

No. _____

In the
Supreme Court of the United States

JAMES A. CROWE AND PHYLLIS LYNN CROWE,
Petitioners,
v.

SAVVY IN, LLC,
Respondent.

**On Petition for a Writ of Certiorari to
the Indiana Supreme Court**

PETITION FOR WRIT OF CERTIORARI

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April 10, 2024

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QUESTION PRESENTED

I.

During the COVID-19 pandemic under the United States Postal Service's altered signature accountable mail policy to accommodate health concerns, when the return mail receipt is returned to the tax sale purchaser with only notations by a mail carrier and/or a line through the signature block, the mail carriers failed to follow the altered signature protocol, and follow-up first class notices were returned, does due process require the tax sale purchaser to make additional efforts to notify the owner before the state can issue a tax deed?

PARTIES TO THE PROCEEDING

Petitioners James A. Crowe and Phyllis Lynn Crowe were the Appellants/Petitioners Below in the Indiana Supreme Court.

Respondent Savvy IN, LLC was the Appellee/Respondent Below in the Indiana Supreme Court.

A corporate disclosure statement is not required because the Crowes are not a corporation. *See* Sup. Ct. R. 29.6.

STATEMENT OF RELATED PROCEEDINGS

Court Name	:	Madison Circuit Court No. 3
Trial Court Case .	:	48C03-2112-TP-000757
Nos.		48C03-2112-TP-000758
		48C03-2112-TP-000759
Case Name	:	<i>In the Matter of the Tax Deed, Savvy IN LLC, Petitioner v. James Crowe and Phyllis Crowe, Interested Parties</i>
Date of Opinion/ Order	:	April 22, 2022 (That Order is attached at Appendix ("App.") 32-33.
Court Name	:	Court of Appeals of Indiana
Case No.	:	22A-TP-1113
Case Name	:	<i>In Re the 2020 Madison County Tax Sale, James A. Crowe and Phyllis Lynn Crowe, Appellants, v. Savvy IN, LLC, Appellee</i>
Date of Opinion/	:	November 30, 2022 (Reversing

Order	and remanding to trial court) That Published Opinion is reported as <i>In re 2020 Madison County Tax Sale</i> , 200 N.E.3d 929, 934 (Ind. Ct. App. 2022) and is attached at App. 18-31.
Court Name	: Indiana Supreme Court
Case No.	: 23S-TP-00090
Case Name	: <i>In re the 2020 Madison County Tax Sale; James A. Crowe and Phyllis Lynn Crowe, Appellants (Interested Parties below), v. Savvy IN, LLC, Appellee (Petitioner below)</i>
Date of Opinion/ Order	: October 11, 2023 (Vacating Court of Appeals decision) That Opinion is reported as <i>Crowe v. Savvy IN, LLC</i> , 208 N.E.3d 1246 (Ind. 2023), 218 N.E.3d 1274 (Ind. 2023), <i>reh'g denied</i> (Jan. 11, 2024) and is attached at App. 2-16.
Court Name	: Indiana Supreme Court
Case No.	: 23S-TP-00090
Case Name	: <i>In re the 2020 Madison County Tax Sale; James A. Crowe and Phyllis Lynn Crowe, Appellants (Interested Parties below), v. Savvy IN, LLC, Appellee (Petitioner below)</i>
Date of Opinion/ Order	: January 11, 2024 (Rehearing denied) That Order is attached at App. 1.

Counsel is unaware of any related proceedings arising from the same trial court and appellate cases as this case other than those proceedings appealed here.

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PETITION FOR WRIT OF CERTIORARI

Petitioners Crowe request this Court issue a writ of Certiorari to reverse the decision of the Indiana Supreme Court below.

The Indiana Supreme Court held when return mail receipts for notices of a tax sale are returned with only the signatures of mail carriers, and where the tax sale purchaser states under oath that its first class mail notices were returned, that the tax sale purchaser is not obligated to attempt further to notify the landowners by other means.

The lower court found due process does not require the tax sale purchaser to make any additional efforts to notify the landowner before the transfer of title and tax deeds to the purchaser. The court mistakenly found the tax sale purchaser's first class notices were not returned.

The Indiana Supreme Court's decision is in conflict with other state courts and also is in conflict with this Court's precedents. The question presented, which arose during the COVID-19 pandemic¹, appears in not only the context of tax sales, but in other civil cases where so-called COVID-19 receipts were relied upon for effecting legal service of process. Cases in different states have set aside civil tax sale judgments, where service was effected by mailing COVID-19 certified

¹ The COVID-19 pandemic occurred from approximately March, 2020 through April, 2022. *Arizona v. Mayorkas*, 143 S. Ct. 1312, 216 L. Ed. 2d 452 (2023).

mailings without the addressees' signatures because they violate constitutional due process.

The Indiana Supreme Court should not have ignored the two sworn statements of the tax sale purchaser Savvy that its first class mail notices were returned. Those written statements have legal significance, which the Indiana Supreme Court refused to acknowledge.

This case is of national importance involving the effect of the United States Postal Service's altered signature policy during COVID-19 as it affects property rights of landowners in tax sales. The USPS's policy modification resulted in an increase of certified mail return receipts that were either returned unsigned or contained an illegible signature with a "C19" notation.

Petitioners James A. Crowe and Phyllis Lynn Crowe petition this Court to review the judgment below, resolve the conflict among the courts, and provide certainty to property owners, tax collectors, tax sale purchasers, and courts throughout the United States.

OPINIONS BELOW

The Indiana Supreme Court's opinion is reported at 218 N.E.3d 1274 (Ind. 2023) and reproduced at App. 2-16. Its order denying the Petition for Rehearing is unreported and reproduced at App. 1. Other opinions below are set out in the Statement of Related Proceedings above.

JURISDICTION

The Indiana Supreme Court's issued its opinion on October 11, 2023, which is reported at 218 N.E.3d 1274 (Ind. 2023). Petitioners timely sought rehearing, which was denied on January 11, 2024. App. 1. The Petitioners invoke this Court's jurisdiction under 28 U.S.C. § 1257(a), having timely filed this petition for writ of certiorari within ninety (90) days of the denial of rehearing.

CONSTITUTIONAL, STATUTORY PROVISIONS, AND USPS ALTERED POLICY

The Fifth and Fourteenth Amendments to the United States Constitution and relevant portions of the Indiana Code are reproduced at App. 34-44.

United States Constitution

Fifth Amendment—

No person shall be held to answer for a capital, or otherwise infamous crime, unless on a presentment or indictment of a Grand Jury, except in cases arising in the land or naval forces, or in the Militia, when in actual service in time of War or public danger; nor shall any person be subject for the same offence to be twice put in jeopardy of life or limb; nor shall be compelled in any criminal case to be a witness against himself, nor be deprived of life, liberty, or property, without due process of law; nor shall private property be taken for public use, without just compensation.

Fourteenth Amendment, Section 1–

All persons born or naturalized in the United States, and subject to the jurisdiction thereof, are citizens of the United States and of the State wherein they reside. 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; nor deny to any person within its jurisdiction the equal protection of the laws.

Indiana Statutes

Indiana Code § 6-1.1-25-4.5–

Sec. 4.5. (a) Except as provided in subsection (d), a purchaser or the purchaser's assignee is entitled to a tax deed to the property that was sold only if:

- (1) the redemption period specified in section 4(a)(1) of this chapter has expired;
- (2) the property has not been redeemed within the period of redemption specified in section 4(a) of this chapter; and
- (3) not later than six (6) months after the date of the sale:
 - (A) the purchaser or the purchaser's assignee...

* * *

(B) gives notice of the sale to the owner of record at the time of the sale and any person with a

substantial property interest of public record in the tract or item of real property.

* * *

(d) The person required to give the notice under subsection (a), (b), or (c) shall give the notice by sending a copy of the notice by certified mail, return receipt requested, to:

(1) the owner of record at the time of the:

(A) sale of the property;

(B) acquisition of the lien on the property under IC 6-1.1-24-6; or

(C) sale of the certificate of sale on the property under IC 6-1.1-24; at the last address of the owner for the property, as indicated in the records of the county auditor; and

(2) any person with a substantial property interest of public record at the address for the person included in the public record that indicates the interest.

* * *

Indiana Code § 6-1.1-25-4.6—

Sec. 4.6. (a) After the expiration of the redemption period specified in section 4 of this chapter but not later than three (3) months after the expiration of the period of redemption:

(1) the purchaser, * * * may

(2) * * *

file a verified petition in accordance with subsection (b) in the same court in which the judgment of sale was entered asking the court to direct the county auditor to issue a tax deed if the real property is not redeemed from the sale. Notice of the filing of this petition shall be given to the same parties as provided in section 4.5 of this chapter.... * * * The notice required by this section is considered sufficient if the notice is sent to the address required by section 4.5(d) of this chapter. Any person owning or having an interest in the tract or item of real property may file a written objection to the petition with the court not later than thirty (30) days after the date the petition was filed. If a written objection is timely filed, the court shall conduct a hearing on the objection. If there is not a written objection that is timely filed, the court may consider the petition without conducting a hearing.

(b) * * * a verified petition filed under subsection (a) may include the following:

- (1) Copies of all notices sent under section 4.5 of this chapter.
- (2) Copies of all notices sent under this section.
- (3) Copies of all certified mail mailing receipts, return receipts, and returned mailing envelopes for notices sent under section 4.5 of this chapter.

(4) Copies of all certified mail mailing receipts, return receipts, and returned mailing envelopes for notices sent under this section.

United States Postal Service Altered Signature Policy—

The USPS altered pandemic policy is set out in the App. 49-56.

STATEMENT OF THE CASE

In tax sale notice cases, the Indiana Supreme held in *Indiana Land Trust Co. v. XL Investment Properties* that courts “evaluate the adequacy of notice based on the facts and circumstances of each case.” *Indiana Land Trust Co. v. XL Investment Properties* (Ind. 2020) 155 N.E.3d 1177.

The facts and procedural history were well stated by the Court of Appeals of Indiana at 200 N.E.3d 929, 930-32, up through the filing of Savvy IN, LLC’s Petition for Transfer to the Indiana Supreme Court. App. 18-31.

Petitioners James A. Crowe and Phyllis Lynn Crowe lost their residence homestead in a tax sale because they did not receive notice of the sale or the right of redemption until it was too late to redeem the property and a tax deed was issued to the tax sale purchaser. During the COVID-19 pandemic the tax sale purchaser Savvy IN, LLC (Savvy) sent two notices to the Crowes by certified mail, and although the notices were not returned, the return mail receipts that were returned to Savvy did not bear the signatures of the Crowes. Instead, the first certified notice had the mail carrier’s signature, and the second simply had a line through

the signature block.² Each COVID-19 receipt came back to Savvy with the COVID-19 marked return receipts.

When the mail carriers in this case marked “HVHR2C79” or “HVHR2C-19” on the return receipt³, they assumed the role of both the deliverer and the recipient. Thus, the mail carrier was the only person who knew with certainty the certified mail even existed. Those facts do not comport with any understanding of ‘signed’ or ‘signature.’ The COVID-19 receipt does not contain either of the Crowes’ first initials and last names. The USPS protocol, requiring that the postal carrier ask the addressee’s first initial and last name to confirm receipt by the proper recipient, was not followed.

² This notice is referred to hereinafter as a “COVID-19 receipt,” which was utilized during the pandemic from March 19, 2020, through March 31, 2022. United States Postal Service Industry Alert, May 6, 2022, Customer Signature Service, <https://postalpro.usps.com/node/10928>

³ A copy of a green “certified mail receipt” attached to Savvy’s petition displays a stamp of February 10, 2021, and an attached return receipt appears to indicate “2-17” in the field for “Date of Delivery” and “HHR2C79” in the fields for “Signature” and “Received by (Printed Name).” App. 48. A copy of a green “certified mail receipt” attached to Savvy’s supplemental filing displays a stamp of December 8, 2021, and an attached return receipt appears to indicate “12/13/21” in the field for “Date of Delivery,” there are horizontal lines through the fields for “Signature” and “Received by (Printed Name),” and a scribbled indecipherable word appears in the field for “Is delivery address different than Item 1? If YES, enter delivery address below.” App. 46.

Savvy also sent notices by first class mail which Savvy swore under oath in its petition for a tax deed and a supplement were returned.

Savvy should have known the return mail receipts were ineffective and should have taken additional efforts to notify the landowner Crowes that their homestead was in jeopardy of being lost at a tax sale, but Savvy took no other efforts after receiving back the COVID-19 receipts.

After the Crowes learned their residential property had been transferred to Savvy, they brought this action against the tax sale purchaser, seeking to have the sale set aside because the purchaser had failed to take reasonable steps to notify them of the tax sale and their right to redeem, which resulted in the taking of their property without due process. The trial court denied the Crowes' motion to set aside orders and deeds, holding that actual notice to the landowners was not required to satisfy constitutional due process. The Indiana Court of Appeals reversed the trial court's ruling and found due process and equity required reversal and remand to the trial court to allow the Crowes to redeem their home. The Court of Appeals held unanimously that the Crowes did not receive constitutional due process under the unique circumstances, practicalities and peculiarities of this case.

The Indiana Supreme Court, making a factual finding that Savvy's first class notices were not returned to Savvy, vacated the Court of Appeals decision and held Savvy's notices satisfied

constitutional due process and all requirements of Indiana statutes.

FACTS AND PROCEDURAL HISTORY

The Crowes acquired three parcels of real property consisting of approximately eighty-two acres in Madison County by warranty deed in 1997, built a home on the property, and have resided there since 1998. The property's fair market value is approximately \$2.1 million. On October 5, 2020, Savvy IN, LLC, ("Savvy") purchased the parcels at a tax sale for \$394,994. On December 7, 2021, Savvy filed petitions for orders directing the issuance of tax deeds. The petitions stated that Savvy mailed notice of the tax sale to the Crowes pursuant to Ind. Code § 6-1.1-25-4.5 by certified mail, return receipt requested, on or about February 10, 2021, a copy of the return receipt was attached, it mailed notice of the filing of the petition for a tax deed to the Crowes pursuant to Ind. Code § 6-1.1-25-4.6 by certified mail, return receipt requested, dated December 7, 2021, a copy of the certified mail return receipt would be filed as a supplement, and it "sent notice of information contained in" Ind. Code §§ 6-1.1-25-4.5 and -4.6 to the Crowes "via regular mail." * * * The certified mail return receipts attached to Savvy's filings were not signed by the Crowes.

In January 2022, the court ordered the Madison County Auditor to issue tax deeds for the parcels, and tax deeds were subsequently issued.

On February 10, 2022, the Crowes requested relief from judgment pursuant to Ind. Trial Rule 60(B) arguing that they never received notice from Savvy of the tax sale and the redemption period expiration date or that Savvy had filed petitions for tax deeds, the receipts attached to Savvy's filings show they did not sign the receipts, and they first learned the parcels had been sold at a tax sale when they received a call from their home equity lender on February 1, 2022. They argued any tax deed issued with respect to the parcels was void due to inadequate notice.

On April 8, 2022, the court held a hearing. Dr. Crowe testified as to the property's fair market value, that he and his wife built a home on and lived on the property, and that they had a home equity loan of approximately \$66,000. He testified that the property had been sold at a tax sale in 2019, that he and Lynn received notices that year informing them the property had been sold and they had a right to redeem the property, and that, in response, Lynn learned the amount they owed and they redeemed the property. He testified, with respect to the October 5, 2020 tax sale, that they did not receive any notices from Savvy regarding its purchase of the property at the tax sale, their right to redeem the property, or that Savvy had filed petitions for tax deeds. He testified that he and Lynn ultimately obtained copies of the certified mail receipts and his signature did not appear on the receipts. He testified that, if they

had received the notices, they would have paid the amount required to redeem the property as they had done previously and that they were ready, willing, and able to pay that amount.

Dr. Crowe further indicated they had trouble receiving mail at their home, his Medicare insurance had been terminated because there were two consecutive quarters for which they did not receive a bill and did not pay, their mailbox had been vandalized on multiple occasions, and their mailbox was approximately three-eighths of a mile from their front door. When asked whether they receive certified mail, return receipt requested, at their residence, he replied affirmatively, and when asked the last time that occurred, he testified “when we got the notification for the prior tax sale” and that, at that time, the mail carrier drove up their lane to deliver it to their house and obtain their signature. * * * When asked “[d]id anyone from any mail carrier bring to you, to your door in 2020 or 2021 any certified mail return receipt requested to your door,” he answered “[n]o.” * * * When asked “[d]id any mail carrier come to your door and khis mail carrier bring to you, to your door in 2020 or 2021 any certified mail return receipt requested to your door,” he answered “[n]o.” * * * When asked “[d]id any mail carrier come to your door and knock on your door during that period 2020, 2021,” he answered “[n]o,” and when asked “did any mail carrier come to identify you as the recipient of the returned receipt requested mail,” he again

answered “[n]o.” * * * answered “[t]hat’s correct.” * * * On cross-examination, when asked if the issues with his mail occurred over the prior twenty-three years, he answered affirmatively and that “specifically the issues . . . with my social security and this specific issue was in the last probably two (2) years.” * * *

* * *

Lynn Crowe testified that, when the property was sold in 2019, she went to the Auditor’s office, found out how much money they owed, went to the bank to obtain the funds, and returned to the Auditor’s office and paid the amount. When asked “[d]id you understand that was going to bring all of your taxes current and not just pay for the redemption amount,” she testified: “That was my understanding.” * * *. She similarly testified that they did not receive any notices with respect to the 2020 tax sale. When asked “did any mail carrier drive up your lane and knock on your door and talk to you,” she replied “[n]o,” and when asked “[did] any mail carrier identify you and then sign this receipt for you and then tell you he was doing it,” she replied “[N]o that I’m aware of.” * * * She indicated she has previously received certified mail returned receipt requested at her door, and when asked “[b]ut nothing for this tax sale,” she answered “[t]hat’s correct.” * * * She testified that her signature did not appear on any of the certified mail receipts.

* * *

She indicated that no one from the post office knocked on their door to deliver mail to them during 2020 or 2021 and that no one from the post office came to their door to identify them before delivering mail. When asked “when you had gotten your cashier’s check and you pay the Auditor . . . you thought you had paid your 2019 taxes too,” Lynn answered “[y]es, I did.” * * * When asked “[s]o you weren’t expecting any notices from the Auditor about a tax sale,” she testified: “No. I had asked them if we where [sic] everything was all paid up, all our property taxes had been paid, I was told yes. And I understood that we were all, we didn’t owe anymore property taxes and we didn’t get any statements, any property tax statements that year.” * * *

Counsel for the Crowes asked the court to exercise equity and argued the method used by the mail carrier has reduced the requirements of our tax sale statu[t]es from certified mail return receipt requested notice [to] nothing more than ordinary mail and “[i]f [a] carrier never receipts the taxpayer, owner, never talks to them, doesn’t get their signature, doesn’t identify them, and then signs a name and a number that is not due process.”

In re 2020 Madison County Tax Sale, 200 N.E.3d 929, 930-32 (Ind. Ct. App. 2022), *transfer granted*, opinion vacated *sub nom. Crowe v. Savvy IN, LLC*, 208 N.E.3d 1246 (Ind. 2023), 218 N.E.3d 1274 (Ind. 2023), *reh’g denied* (Jan. 11, 2024).

* * *

USPS issued a “COVID-19 Continuity of Operations Update” in March, 2020 providing:

A number of cases of the Coronavirus Disease 2019 (COVID-19) have recently been confirmed across the country.

The safety and well-being of our employees & customers is our highest priority. To help ensure the health of our employees & customers, we are continuing to follow recommended guidance and strategies from the Centers for Disease Control and Prevention (CDC) and local health departments, and are implementing additional measures to help maintain social distancing.

One significant measure being implemented is a temporary modification to mail handling procedures for mail that requires customer signatures. * * * To reduce health risks, we are temporarily modifying customer signature capture procedures. Effective immediately and until further notice, our employees will follow the temporary process below for signature service items. This process applies to all letter carriers:

- Avoid ringing the doorbell when possible. Knock on the customer’s door. Avoid areas that may be frequently touched when knocking.
- While maintaining a safe, appropriate distance, employees will request the customer’s first initial and last name.

* * *

Here, the Crowes presented testimony that they did not receive notice regarding their right to redeem the property following the 2020 tax sale or Savvy's request for tax deeds and that their signatures did not appear on the certified mail receipts. They further testified that no mail carrier knocked on their door in 2020 or 2021 or identified them as recipients of the return receipt requested mail. We note that the return receipts do not contain the first initial and last name of Dr. Crowe or Lynn and that there was no notation whatsoever relating that a specific individual received the notices. Thus, it appears that USPS protocol, requiring that the postal carrier ask the addressee's first initial and last name to confirm receipt by the proper recipient, was not followed. The Crowes also testified that they had not received certain mail at their home during the prior two years, they would have redeemed the property if they had received the notices as they had done previously, and they were not expecting any notices because they believed the taxes had been paid and made current when Lynn visited the Auditor and they did not receive any property tax statements. We also note Dr. Crowe's testimony that the property, which was their residence since 1998, had a fair market value of approximately \$2.1 million and the only debt was a home equity loan of approximately \$66,000, and the tax sale certificates indicate the parcels sold for \$1.7 million less at \$394,994.

The Court of Appeals reasoned

Ind. Code § 6-1.1-25-4.5 provides that a purchaser is entitled to a tax deed only if the

purchaser gives notice of the sale to the owner of record at the time of the sale and any person with a substantial property interest of public record in the real property. The notice must be sent “by certified mail, return receipt requested,” to the property owner at the owner’s last address as indicated in the records of the county auditor. Ind. Code § 6-1.1-25-4.5. “Certified mail” is generally defined as “Mail for which the sender requests proof of delivery in the form of a receipt signed by the addressee” and “The receipt (a green card, which is usu. referred to as such) must be signed before the mail will be delivered. — Also termed *certified mail, return receipt requested.*” Black’s Law Dictionary 1096 (10th ed. 2014). Ind. Code § 6-1.1-25-4.6 provides that a purchaser shall file a petition with the trial court requesting the court to direct the county auditor to issue a tax deed if the property was not redeemed from the sale and that notice of the filing of the petition shall be given to the same parties as provided in Ind. Code § 6-1.1-25-4.5. A person may, upon appeal, defeat the title conveyed by a tax deed if the notices required by Ind. Code §§ 6-1.1-25-4.5 and -4.6 were not in substantial compliance with the manner prescribed in those sections. Ind. Code § 6-1.1-25-16. Further, to comply with due process, while actual notice is not required, a purchaser must provide notice which is reasonably calculated under all the circumstances to inform the interested parties of the pendency of the action and afford them an opportunity to present any objections. *See Ind.*

Land Tr. Co. v. XL Invest. Props., LLC, 155 N.E.3d 1177, 1184 (Ind. 2020); *S&C Fin. Grp., LLC v. Khan*, 172 N.E.3d 280, 288 (Ind. Ct. App. 2021), *reh'g denied trans. denied.*, *See also Tax Certificate Invs., Inc. v. Smethers*, 714 N.E.2d 131, 134 (Ind. 1999) (“Notice is constitutionally adequate when ‘the practicalities and peculiarities of the case ... are reasonably met.’”) (citing *Mullane v. Central Hanover Bank & Trust Co.*, 339 U.S. 306, 314-315, 70 S. Ct. 652, 94 L.Ed. 865 (1950)).

Id., 933.

Upon the above reasoning, the Court of Appeals reversed and remanded the case to the trial court, holding “equity and due process require that we reverse the denial of the Crowes’ motion for relief from judgment and remand to provide them with thirty days to redeem the parcels.” *Id.*, *In re 2020 Madison County Tax Sale*, 200 N.E.3d 929, 935.

On the same evidentiary record, the Indiana Supreme Court took a different view of the facts and found Savvy’s notice letters met the minimum requirements of due process and the Indiana statutes, and on October 11, 2023, affirmed the trial court’s denial of the Crowes’ Indiana Trial Rule 60(B)(6) motion. The Crowes filed a petition for rehearing, which the Indiana Supreme Court denied on January 11, 2024.

That Court found

The return receipts do not appear to be signed by either of the Crowes. Savvy IN also mailed a

copy of notice to the Crowes via first-class United States mail. Neither the certified mail nor the first-class mail was returned to Savvy IN, and Savvy IN did not take further action to notify the Crowes.

In re 2020 Madison Cnty. Tax Sale, 218 N.E.3d 1274, 1275 (Ind. 2023), *reh'g denied* (Jan. 11, 2024).

* * * Savvy IN purchased the Properties at the tax sale. On February 10, 2021, as required by Indiana Code section 6-1.1-25-4.5(d), Savvy IN notified the Crowes by certified mail, return receipts requested, that their Properties had been purchased at the tax sale and they had until October 5, 2021, to redeem them. The certified mail receipts note the date of delivery occurred on “2-17” with “HVHR2C79” or “HVHR2C-19” in the signature line. The return receipts do not appear to be signed by either of the Crowes. Savvy IN also mailed a copy of notice to the Crowes via first-class United States mail. Neither the certified mail nor the first-class mail was returned to Savvy IN, and Savvy IN did not take further action to notify the Crowes.

October 5 came and went without redemption. Savvy IN petitioned the trial court under Indiana Code section 6-1.1-25-4.6 to direct the county auditor to issue tax deeds for the Properties and mailed notice of the verified petition to the Crowes via certified mail, return receipt requested and a copy of the notice via first-class mail. The certified mail receipt states

the notice letter was delivered on “12-13-[indecipherable year],” with lines drawn through the signatory’s name and the signature line accompanied by an indecipherable signature. The return receipts do not appear to be signed by either of the Crowes. Neither the certified mail nor the first-class mail was returned to Savvy IN, and Savvy IN did not take further action to notify the Crowes. The Crowes did not object to the petition within thirty days, so the trial court granted Savvy IN’s petition, and the county auditor issued the tax deeds not long after that.

Id., 1276–77 (Ind. 2023), *reh’g denied* (Jan. 11, 2024).

Here, Savvy IN argues that it provided sufficient notice, and that the appellate opinion below departs from both this Court’s decision in *Indiana Land Trust Company v. XL Investment Properties, LLC*, 155 N.E.3d 1177 (Ind. 2020), and the United States Supreme Court’s decision in *Jones v. Flowers*, 547 U.S. 220, 126 S.Ct. 1708, 164 L.Ed.2d 415 (2006). We agree and find Savvy IN complied with federal due process and state statutory requirements and thus affirm the trial court’s denial of the Crowes’ Trial Rule 60(B)(6) motion.

In re 2020 Madison Cnty. Tax Sale, 218 N.E.3d 1274, 1277–78 (Ind. 2023), *reh’g denied* (Jan. 11, 2024).

On November 30, 2022, the Court of Appeals in its published opinion stated “Under these circumstances, equity and due process require that we reverse the

denial of the Crowes' motion for relief from judgment and remand to provide them with thirty days to redeem the parcels." *In re 2020 Madison Cnty. Tax Sale*, 200 N.E.3d 929, 935 (Ind. Ct. App. 2022), *transfer granted*, opinion vacated *sub nom. Crowe v. Savvy IN, LLC*, 208 N.E.3d 1246 (Ind. 2023), 218 N.E.3d 1274 (Ind. 2023), *reh'g denied* (Jan. 11, 2024) Nowhere in the lower court's opinion is it stated that the reversal was based upon equity alone or upon the Crowes' not receiving actual notice.

The Court of Appeals observed the mail carriers failed to follow the temporary altered signature protocol of the United States Postal Service, established in response to the worldwide COVID-19 pandemic, which denied the Crowes due process. SAVVY presented no evidence in the trial court that the mail carriers had complied with the altered protocol for signature accountable mail.

The Indiana Supreme Court described the decision of the Indiana Court of Appeals:

The trial court denied the Crowes' motion on April 22, 2022, and the Crowes appealed. In a published opinion, the Court of Appeals acknowledged the importance of notice, but declined to engage in an actual due process analysis applicable to the Crowes' claims. Instead, the panel reversed on equitable grounds affording the Crowes an extra thirty days to redeem their Properties. *In re 2020 Madison*

Cnty. Tax Sale, 200 N.E.3d 929, 935 (Ind. Ct. App. 2022).

In re 2020 Madison Cnty. Tax Sale, 218 N.E.3d 1274, 1277 (Ind. 2023), reh'g denied (Jan. 11, 2024).

The evidentiary record contains documents in which Savvy states under oath that the first class notice envelopes were returned, as well as the testimony of the Crowes in the trial court that no mail carrier brought such mail to them or complied with any of the USPS altered signature accountable mail protocol.

The Indiana Supreme Court's determination that the first class mail notices were not returned to Savvy turned the instant case into an entirely different case which invoked case law where notices were not returned. That mistaken factual determination resulted in the Indiana Supreme Court's determination that due process occurred according to *Indiana Land Trust Co. v. XL Investment Properties, LLC*, 155 N.E.3d 1177 (Ind. 2020) and *Jones*, 547 U.S. 220 (2006). There is, however, no evidence in the record that they were not returned, only repeated statements of counsel in briefs and argument, all of which belie the contradictory statements of Savvy's attorney Vivek Vinod Gupta under oath that they were returned. Verified Petition for Order Directing Auditor to Issue Tax Deed, paragraph 6(a) App. 60; Supplement to Verified Petition For Order Directing Auditor to Issue Tax Deed, paragraph 4. App. 66.

Savvy stated repeatedly without citation to the record that it sent notices to the Crowes by ordinary first class mail and that those notices were not

returned to Savvy. Savvy offered no evidence in the trial court to prove that the first class 4.5 and 4.6 first class notice mailings were not returned to the sender.

SAVVY did, however, file two verified statements to the contrary in the trial court. Not once, but twice, Savvy, through its counsel Vivek Vinod Gupta, stated under oath in writing the first class mail notices were returned. The first statement concerned the 4.5 notice: “A copy of the said notice of the tax sale, the certified mail return receipts and returned envelopes are attached to this petition. (Exhibit-B)”. Verified Petition for Order Directing Auditor to Issue Tax Deed, paragraph 6(a) App. 60. The second statement concerned the 4.6 notice: “Copies of the Notice of Filing of Verified Petition for Order Directing the Auditor to Issue Tax Deed, the certified mail return receipts and all returned envelopes are attached to this application.” Supplement to Verified Petition For Order Directing Auditor to Issue Tax Deed, paragraph 4. App. 66.

In both the verified petition and the verified supplement, Savvy attached the returned first class notices. App. 45-48.

Without admissible evidence in the record that any first class mailings were unreturned, Savvy’s claim that its “unreturned first-class notices singlehandedly satisfied its noticing obligations” fails, and the Indiana Supreme Court’s agreement with Savvy on that issue is in error.

The only other evidence in the record came from the Crowes, who openly possessed their residence, and who both testified no mail carrier appeared at the door of

their residence to leave certified mail, and that they did not receive any first class notice mailings. *In re 2020 Madison County Tax Sale*, 200 N.E.3d 929, 934 (Ind. Ct. App. 2022).

REASONS FOR GRANTING THE PETITION

I. The Decision of the Indiana Supreme Court is in Error.

The question presented is whether, during the COVID-19 pandemic under the United States Postal Service's altered signature accountable mail policy to accommodate health concerns, when the return mail receipt is returned to the tax sale purchaser with only notations by a mail carrier and/or a line through the signature block, the mail carriers failed to follow the altered signature protocol, and follow-up first class notices were returned, does due process require the tax sale purchaser to make additional efforts to notify the owner before the state can issue a tax deed?

This Court evaluated the adequacy of notice prior to the State extinguishing a property owner's private interest in a home. *Jones*, 547 U.S. 220, 229, 126 S. Ct. 1708, 1715–16, 164 L. Ed. 2d 415 (2006). If the Indiana Supreme Court had correctly determined the first class mailings were not returned to Savvy, the result would be different.

[T]o comply with due process, while actual notice is not required, a purchaser must provide notice which is reasonably calculated under all the circumstances to inform the interested parties of the pendency of the action and afford them an opportunity to present any objections.

See Ind. Land Tr. Co. v. XL Invest. Props., LLC, 155 N.E.3d 1177, 1184 (Ind. 2020); *S&C Fin. Grp., LLC v. Khan*, 172 N.E.3d 280, 288 (Ind. Ct. App. 2021), *reh'g denied, trans. denied*. *See also Tax Certificate Invs., Inc. v. Smethers*, 714 N.E.2d 131, 134 (Ind. 1999) (“Notice is constitutionally adequate when ‘the practicalities and peculiarities of the case . . . are reasonably met.’”) (*citing Mullane v. Central Hanover Bank & Trust Co.*, 339 U.S. 306, 314-315, 70 S. Ct. 652 (1950)).

In re 2020 Madison Cnty. Tax Sale, 200 N.E.3d 929, 933 (Ind. Ct. App. 2022), *transfer granted*, opinion vacated *sub nom. Crowe v. Savvy IN, LLC*, 208 N.E.3d 1246 (Ind. 2023), and vacated, 218 N.E.3d 1274 (Ind. 2023) (*Emphasis added*)

On the same record the Indiana Court of Appeals reviewed, the Indiana Supreme Court concluded “Savvy IN’s mailed notices satisfied the constitutional and statutory requirements, and it is thus entitled to the tax deeds issued by the trial court. The trial court is affirmed.” *In re 2020 Madison County Tax Sale*, 218 N.E.3d 1274, 1281-82 (Ind. 2023). The Indiana Supreme Court should not have ignored the two sworn statements of the tax sale purchaser that the first class notices were returned. Those written statements have legal significance, which the Indiana Supreme Court refused to acknowledge.

The Fourteenth Amendment to the United States Constitution prohibits “any State” from “depriv[ing] any person of life, liberty, or property, without due process of law.” U.S. Const. amend. XIV, § 1.

“Before a State may take property and sell it for unpaid taxes, the Due Process Clause of the Fourteenth Amendment requires the government to provide the owner “notice and opportunity for hearing appropriate to the nature of the case.” *Mullane v. Central Hanover Bank & Trust Co.*, 339 U.S. 306, 313, 70 S.Ct. 652, 94 L.Ed. 865 (1950).” *Jones v. Flowers*, 547 U.S. 220, 223, 126 S. Ct. 1708, 1712, 164 L. Ed. 2d 415 (2006).

Paradoxically, before citizens may lose ownership of their homesteads in tax sales

[d]ue process does not require that a property owner receive actual notice before the government may take his property. *Dusenberry v. United States*, 534 U.S. 161, 170, 122 S. Ct. 694, 151 L. Ed. 2d 597 (2002)] Rather, we have stated that due process requires the government to provide “notice reasonably calculated, under all the circumstances, to apprise interested parties of the pendency of the action and afford them an opportunity to present their objections.” *Mullane*, 339 U.S., at 314, 70 S.Ct. 652.

Jones, 547 U.S. 220, 226, 126 S. Ct. 1708, 1713–14, 164 L. Ed. 2d 415 (2006).

The question before this Court is whether under the unique circumstances of the pandemic in this case the notice was reasonably calculated to apprise the Crowes of the pendency of the tax sale in which they lost their home and to afford them an opportunity to present their objections. *Id.* The Crowes’ property rights in their home were constitutionally protected and could not be wiped out “without due process of law.”

Laws on enforcement of property tax liens are not uniform. *See generally* Frank S. Alexander, *Tax Liens, Tax Sales, and Due Process*, 75 Ind. L.J. 747, 792 (2000). There is a “wide variance” between the courts in interpreting duties when tax sale notices are issued by certified mail. *Id.*

The *Jones* Court held when a mailed notice of a tax sale is returned unclaimed, as a matter of due process, additional reasonable steps must be taken to attempt to provide notice to property owners before selling their property. Such steps the State of Arkansas took after learning notice had not been delivered, after publishing a notice in a newspaper, without posting notice at the address to which notice was sent or taking other measures reasonably available to alert taxpayer of sale, were insufficient to satisfy the taxpayer’s Fourteenth Amendment due process rights. *Id.*

When the tax sale purchaser Savvy received the mail receipts during the COVID-19 pandemic showing someone other than the homestead owner Crowes, or no one at all, signed for the mail, Savvy was put on notice that the certified mail notices more likely than not were not delivered to the Crowes. That invoked the due process requirements laid out in *Jones* obligating Savvy to take additional steps to ensure the Crowes received its notices, such as sending them again using a commercial carrier such as FedEx or UPS, publishing notice in a newspaper, or posting notice on the property. The returned mail receipts in the instant case imposed a duty upon Savvy to make further investigation of whether the Crowes received its notices in order to comply with due process. “The Courts of

Appeals and State Supreme Courts have addressed this question on frequent occasions, and most have decided that when the government learns its attempt at notice has failed, due process requires the government to do something more before real property may be sold in a tax sale. *Jones*, 547 U.S. 220, 227, 126 S. Ct. 1708, 1714, 164 L. Ed. 2d 415 (2006), *citing Plemons v. Gale*, 396 F.3d 569, 576 (C.A.4 2005).

The tax sale purchaser Savvy was under the same duty when it received back COVID-19 mail receipts marked “HVHR2C79” or “HVHR2C-19”, or with a line through the signature block, putting it on notice that its certified mail notices were not received by the landowner Crowes.

This is especially so where Savvy sent first class mail notices simultaneously with its certified mail notices, and could not have discovered the ineffective COVID-19 receipts until after sending the first class notices. Moreover, Savvy admitted the first class mail notices were returned when Savvy filed with the trial court its verified petition for a tax deed, and its verified supplement, stating under oath in both that “the certified mail return receipts and all returned envelopes are attached...” and attaching the returned first class notices. *Id.*

[W]hen notice is a person’s due ... [t]he means employed must be such as one desirous of actually informing the absentee might reasonably adopt to accomplish it,” 339 U.S., at 315, 70 S.Ct. 652, and that assessing the adequacy of a particular form of notice requires balancing the “interest of the State” against “the

individual interest sought to be protected by the Fourteenth Amendment," *id.*, at 314, 70 S.Ct. 652.

Jones, at 229. The interest in this case is a matter of utmost importance. It deserves the highest scrutiny because it is the constitutional right of the Crowes to hold a private property interest in their home of thirty (30) years free from government interference such as losing it in a tax sale without due process.

[W]hen notice is a person's due, process which is a mere gesture is not due process. The means employed must be such as one desirous of actually informing the absentee might reasonably adopt to accomplish it. The reasonableness and hence the constitutional validity of any chosen method may be defended on the ground that it is in itself reasonably certain to inform those affected, compare [citations omitted] or, where conditions do not reasonably permit such notice, that the form chosen is not substantially less likely to bring home notice than other of the feasible and customary substitutes.

Mullane v. Central Hanover Bank & Trust Co, 339 U.S. 306, 315, 70 S.Ct. 652, 657, 94 L.Ed. 865 (1950).

This Court in *Jones* emphasized that actual notice is not required before the government may take property, *id.* at 226, 126 S.Ct. 1708, but held that when the State learned that its attempted notice was unsuccessful, it "should have taken additional reasonable steps to notify [the owner], if practicable to

do so,” *id.* at 234, 126 S.Ct. 1708, particularly given “such an important and irreversible prospect as the loss of a house.” *Id.* at 230, 126 S.Ct. 1708.

The Court emphasized that actual notice is not required before the government may take property, *id.* at 226, 126 S.Ct. 1708, but held that when the State learned that its attempted notice was unsuccessful, it “should have taken additional reasonable steps to notify [the owner], if practicable to do so,” *id.* at 234, 126 S.Ct. 1708, particularly given “such an important and irreversible prospect as the loss of a house.” *Id.* at 230, 126 S.Ct. 1708.

Pagonis v. United States, 575 F.3d 809, 814 (8th Cir. 2009).

This is especially true when, as here, the subject matter of the notice letter concerns such an important and irreversible prospect as the loss of a house. Although the State may have made a reasonable calculation of how to reach Jones, it had good reason to suspect when the notice was returned that Jones was “no better off than if the notice had never been sent.” *Malone v. Robinson*, 614 A.2d 33, 37 (D.C.1992)] Deciding to take no further action is not what someone “desirous of actually informing” Jones would do; such a person would take further reasonable steps if any were available.

Jones, 547 U.S. 220, 230, 126 S. Ct. 1708, 1716, 164 L. Ed. 2d 415 (2006).

This Court opined in *Jones* “[w]e do not think that a person who actually desired to inform a real property owner of an impending tax sale of a house he owns would do nothing when a certified letter sent to the owner is returned unclaimed. *Jones*, at 229. By the same rationale a tax sale purchaser who received back the COVID-19 receipts Savvy did should have done more than nothing to take additional steps to notify the landowners if Savvy “actually desired to inform a real property owner of an impending tax sale of a house he owns....” *Id.*

II. The Decision of the Indiana Supreme Court Conflicts with Other States’ Decisions on a Recurring Question of National Importance.

Several courts throughout the country have addressed the issue of whether a “C-19” notation on the return receipt establishes proof of service.

The Court of Appeals of Ohio in *CUC Props. VI, LLC v. Smartlink Ventures, Inc.*, 178 N.E.3d 556 (Ohio Ct. App. 2021), and an Intermediate Appellate court in Pennsylvania (*Williams v. Cnty. of Monroe*, 303 A.3d 1098 (Pa. Commw. Ct. 2023), reargument denied (Oct. 16, 2023)), agree that the United States Constitution requires further reasonable efforts when COVID-19 mail receipts are returned without the signatures of the addressees. Those states in those cases ruled the COVID-19 return mail notices do not provide due process and reversed lower court rulings that found them sufficient. They concluded that due process was not served, when a COVID-19 certified return mail receipt was returned signed by the USPS mail carriers

without the addressees' signatures, and set aside judgments derived from such service.

In *CUC, supra*, the Court of Appeals of Ohio vacated a default judgment, holding

When plaintiff-appellee CUC Properties attempted to serve defendant-appellant Smartlink Ventures with a summons and complaint via certified mail during the pandemic, the mail carrier failed to obtain a signature from the recipient. Instead, the postal employee jotted down "Covid 19" and "C19" on the return receipt. At issue is whether such a notation constitutes a valid signature to effectuate certified mail service under Civ.R. 4.1. We conclude that it does not on the record before us. Because we find deficiency in service of process, we vacate the trial court's entry of default judgment for a lack of personal jurisdiction.

CUC, supra, at 558.

The *CUC* court noted

[T]he mail carriers handwrote "Covid 19" and "C19" on the respective signature lines, in contravention of the United States Postal Service ("USPS") guidelines put in place for the exigent circumstances created by the Covid-19 pandemic.

* * *

When the carriers in this case marked “Covid 19” or “C19” on the return receipt, they assumed the role of both the deliverer and the recipient. By extension, the mail carrier is the only person we can say with certainty knew the certified mail even existed.

CUC, supra, at 560.

In *Finnell v. Eppens*⁴, the district court disagreed with the magistrate’s determination that “Covid 19” satisfied service because it was unconvinced that Ohio law permitted the change to the signature requirement at issue here (although it stopped short of definitely deciding the question). See *Finnell* at 6 (“The Court is unable to locate any specific Ohio law implementing a modification to the signature requirement based on COVID-19. Thus, while ‘any person’ may be broad, the Court cannot be confident that it would extend to a mail carrier’s signature.”). While “any person” represents a broad concept, the *Finnell* court explained that “it may be that this broad scope extends only to others residing (or working) at the indicated address, and not necessarily to mail carriers who deliver the materials to the address—COVID-19 pandemic notwithstanding.” *Id.* at 5, citing

⁴ *Finnell v. Eppens*, S.D.Ohio No. 1:20-CV-337, 2021 WL 2280656, *2 (June 4, 2021) (noting that the USPS “adopted a signature policy for certified mail in response to the COVID-19 pandemic,” which “instructed its delivery personnel to ensure that someone was at the address to receive the letter, to ask that person for their name, and to then leave the letter where the person could get it”).

Indian Creek Condominium Property Owners Assn. v. Team Equity, 2d Dist. Montgomery No. 28369, 2019-Ohio-4876, 2019 WL 6341040, ¶ 27 (“Valid service of process is presumed when the envelope is received by any person at the defendant’s residence; the recipient need not be the defendant or an agent of the defendant.”) (Internal quotations omitted.); see also *Dumphord v. Gabriel*, E.D.Ky. No. 5:20-461-DCR, 2021 WL 3572658, * 2 (Aug. 12, 2021) (“[Plaintiff] has offered no argument or evidence that a certified mail return receipt that simply states ‘Covid-19’ constitutes proper service. * * * Without more, the Court cannot rely on the certified mail return receipt to conclude that [defendant] was properly served via certified mail.”). Allowing the mail carrier to unilaterally substitute himself as an agent of the intended recipient frustrates the very purpose of Civ.R. 4.1’s accepted methods of service. The reason the signature provision exists is to substantiate that someone actually received the summons and complaint—and the notations in this case fail to offer that assurance.

Nor can CUC look to the USPS decree in order to salvage service here. Compliance with USPS instructions called for the mail carrier to write the recipient’s first initial and last name on the receipt. CUC insists the mail carrier followed USPS procedures because the return receipt “notes the initials of the individual that received delivery.” But this is inaccurate because the only notations appearing on the return

receipts were “Covid 19” and “C19” (both referencing the pandemic, rather than a person), and the cryptic reference “Rt 12”—which might reference a carrier’s route but not anyone’s name. We are not faced with a circumstance where the postal employee adhered to USPS instructions, and thus we have no occasion to consider how such facts might impact our analysis. In this scenario, the return receipt lacked the requisite first initial and last name dictated by the USPS internal memorandum. As a result, that guidance has no bearing on our analysis.

* * *

The judgment of the trial court granting CUC’s motion for default judgment is reversed, the default judgment is vacated, and the cause is remanded for further proceedings consistent with this opinion.

CUC, supra at 560–62.

In an Ohio federal case, United States District Judge Benita Y. Pearson, in *Killing v. Craft Auto. Repair, LLC*, No. 4:21CV0507, 2023 WL 5487053 (N.D. Ohio Aug. 23, 2023) observed

that despite the difficulties of the COVID-19 pandemic, “Covid 19” or “C19” does not constitute a valid signature in a county that did not waive in-person service during COVID and in a case in which “the record contains no indication that service was otherwise validly achieved”) during COVID and in a case in which

“the record contains no indication that service was otherwise validly achieved.”)

Killing v. Craft Auto. Repair, LLC, No. 4:21CV0507, 2023 WL 5487053, at 8 (N.D. Ohio Aug. 23, 2023).

In a tax sale case with facts very similar to the Crowes’ Indiana cases, The Commonwealth Court of Pennsylvania held in *Williams v. Cnty. of Monroe*, 303 A.3d 1098, 1103–04 (Pa. Commw. Ct. 2023), reargument denied (Oct. 16, 2023), that a printed name on the signature line and a “Covid 19 RT 41” notation in the “received by” space on a certified mail receipt did not satisfy the county tax claim bureau’s certified mail notice obligations for the tax sale of property.

The return receipt in that case contained the recipient’s printed name in the signature block and “Covid 19 RT 41” in the “received by” space and the court held that “as insufficient proof of notice by certified mail.”

Here, the post office’s notation on the return receipt not only suggested a possible lack of personal delivery, but also pointed clearly to a common sense effort the Bureau could and should have made, *i.e.*, simply telephoning the post office in question to ask the meaning of the notation. This is particularly the case in light of mail delivery issues that occurred generally during the COVID-19 pandemic.

* * *

Id., slip op. at 6. * * * Having been reasonably alerted to the likelihood that service was not proper and

having failed to make any further inquiry or further mailing, the Bureau failed to comply with its statutory notice obligations under the Tax Sale Law.

For these reasons, we conclude that the Bureau erred in relying on the return receipt, and the trial court erred as a matter of law by upholding the validity of the tax sale. Accordingly, we reverse the trial court's order denying Williams's objections to the tax sale and her petition to set the tax sale aside.

Williams, supra, at 303 A.3d 1098, 1103–04.

In addition to the tax sale context, the question presented in this case frequently arises in decisions to set aside civil default judgments, and forfeiture cases in which courts must decide whether due process requires the federal government, upon return of mailed notice of forfeiture, to take further steps to locate an interest-holder.

The question presented has national importance. The conflict among the courts must be resolved. In the tax sale context alone, the consequences of the conflict are extraordinary in degree. Because property taxes are the primary source of revenues controlled by county and municipal governments, “[t]he lack of clarity about the constitutional requirements applicable to property tax procedures deeply affects the social and financial stability of a local government.” Alexander, *supra*, at 751.

Without this Court's intervention, those involved in tax sale proceedings at the state and federal levels, as well as the private contractors who administer the tax

sale proceedings, purchasers of delinquent property charged with notice under state law, and property owners, are all faced with significant confusion about what due process requires when a mailed notice is returned. “The lack of common interpretation leaves the procedures in a large number of jurisdictions subject to constitutional challenge. It also leads to dramatic inefficiencies in the collection of taxes [and] inconsistent rules and standards, and impairs the ability of local governments and property owners alike to anticipate enforcement of the obligation to pay property taxes.” *Id.* at 750.

The harm to individuals and businesses caused by the confusion among the courts is at least as great as it is to local governments. This is particularly so where, as here, the sale or forfeiture concerns someone’s home. As the Court has explained, cases in which the government seeks to sell a person’s residence illustrate an essential principle: “Individual freedom finds tangible expression in property rights. At stake in this and many other forfeiture cases are the security and privacy of the home and those who take shelter within it.” *United States v. James Daniel Good Real Property*, 510 U.S. 43, 61 (1993). If the conflict among the courts is allowed to stand, property owners in one state or federal circuit may lose their homes where identically situated citizens in another state or circuit would not.

Certiorari is also warranted because the decision below is wrong. It held that when return mail receipts for notices of a tax sale are returned with only the signatures of mail carriers and or lined through signature blocks, and where the tax sale purchaser

states under oath that its first class mail notices were returned, that the tax sale purchaser is not obligated to attempt further to notify the landowners by other means. That holding is contrary to this Court's precedent requiring notice that is "reasonably calculated, under all the circumstances, to apprise interested parties of the pendency of the action and afford them an opportunity to present their objection." *Mullane v. Central Hanover Bank & Trust Co.*, 339 U.S. 306, 314 (1950). As this Court explained, "when notice is a person's due, process which is a mere gesture is not due process. The means employed must be such as one desirous of actually informing the absentee might reasonably adopt to accomplish it." *Id.* at 315.

Under the *Mullane* standard, "impracticable and extended searches are not required in the name of due process," but "within the limits of practicability notice must be such as is reasonably calculated to reach interested parties." *Id.* at 317-18. In this case, Savvy could easily have resent notices to the Crowes by FedEx, UPS, published notice in the newspaper, or have posted notice on their property. Under *Mullane*, Savvy was required to take additional reasonable steps to notify the Crowes of the tax sale after Savvy received back the COVID-19 notices. Savvy did not take any steps following that receipt.

During the COVID-19 pandemic, Savvy had a heightened obligation to take reasonable steps to notify the Crowes because once the COVID-19 receipts were received by Savvy, it knew or should have known that its initial attempt to notify the Crowes had been

ineffective. The *Mullane* standard for due process compels at least some further effort to determine the Crowes received Savvy's tax sale notices.

This Court should resolve a conflict among the Indiana Supreme Court and other state appellate courts concerning whether the Due Process Clause requires the tax sale purchaser to take additional reasonable steps to notify a property owner when notice of a tax sale COVID-19 receipt is returned without the addresses' signatures to confirm delivery, and the mail carriers failed to follow the protocol of the USPS's altered signature policy. *Jones*, 547 U.S. 220, 225, 126 S. Ct. 1708, 1713, 164 L. Ed. 2d 415 (2006).

CONCLUSION

The Petition for Writ of Certiorari should be granted and the decision of the Indiana Supreme Court reversed.

Respectfully submitted,

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