore v. Dempsy, 261 U.S. 86 (1923).....	12, 13
New York Life Ins. Co. Brown, 84 F.3d 137 (5th Cir, 1996).....	6, 14
Old Wayne Mutual Life Ass'n v. McDough, 204 U.S. 8 (1907).....	13, 14
Sawyer v. Whitley, 505 U.S.333 (1992).....	7
Scott v. McNeal, 154 U.S. 34.....	13
Slack v. McDaniel, 529 U.S. 473 (2000).....	11
CONSTITUTION:	
Article 3, Section 9, Clause 2, United States Constitution.....	3, 11
Amendment 14, United States Constitution.....	4

STATUTES:

Title 28 U.S.C. 1651(a)..... 1

Title 28 U.S.C. 2241..... 1

Title 28 U.S.C. 2244..... 2, 4, 7

Title 28 U.S.C. 2254..... 1, 2, 12

PETITION FOR A WRIT OF HABEAS CORPUS

David Moore respectfully petitions for a writ of habeas corpus.

DECISION BELOW

This petition for a writ of habeas corpus is an original proceeding in this Court, but relates to a decision of the Fifth Circuit denying leave to file a successive **28 U.S.C. § 2254** petition in the district court. The Fifth Circuit's decision is not reported but is available in the Appendix (App.) at 1a.

STATEMENT OF JURISDICTION

This Court's jurisdiction is invoked pursuant to its authority under **28 U.S.C. §§ 2241** and 2254 to grant a writ of habeas corpus, as well as pursuant to Rule 20.4 of the Rules of this Court and the All Writs Act, **28 U.S.C. § 1651(a)**. See **Felker v. Turpin,** 518 U.S. 651 (1996).

STATEMENT OF REASONS FOR NOT FILING IN THE DISTRICT COURT

Rule 20.4 requires an original petition for writ of habeas corpus by a state prisoner (1) to "comply with the requirements of **28 U.S.C. §§ 2241 and 2242,** and in particular with the provision in the last paragraph of § 2242, which requires a statement of the 'reasons for not making application to the district court of the district in which the appellant is held'"; (2) to "set out specifically how and where the petitioner has exhausted available remedies in the state courts"; (3) to "show that exceptional circumstances warrant the exercise of the Court's discretionary powers"; and (4) to show "that adequate relief cannot be obtained in any other form or from any other court." The petitioner meets these requirements.

(1)

Petitioner filed a federal habeas petition in the district court alleging that his state court convictions and sentences are unconstitutional and obtained by the State without due process of law where the state court has confessed it did not have jurisdiction to indict and convict the petitioner. Petitioner acknowledged that the petition was his second-in-time petition brought under 28 U.S.C. § 2254. However, petitioner asserted that it was not a "second or successive" petition within the meaning of 28 U.S.C. § 2244(b)(2), in that, the state court order confessing it lacked jurisdiction was not available until after the first 2254 proceeding had ended; and that the district court had the jurisdiction and authority to address the merits of the constitutional claims presented therein. Petitioner also asserted that the text of the Antiterrorism and Effective Death Penalty Act of 1996 (AEDPA) and this Court's jurisprudence and/or basic rules of habeas corpus principles provided that he should be permitted to proceed via § 2241. The district court issued an order stating that it was without authority to consider petitioner's claim without approval from the Fifth Circuit because the petition was second or successive. The petitioner's case was transferred to the Fifth Circuit, and the Fifth Circuit denied the petitioner's habeas petition as successive.

(2)

Petitioner's 2254 petition pleaded and specifically showed that the petitioner had exhausted the available state court remedies on his claim that new facts and evidence (not available until after his first 2254 proceeding had ended) demonstrated the state court did not have jurisdiction. See **Petition** at pages 6 and 7. On July 14,

2015, for the first time in an Order the state court confessed that petitioner was correct that the state court did not have jurisdiction to indict nor convict him. See **ORDER** (JULY 14, 2015). Since the State of Mississippi did not appeal that Order, that Order became final law and the petitioner went to the Mississippi Supreme Court with this new fact of law and Order where the trial court confessed it lacked jurisdiction. The Mississippi Supreme Court denied relief on February 1, 2017. See **Order** (filed Feb. 01, 2017).

(3)

Exceptional circumstances warrant the exercise of this Court's discretionary power to issue a writ of habeas corpus for the reasons set forth herein. It would be a continued travesty, miscarriage of justice, and denial of fundamental constitutional right to due process of law, to allow state court convictions and sentences to stand *after* the state court has admitted, and confessed, in an Order that the state court did not have jurisdiction to indict nor convict the petitioner to send petitioner to prison [to die] [the rest of his natural life].

(4)

Under the above procedural facts, unless this Court grants writ of habeas corpus, or some other form of adequate relief, "adequate relief cannot be obtained in any other form or from any other court."

CONSTITUTIONAL AND STATUTORY PROVISIONS INVOLVED

This petition involves the following provisions of the United States Constitution:

Article I, Section 9, Clause 2, of the United States Constitution provides:

The Privilege of the Writ of Habeas Corpus shall not be suspended, unless when in Cases of Rebellion or Invasion the public Safety may require it.

The Fourteenth Amendment provides, in relevant part:

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 . . . .

Section 2244(b), Title 28 of the U.S.C. Code, enacted as part of the Antiterrorism and Effective Death Penalty Act of 1996 ("AEDPA"), provides in relevant part:

(2) A claim presented in a second or successive habeas corpus application under section 2254 that was not presented in a prior application shall be dismissed unless –

(A) the applicant shows that the claim relies on a new rule of constitutional law, made retroactive to cases on collateral review by the Supreme Court, that was previously unavailable; or

(B) (i) the factual predicate for the claim could not have been discovered previously through the exercise of due diligence; and (ii) the facts underlying the claim, if proven and viewed in light of the evidence as a whole, would be sufficient to establish by clear and convincing evidence that, but for constitutional error, no reasonable factfinder would have found the applicant guilty of the underlying offense.

***

3(C) The court of appeals may authorize the filing of a second or successive application only if it determines that the application makes a prima facie showing that the application satisfies the requirements of [§ 2244(b)].

***

(E) The grant or denial of an authorization by a court of appeals to file a second or successive application shall not be appealable and shall not be the subject of a petition for rehearing or for a writ of certiorari.

STATEMENT OF THE CASE

According to the transcript of the court proceedings in the Circuit Court of Rankin County, State of Mississippi v. David Moore, Cause No. 6372, and State of Mississippi v. David Moore in the Circuit Court of Madison County Cause No. 1999-0182, the lifeless body of Jackie Goodin was found in the Ross Barnett Reservoir on the Rankin County side of the bridge on October 23, 1996. The Rankin County grand jury indicted petitioner on June 19, 1997 for murder. Several months later the body of

Julie Goodin, Jackie Goodin's wife, was located in a creek in Madison County. On May 12, 1998, the Rankin County grand jury indicted Moore for this murder. Subsequent investigation by law enforcement led prosecutors to conclude somewhat grudgingly, that both of the victims were murdered somewhere in Madison County. As a result David Moore was indicted on June 2, 1999 by the Madison County grand jury in a multicount indictment for the murders of Julie and Jackie Goodin. At the time of the Madison County grand jury action, the separate murder counts in Rankin County were still pending.

Petitioner filed a petition in the state court challenging the jurisdiction of the Madison Count grand jury indictment and convictions, alleging that the Circuit Court of Madison County's grand jury did not have jurisdiction to hear the case and indict him for two counts of murder where the exact same charges of these two-counts of murder were still pending against petitioner in Rankin County's indictment. On July 14, 2015, *which was after the 2008 conclusion of the petitioner's first 2254 proceeding*, the state court agreed that petitioner was correct in his claim that Madison County did not have jurisdiction to indict nor convict him. See attached 2015 **ORDER**(filed JUL 14, 2015).[1] Therefore, the July 14, 2015, **ORDER** became a final fact and law of the case.

This Court's intervention is urgently needed to prevent the fundamental miscarriage of justice in allowing the State to deprive its citizen of due process of law needed to obtain lawful jurisdiction. For it would be one of the United State's greatest travesty of justice to permit the State to continue to incarcerate a person for

[1] Notably, again the state court denies relief on this lack of jurisdiction because the statute of limitation had expired.

the rest of their life by virtue of a void judgment, a judgment of sentence by a court that now confesses it lacked jurisdiction to indict and convict. Because every court (state and federal) to date has refused to consider the new fact and law that the state trial court did not have jurisdiction to indict and put the petitioner on trial, petitioner files the instant petition for writ of habeas corpus.[2]

REASONS FOR GRANTING THE WRIT

I. Exceptional Circumstances Warrant the Exercise of This Court's Original Habeas Jurisdiction

This case presents several exceptional circumstances. First, as the aforementioned facts and law demonstrate, the petitioner's July 14, 2015 fact evidence of the state trial court lack of jurisdiction is substantial. It is the July 14, 2015, ORDER of the state court itself.

Second, no one in the State of Mississippi disagreed with the July 14, 2015, ORDER. The state court admits and acknowledges the state trial court's lack of jurisdiction, but use a state statute of limitations to keep imprisoned the state prisoner convicted by a court that lacked jurisdiction. That is, a state's statute of limitations can [now] justify the court, state or federal, in allowing "void" judgments to continue to detain for life.[3]

Third, , in **Felker v. Turpin,** 518 U.S. 651, 661-62 (1996), this Court held that

---

[2] Only thing the state court does is give more care for the state law's statute of limitation instead of the United State Constitution's Due Process Clause of the 14th Amendment. This overlooked the United States Constitution's Supremacy Clause. This is an illicit romance with procedural bars. The Mississippi Supreme Court has mad it plain that "...Rights are subject to compromise only when they collide with conflicting rights vested in others. Once the right has been defined and shaped by the contours of the rule the...Fourteenth Amendments to the U.S. Constitution and Article 3, Sections 18 and 32 of the Mississippi Constitution of 1890 it prevails against mere interests, public or private, no matter how compelling. See **In re Brown,** 478 So. 2d 1033, 1036 (Miss. 1985).

3. Here the concern is with "void" judgments, not "voidable" judgments. Procedural bars can apply to a "voidable" judgment, but not to a "void" judgment. Even the Fifth Circuit has recognized that much. See **New York Life Ins. Co. V. Brown,** 84 F.3d 137, 142-143 (5th Cir. 1996).

the availability of original habeas jurisdiction in this Court preserves Article III's of appellate jurisdiction over the lower federal courts. This petition asks the Court to consider whether a prisoner's conviction and sentence of life without parole shown by a state court order, made after the petitioner's first 2254 proceeding had concluded, that the state court lacked jurisdiction to indict and convict the petitioner, that is whether a "void judgment" by the state court , satisfies the gatekeeping requirement of **28 U.S.C. § 2244(B)(2)(B)(ii)** for the filing of a second or successive petition for writ of habeas corpus, and thus, whether AEDPA preserved the "miscarriage of justice" exception recognized in case like **Sawyer v. Whitley,** 505 U.S. 333 (1992).

The exercise of original habeas jurisdiction would aid the Court in exercising the appellate authority provided to it by Article III, § 2 with respect to these critical questions.

At early common law, much of the business of the courts began with the issuance of one of several writs, many of which have survived to this day. The writs were a series of written order forms, issued by the court in the name of the king, commanding the individual to whom they were addressed to return the writ to the court for the purpose stated in the writ. The purpose was generally reflected in the name of the writ itself. Thus for example, a subpoena ad testificandum was a command to return the writ to the court at a specified time and place, "sub poena," that is, "under penalty" for failure to comply, and "ad testificandum" that is, "for the purpose of testifying." Just as the writs of subpoena have been shortened in common parlance to "subpoena," references to the several writs of habeas corpus were shortened. The habeas corpus writs were all issued by the courts in the name of the

king and addressed to one of the king's officials or a lower court. The writs commanded the officers of the Crown to appear before the court with the "corpus" ("body") of an individual named in the writ, whom "habeas" ("you have" or "you are holding"), for the purpose stated in the writ. Thus for instance, the *writ of habeas corpora juratorum* commanded the sheriff to appear before the court having with him or holding the bodies of potential jurors. Other habeas corpus writs included:

(1) *Habeas corpus ad deliberandum et recipiendum*, a writ for bringing an accused from a different county into a court in the place where an offense had been committed for purposes of trial, or more literally to return holding the body for purposes of "deliberation and receipt" of a decision.
(2) *Habeas corpus ad faciendum et recipiendum*, a writ of a court of superior jurisdiction to a custodian to return with the body being held in confinement pursuant to the order of a lower court for purposes of "receiving" the court's decision and of "doing" what the court instructed with the prisoner.
(3) *Habeas corpus ad faciendum, subjiciendum et recipiendum,* or more simply, *habeas corpus ad subjiciendum*, a writ ordering a custodian to return with a prisoner for the purposes of "submitting" the question of confinement to the court, of "receiving" its decision, and of "doing" what the court instructed with the prisoner.
(4) *Habeas corpus ad prosequendum*, a writ ordering return with a prisoner for the purpose "prosecuting" him before the court.
(5) *Habeas corpus ad respondendum*, a writ ordering return to a court of superior jurisdiction of a body under the jurisdiction of a lower court for purposes of allowing the individual to "respond" with respect to matters under consideration in the high tribunal.
(6) *Habeas corpus ad satisfaciendum,* a writ ordering return with the body of a prisoner for "satisfaction" or execution of a judgment of the issuing court.
(7) *Habeas corpus ad testificandum,* a writ ordering return with the body of a prisoner for the purposes of "testifying"; and
(8) *Habeas corpus cum causa*, a writ ordering return with the body of a prisoner and "with the cause" of his confinement so that the issuing court might pass upon the validity of continued confinement and issue appropriate additional orders.

See also **BLACK'S LAW DICTIONARY, 715** (7th ed. 1999); **1 BOUVIER'S LAW DICTIONARY**, 1400-408 (11th ed. 1914); **Ex parte Bollman,** 8 U.S. (4 Cranch) 75, 95-8 (1807); for English history of habeas corpus see **DUKER, A CONSTITUTIONAL HISTORY OF HABEAS CORPUS, 12-94** (1980); **IX**

HOLDSWORTH, A HISTORY OF ENGLISH LAW, 104-25 (2d ed. 1938).

By the colonial period, "habeas corpus" had come to be understood as those writs available to a prisoner, held without trial or bail or pursuant to the order of a court without jurisdiction, ordering his jailer to appear with the prisoner before a court of general jurisdiction and to justify the confinement. It is basic habeas principle that "If any person be restrained of his liberty by order or decree of any illegal court, or by command of the king's majesty in person, or by warrant of the council board, or of any of the privy council; he shall upon demand of his counsel, have a writ of habeas corpus, to bring his body before the court of king's bench or common pleas; who shall determine whether the cause of his commitment be just, and thereupon do as to justice shall appertain. And by the habeas corpus act [of 1679], the methods of obtaining this writ are plainly pointed out and enforced, that, so long as this statute remains unimpeached, no subject of England can be long detained imprison, except in those cases in which the law requires and justifies such detainer," **1 BLACKSTONE, COMMENTARIES ON THE LAWS OF ENGLAND** 131 (italics in the original) (1765).

Congress expanded the authority it had given the federal courts in response to the anticipated state arrest of federal officers attempting to enforce an unpopular tariff in 1833 and again in 1842 in response to British protest over the American trial of one of its nationals. The writ was made available to state prisoners held because of "any act done, or omitted to be done, in pursuance of a law of the United States."[4]

---

[4] **4 Stat. 634-35 (1833). Section 7 of the Act of March 2, 1833, ch.52,** more fully reads, "And be it further enacted, That either of the *justices of the Supreme Court,* or a judge of any district court of the United States, in addition to the authority already conferred by law, shall have power to grant writs of habeas corpus in all cases of a prisoner or prisoners, in jail or confinement, where he or they shall be committed or confined on, or by any authority or law, for any act done, or omitted to be done, in pursuance of a law of the United States, or any order, process, or decree, of any judge or court thereof, any thing in any act of Congress to the contrary notwithstanding.... "

In 1867, Congress substantially increased the jurisdiction of federal courts to issue the writ by authorizing its issuance "in all cases," state or federal, "where any person may be restrained of his or her liberty in violation of the constitution, or of any treaty or law of the United States."[5] Originally, habeas corpus permitted collateral attack upon a prisoner's conviction only if the sentencing court lacked subject matter jurisdiction. Shortly after 1867, however, the Supreme Court began to recognize a growing number of circumstances where courts were said to have acted beyond their jurisdiction because some constitutional violation had extinguished or "voided" their jurisdiction.[6]

Petitioner submits the case of **Holland v. Florida,** 560 U.S. 631 (2010). In that case the Supreme Court addressed the AEDPA and whether a habeas petitioner in state custody was time barred. Holland was sentenced to the death penalty. **Id.,** citing **Holland v. State**, 773 So.2d 1065 (Fla. 2000). The Supreme Court in Holland

---

[5] That the several courts of the United States, and the several justices and judges of such courts, within their respective jurisdictions, in addition to the authority already conferred by law, shall have power to grant writs of habeas corpus in all cases where any person may be restrained of his or her liberty in violation of the constitution, or of any treaty or law of the United States; and it shall be lawful for such person so restrained of his or her liberty to apply to either of said justices or judges for a writ of habeas corpus, which application shall be in writing and verified by affidavit, and shall set forth the facts concerning the detention of the party applying, in whose custody he or she is detained, and by virtue of what claim or authority, if known; and the said justice or judge to whom such application shall be made shall forthwith award a writ of habeas corpus, unless it shall appear from the petition itself that the party is not deprived of his or her liberty in contravention of the constitution or laws of the United States," **14 Stat. 385-86** (1867). At the same time, Congress modified and codified much of the procedure associated with the writ, including an appellate provision that was soon thereafter repealed, **15 Stat. 44** (1868); see **Ex parte McCardle**, 74 U.S. (7 Wall.) 506 (1869).

[6] See e.g.: **Ex parte Lange**, 85 U.S.(18 Wall.) 163 (1874). Lange had been convicted of an offense punishable by a fine or term of imprisonment. The trial court had sentenced him to a fine and a term of imprisonment. Lange paid his fine and was imprisoned. The Court held that once Lange had paid the fine *the trial court lost all jurisdiction over the case* and thus his confinement was subject to the writ. See also, **Ex parte Wilson**, 114 U.S. 417 (1885). The Court held that Wilson was entitled to discharge on the writ *because the trial court had exceeded its jurisdiction* when it tried, convicted and sentenced him to fifteen years hard labor based upon an information filed by the district attorney rather than upon a grand jury indictment as required by the Fifth Amendment in the case of all capital and otherwise infamous crimes. See **In re Snow**, 120 U.S. 274 (1887). Snow was convicted of three counts of cohabitation based on the same conduct during three different periods of time. The Court found that the misconduct was one continuous offense rather than three offenses. Since three sentences would constitute multiple punishment contrary to the Fifth Amendment, *the trial court had acted beyond its jurisdiction* and the writ should issue.

made it clear, and specifically held, that the "AEDPA does not undermine basic habeas corpus principles" and must "harmonize with prior law." See **Holland v. Florida**, supra, quoting **Slack v. McDaniel,** 529 U. S. 473, 483 (2000) ("AEDPA's present provisions ... incorporate earlier habeas corpus principles"). The Holland Court, without any ambiguity, ruled that "[w]hen Congress codified new rules governing this previously judicially managed area of law, it did so without losing sight of the fact that the 'writ of habeas corpus plays a vital role in protecting constitutional rights.'" **Holland v. Florida**, supra, quoting **Slack**, 529 U. S., at 483. The Holland Court then said "The importance of the Great Writ, the only writ explicitly protected by the **Constitution, Art. I, §9, cl. 2,** along with congressional efforts to harmonize the new statute with `prior law, counsels hesitancy before interpreting AEDPA's statutory silence as indicating a congressional intent to close courthouse doors that a strong equitable claim would ordinarily keep open. **Holland v. Florida,** supra,

That brings us to **McQuiggin v. Perkins,** 133 S. Ct. 1924 (2013). The **McQuiggins** case was not a death penalty case. **Id.**, at Part A. There the Supreme Court again informed the lower courts that "Holland reminded, and affirmed, that "we will not construe a statute to displace courts' traditional equitable authority absent the clearest command...[and the AEDPA does not undermine basic habeas corpus principles and courts should] harmonize the new statute with prior law." See **McQuiggins v. Perkins,** supra, at Part B, citing footnote 3.

For these reasons this court should conclude that neither AEDPA's textual characteristics nor the statute's basic purposes rebuts the earlier habeas corpus

principle that a federal habeas corpus was available to state prisoners if the convicting court lacked jurisdiction. See **Moore v. Dempsey**, 261 U.S. 86, 91-92 (1923).

Petitioner submits to the Court that the Mississippi Supreme Court ordered a special judge to decide his petition alleging that the trial court lacked jurisdiction. That specially assigned judge ruled that the trial court did not have jurisdiction to indict nor convict the petitioner. See attached **ORDER** (filed Jul 14, 2015). This document and/or order of the state court proceedings is evidence for the purposes of federal writ of habeas corpus. See **28 U.S.C. 2247.** However, the petitioner continues to languish in state prison on judgments of convictions by a court that had no jurisdiction. Apparently,there is an absence of available State corrective process; or circumstances exist that render such process ineffective to protect the rights of the petitioner. See e.g., **28 U.S.C. 2254(b)(1)(B)(i), (ii).**

Petitioner also contends that the GREAT WRIT should issue here where it is clear that the state court decision (to apply a state statute of limitation to a "lack of jurisdiction" claim) is contrary to, or involved an unreasonable application of, federal law as established by the decisions of this Court, thus petitioner satisfies the grant of writ of habeas corpus principles"). The Holland Court, without any ambiguity, ruled that "[w]hen Congress codified new rules governing this previously judicially managed area of law, it did so without losing sight of the fact that the 'writ of habeas corpus plays a vital role in protecting constitutional rights.'" Holland v. Florida, supra, quoting Slack, 529 U. S., at 483. The Holland Court then said "The importance of the Great Writ, the only writ explicitly protected by the Constitution, Art. I, §9, cl. 2, along with congressional efforts to harmonize the new statute with `prior law,

counsels hesitancy before interpreting AEDPA's statutory silence as indicating a congressional intent to close courthouse doors that a strong equitable claim would ordinarily keep open. **Holland v. Florida**, supra.

Petitioner reiterates that a federal habeas corpus is available to state prisoners if the convicting court lacked jurisdiction. See **Moore v. Dempsey**, 261 U.S. 86, 91-92 (1923).

In the case of **Old Wayne Mut. Life Ass'n v. McDonough,** 204 U.S. 8 (1907), the Supreme Court said:

"No judgment of a court is due process of law, if rendered without jurisdiction in the court..."

Id., at 15, quoting **Scott v. McNeal**, 154 U. S. 34, 46. The McDonough Court went on to say:

"And if the conclusiveness of a judgment of decree in a court of one state is questioned in a court of another government, federal or state, it is open, under proper averments, to inquire whether the court rendering the decree or judgment had jurisdiction to render it. Such is the settled doctrine of this Court. In the leading case of **Thompson v. Whitman,** 18 Wall. 457, 85 U. S. 468, the whole question was fully examined in the light of the authorities. Mr. Justice Bradley, speaking for the Court and delivering its unanimous judgment, stated the conclusion to be clear that the jurisdiction of a court rendering judgment in one state may be questioned in a collateral proceeding in another state, notwithstanding the averments in the record of the judgment itself...This decision was in harmony with previous decisions. Chief Justice Marshall had long before observed, in **Rose v. Himely,** 4 Cranch 241, 8 U. S. 269, that, upon principle, the operation of every judgment must depend on the power of the court to render that judgment. In **Williamson v. Berry**, 8 How. 495, 49 U. S. 540, it was said to be well settled that the jurisdiction of any court exercising authority over a subject may be inquired into in every other court when the proceedings in the former are relied upon and brought before the latter by a party claiming the benefit of such proceedings."

See **Old Wayne Mut. Life Ass'n v. McDonough,** 204 U.S. at 15-16.

To be sure, the judgment of the state trial court in the petitioner's case was void then and it is void now. It will always be void and of no legal effect whatsoever.

The federal law has a well-settled principle, that is, that a void judgment, a judgment by a court that lacked jurisdiction, may be challenged any where at any time and in any court. The Supreme Court in **McDonough**, supra, just made that clear. But, the Fifth Circuit Court of Appeals also has this wisdom of the **McDonough** Court. In **New York Life Ins. Co. v. Brown,** 84 F.3d 137 (5th Cir. 1996), the Fifth Circuit said, "...When, however, the motion is based on a void judgment...the district court has no discretion--the judgment is either void or it is not." **Id.** citing **Recreational Prop. Inc. v. Southwest Mortgage Serv. Corp.**, 804 F.2d 311, 313 (5th Cir.1986); **11 CHARLES ALAN WRIGHT, ARTHUR R. MILLER AND MARY KAY KANE, FEDERAL PRACTICE AND PROCEDURE § 2862** (2d ed. 1995). "[T]here is no time limit on an attack on a judgment as void..." **New York Life Ins. Co. v. Brown,** supra, quoting, **Briley v. Hidalgo,** 981 F.2d 246, 249 (5th Cir.1993) (quoting **11 CHARLES ALAN WRIGHT, ARTHUR R. MILLER AND MARY KAY KANE, FEDERAL PRACTICE AND PROCEDURE § 2862** (1973)). "A judgment 'is void only if the court that rendered it lacked jurisdiction of the subject matter, or of the parties..." **New York Life Ins. Co. v. Brown,** supra, quoting **Williams v. New Orleans Public Serv., Inc.**, 728 F.2d 730, 735 (5th Cir.1984) (quoting **11 CHARLES ALAN WRIGHT, ARTHUR R. MILLER AND MARY KAY KANE, FEDERAL PRACTICE AND PROCEDURE § 2862** (1973))

So, it is manifest that a judgment by court that did not have jurisdiction, can be challenged any where, at any time, in any court. Why? Because the judgment is void...it is no judgment at all...not on the day it was made nor any day that follows...its void today, and is void before tomorrow starts because it can never be

anything else but a void judgment...having no legal effect whatsoever. Petitioner's current imprisonment based upon it has no legal effect whatsoever and is therefore illegal imprisonment...it will be that today and before tomorrow starts because it can never be anything other than illegal imprisonment. A void judgment cannot acquire validity because of laches, successive writ provisions, nor any other provision of the law. In this case the state court decision is contrary to, or involved an unreasonable applicatiom of federal law established by the Supreme Court, and petitioner is entitled to the GREAT WRIT.

CONCLUSION

The Court should entertain this original habeas corpus petition and remand to the district court to resolve, in the first instance, the issues related to and presented by petitioner's second habeas petition. See **Illinois v. City of Milwaukee,** 406 U.S. 91, 108 (1972) (remanding to the district court "whose powers are adequate to resolve the issues").

RESPECTFULLY SUBMITTED,

David Moore

DAVID MOORE