

No. 23-

IN THE
Supreme Court of the United States

APRIL D. GALLOP,

Petitioner,

v.

CAMERON BAY HOMEOWNERS ASSOCIATION,

Respondent.

**ON PETITION FOR A WRIT OF CERTIORARI
TO THE VIRGINIA COURT OF APPEALS**

PETITION FOR A WRIT OF CERTIORARI

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SUPREME COURT, U.S.

The Petitioner argues that the Virginia state courts err in dismissing motions to rectify void judgments in debt disputes arising from allegedly illusory contracts, violating due process rights under the Fourteenth Amendment. This conflict stems from disputes between homeowner associations and property owners, raising broader concerns about legal jurisdiction and individual rights protection. Citing legal precedent like *United Student Aid Funds, Inc. v. Espinosa* (2010), the Petitioner advocates for equitable proceedings and annulment of judgments beyond the court's jurisdiction. This case highlights concerns about judicial consistency amid jurisdictional complexities, emphasizing the importance of balancing procedural rectitude with safeguarding individual rights under constitutional principles.

QUESTIONS PRESENTED:

1. Can a state court constitutionally deny a Motion to Set Aside/Vacate a judgment acquired through fraud and a court lacking subject matter jurisdiction, potentially violating the due process protections enshrined in the 14th Amendment?
2. *United Student Aid Funds, Inc. v. Espinosa*, 559 US 260 (2010) defines void judgment as a legal nullity and void judgment so affected by a fundamental infirmity that the infirmity may be raised even after the judgment becomes final. Are the lower court, the court of appeal, and the Supreme Court of Virginia violating due process rights under the 14th Amendment by failing to vacate void judgments?
3. To what extent, if any, does the denial of a Motion to vacate a void judgment issued outside the

jurisdiction by state courts constitute a violation of 14th Amendment Due Process protection.

4. Is there a discernible and inconsistent disagreement among lower courts regarding the interpretation of crucial legal issues concerning the court's jurisdiction when setting aside fraudulent and voided orders?

PARTIES TO THE PROCEEDING

Petitioner April D. Gallop was the Defendant in the Virginia trial court proceedings and the Appellant in the court of appeals proceedings. Respondent Cameron Bay Homeowners Association was the Plaintiff in the Virginia trial court proceedings and Appellee in the court of appeals proceedings.

RELATED CASE

- Cameron Bay Homeowners Association v. April D. Gallop, Case No: GV21014663-00, and GV21014663-01 Chesterfield County General District Court. Judgments entered on January 26, 2022 and March 30, 2022.
- Cameron Bay Homeowners Association v. April D. Gallop, Case No: CL22-1385, Chesterfield County Circuit Court. Judgement entered October 25, 2022.
- April D. Gallop v. Cameron Bay Homeowners Association, Record No. 1715-22-2, Virginia Court of Appeals. Opinion entered June 6, 2023.
- April D. Gallop v. Cameron Bay Homeowners Association, Record No. 230153 (Court of Appeals Record No. 1715-22-2), Virginia Supreme Court. Judgments entered Oct. 26th, 2023, and Jan. 30, 2024

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PETITION FOR A WRIT OF CERTIORARI

April D. Gallop petitions for a writ of certiorari to review the judgments of the Virginia Court of Appeals and the Virginia Supreme Court in this case.

OPINIONS BELOW

The decision by the Virginia Court of Appeals denying the Petitioners direct appeal is reported as April D. Gallop v. Cameron Bay Homeowners Association, Record No. 1715-22-2 Unpublished Memorandum Opinion per Curiam (App. 1a June 6, 2023). The Virginia Supreme Court dismissed the Petitioners' petition for appeal on October 26th, 2023. That order is attached in appendix (App. 12a).

JURISDICTION

The Petitioner filed a timely petition for rehearing, which was subsequently denied on January 30th, 2024, by the Virginia Supreme Court (see App. 14a). The Petitioner is invoking this Court's jurisdiction under 28 U.S.C. § 1257(a), as she has timely filed a petition for a writ of certiorari within ninety days of the Virginia Supreme Court's judgment.

CONSTITUTIONAL PROVISIONS INVOLVED

United States Constitution, Amendment XIV:

All persons born or naturalized in the United States and subject to the Jurisdiction thereof are citizens of the United States and 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.

INTRODUCTION AND STATEMENT OF THE CASE

Petitioner April D. Gallop seeks a writ of certiorari to review judgments rendered by the Virginia Court of Appeals and the Virginia Supreme Court in April D. Gallop v. Cameron Bay Homeowners Association. These judgments, originating in the lower courts of Virginia and affirmed by the state's appellate courts, present a legal issue of national significance and widespread application. The Petitioner's case stems from the initial decision of the Chesterfield County General District Court, which granted the Respondent a debt that does not lawfully exist in the Declarations of Covenants and Restrictions (the contract) of the Cameron Bay Homeowners Association. The law of restrictive covenants is governed by contract law. The contractual relationship established between the corporation and its members may not be impaired by the exercise of corporate powers in derogation of the covenants (see Bauer v. Harn 286 S.E. 2d 192 (1982)). Despite lacking subject matter jurisdiction, the general district court heard and determined the case in favor of the Respondent. It is worth noting that the file reflects that the attorney of record never provided proof that the debt was validated under the Fair Debt Collection Practices Act §§ 1692-1692p.

Additionally, the Court didn't have them file proof of validation. The Cameron Bay Homeowner's Association

was terminated on or around December 4th, 2003, and December 4th, 2013. The record will reflect the alleged Cameron Bay Homeowners Association never provided proper documentation for authentication to prove they were the real party of interest, that proper members meetings took place to vote for reinstatement with a quorum present, nor did the Chesterfield Courts have the Association submit proof of the same to the Court. The party seeking to enforce a restrictive covenant bears the burden of proving the extent and application of its restriction. This burden necessarily entails some proof that the process by which the alleged association adopted the restrictions was valid with quorum certification which can't be backdated. The case reflects there is no substantial evidence to support the judgement.

On or around 30th November 2021, the Respondent filed a warrant in debt in the Chesterfield General District Court against the Petitioner. The Petitioner later submitted a Motion to Dismiss. To the Petitioner's knowledge, the Respondent failed to file a responsive pleading. Courts can't confer jurisdiction where none exist and must prove with facts on the record. However, on or around 26th January 2022, the Chesterfield General District Court entered default on the Petitioner, despite the fact neither the Respondent nor the District Court provided the necessary statutory and constitutional support to establish the Trial Court's jurisdiction or provided any good faith communication regarding the granting or denial of Accommodations requested by the Petitioner. Even with a default judgement, claims and damages must be proved by authenticated evidence entered on the record. There was a failure to enter authenticated evidence on the records which also renders default judgements void.

The Petitioner then filed a Motion to Set Aside/Vacate on or around 3rd February 2022, which generated a new case number, GV21014663-01. The Chesterfield General District Court then wrongfully set a Motions hearing date without giving the Petitioner proper notice or any good faith communication of Accommodations. On the 30th of March 2022, the General District Court denied the motion to Set-aside/Vacate. The Petitioner filed a timely appeal to the Chesterfield County Circuit Court. On appeal the case was designated as CL22001385-00.

On or around 26th June 2022, the Respondent filed a Motion to Dismiss the appeal, claiming the Chesterfield Circuit Court lacked Subject matter Jurisdiction to hear the appeal. On or around 16th September 2022, the Petitioner filed an opposition to the Respondent's Motion to Dismiss. On or around 16th of September 2022, the Petitioner filed nine Subpoenas Deuces Tecum. On or around 26th of September 2022, the Respondent filed a motion to Quash the Subpoena Duces Tecum. On or around the 12th of October 2022, the Petitioner filed an opposition to the Motion to Quash. On or around 14th of October 2022, the Petitioner filed a Judicial Notice of Pro-se, a Motion for Continuance, and a Brief in Support of Appeal.

On the 25th of October 2022, the Chesterfield County Circuit Court issued its final Order granting Respondent's Motion to Dismiss on the grounds it lacked jurisdiction to hear the Motion to Set Aside/Vacate.

The Petitioner entered her objections to the Orders on the record, and thenAppealed the lower Court's ruling to the Virginia Court of Appeals. On June 6, 2023, the Virginia Court of Appeals issued an opinion dismissing the

appeals, affirming the lower court's decision and awarded the Respondent attorney's fees. On June 14th, 2023, the Petitioner gave her Notice of Appeal.

The Petitioner then timely filed a petition for appeal and a petition for rehearing, both of which were denied by the Virginia Supreme Court. These proceedings exemplify a series of legal challenges stemming from purported debts lacking legal foundation, inadequate procedural safeguards, and jurisdictional disputes, raising fundamental questions regarding due process rights under the Fourteenth Amendment.

REASONS FOR GRANTING CERTIORARI

I. The existence of the void judgment due to the lack of subject matter jurisdiction.

In scrutinizing the judgments rendered by the Virginia Court of Appeals and the Virginia Supreme Court in the case of April D. Gallop v. Cameron Bay Homeowners Association, it becomes apparent that a critical issue lies in the absence of subject matter jurisdiction. The Petitioner contends that both lower courts erred egregiously in assuming jurisdiction over the Respondent's claim, primarily due to the lack of a contractual relationship mandating membership dues or assessments, thus undermining the authority vested in the Declarations of Covenants and Restrictions.

Additionally, the Virginia POAA does not apply to this Association. The Virginia Supreme Court clarified in Dogwood Valley Citizens v. Raymond Shifflett 654 S.E.2d 894 (Va. 2008), that they rejected DVCA's argument that

the definition of “declaration” within the POAA included such instruments as articles of incorporation or bylaws filed in the appropriate land records. The court reiterated that the responsibility for maintenance of common areas and roads must be imposed on an association and that this duty cannot be voluntarily assumed.

A central aspect of the Petitioner’s argument revolves around the concept of void judgments, rooted in the foundational principle of subject matter jurisdiction. Despite acknowledgment by the Virginia Court of Appeals regarding the justiciability of void orders, a persistent misunderstanding prevails concerning the connection between the void order and the essential jurisdictional gap present in both the general district and circuit court decisions.

Furthermore, the precedent set forth in *Spokeo, Inc. v. Robins*, 578 U.S. 330 (2016), emphasizing the necessity for concrete injury under Article III of the U.S. Constitution, bolsters the Petitioner’s argument regarding the absence of standing and, consequently, subject matter jurisdiction. Throughout the litigation, the Petitioner diligently presented evidence demonstrating the Respondent’s lack of standing before the courts, substantiated by the absence of a legal or contractual relationship leading to any injurious consequences for the Respondent.

The indispensable requirement of constitutional standing, as delineated in *Lujan v. Defenders of Wildlife*, 504 U.S. 555 (1992), underscores the absence of any concrete, particularized, or imminent invasion of the Respondent’s legally protected interests, thereby negating the constitutional predicate for subject matter jurisdiction.

Additionally, the incompatibility of the Cameron Bay Homeowners Association with the Virginia Property Owners Association Act exacerbates the jurisdictional deficiency, rendering the ensuing judgments void *ab initio*.

Furthermore, improper reliance on the Association's bylaws to confer authority upon the Respondent contravenes established legal precepts and statutory provisions, such as the Nonstock Corporation Act (see Va. Code 13.1-823). This reliance invalidates the judgment and renders it legally unenforceable. The Petitioner contends that both the general district court and trial court lacked subject matter jurisdiction over the respondent's claim, making the resulting judgment void.

In considering *Morrison v. Bestler*, 239 Va. 166, 169–70 (1990), it is evident that subject matter jurisdiction is a fundamental requirement that cannot be waived or conferred by the parties. Furthermore, as emphasized in *Watson v. Commonwealth*, 298 Va. 197, 835 S.E.2d 906 (Va. 2019), the lack of subject matter jurisdiction can be raised at any time during the proceedings, even for the first time on appeal by the court *sua sponte*. This underscores the critical nature of subject matter jurisdiction in ensuring the integrity of judicial decisions.

Additionally, *Earley v. Landsidl*, 514 S.E.2d 153, 257 Va. 365 (1999) establishes that a court must have subject matter jurisdiction for its judgment to be enforceable. The failure to vacate a void judgment significantly prejudices the party affected, as highlighted in this case.

Moreover, the absence of any debt owed by the Petitioner to the Respondent further underscores the lack of subject matter jurisdiction in this case. As per

the Virginia Property Owners Association Act, only associations that impose a mandatory duty are subject to its provisions (VA Codes 55.1-1800-55.1-1836). Since the Cameron Bay Homeowners Association operates as a Nonstock Corporation, that doesn't seek pecuniary gain, voluntarily assuming its duties, it does not fall under the purview of this act (Anderson, et. al v. Lake Arrowhead Association Inc., 253 Va at 272, 483 S.E.2d at 213-14). Moreover, the Declarations of Covenants and Restrictions failed to designate common areas or impose an affirmative duty to maintain such areas, nor did they explicitly grant the power to fix, levy, assess, or impose membership dues or assessments. Consequently, the absence of any contractual obligation or debt between the parties further undermines the jurisdiction of the courts in this matter.

In summary, the Petitioner requests the Court to review the findings of the Virginia court on this matter and remand it for fresh determination based on subject matter jurisdiction, ensuring the equitable administration of justice. This intervention is vital to rectify the manifest errors of law and jurisdiction and afford the Petitioner the due process of law to which they are entitled, thereby upholding the integrity of the judicial system.

II. Violation of Due Process and Equal Protection Clause of the 14th Amendment: Failure to Vacate Void Judgment and Conflicting Opinions by the Virginia Court on Void Judgment Vacation.

The Petitioner contends that the decisions rendered by the Virginia state courts in this matter contravene her due process rights, as the judgments conflict with established legal principles regarding the setting aside of

void judgments. The lower courts and the Court of Appeals of Virginia failed to correctly interpret VA Code 8.01-428 (a) and (d) and relevant precedents, thereby disregarding instances of fraud contested by the Petitioner.

For example, the courts invoked Virginia Supreme Court Rule 1:1, which stipulates “All final judgments, orders, and decrees, irrespective of terms of court, remain under the control of the trial court and may be modified, vacated, or suspended for twenty-one days after the date of entry, and no longer.” However, they neglected to consider the exemption provided by VA Code 8.01-428 (a) and (d), which grants jurisdiction to set aside void orders within two years. This consistent application of void judgments violates the Petitioner’s equal protection under the law, as it contradicts both the Virginia Supreme Court’s and the US Supreme Court’s precedents, allowing void judgments acquired through fraud to be vacated at any time.

Moreover, the Court of Appeal of Virginia erred in law by refusing to vacate the void judgment issued by the Chesterfield County Lower Courts, a judgment obtained through collateral fraud and without proper subject matter jurisdiction. The absence of validation of the debt before filing with the court, as required by the Fair Debt Collection Practices Act, rendered the judgment void. Such judgments, acquired through fraudulent means and lacking subject matter jurisdiction, set a dangerous precedent for enforcement, as they have no legal force.

Furthermore, Rule 1:1 should not be considered a limitation on the court’s authority to vacate a void order. Any rule may be relaxed or dispensed with by the court if adherence to it would result in an injustice. Therefore,

the Virginia state court had jurisdiction to entertain any motion seeking to vacate a void judgment, as such judgments are subject to collateral attack and are unassailable.

This position finds support in legal precedent, including *Spokeo, Inc. v. Robins*, 578 U.S. 330 (2016), and other federal cases affirming the Petitioner's right to due process and the jurisdiction of courts to rectify judgments obtained through fraud and lacking proper subject matter jurisdiction.

The failure of the Virginia Supreme Court to grant a hearing to the Petitioner's petition was deeply misguided. Party seeking vacating void judgment is invoking the ministerial side of the court. The court is deprived of judicial discretion. The Court is duty-bound to rectify lower court decisions and provide clarity on the correct application of the law. By denying the Petitioner the opportunity to present her case, and by failing to establish legal precedent to address and correct the lower courts' misapplication of laws and precedents concerning setting aside void judgments, the Virginia Supreme Court has effectively prolonged the enforcement of the void judgment.

This failure represents a stark denial of the Petitioner's right to appeal, undermining the fundamental principle of the corrective process and necessitating states offer a mechanism for individuals to seek justice and remedy under the 14th Amendment. As elucidated in *Spokeo, Inc. v. Robins*, recognizing the critical importance of the right to appeal, denying this avenue for the Petitioner constitutes an infringement on her constitutional rights.

A void judgment is subject to collateral attack at any time as it lacks legal standing and should never be allowed to stand. If the judgment continues to be applied, it can cause a grave miscarriage of justice. Therefore, this means that a void judgment is so affected by a fundamental infirmity that the infirmity may be raised even after the judgment becomes final.

The state of Virginia appellate court decision ignored that the lower court's decision was procured through fraud by the opposing attorney, thereby prejudicing the Petitioner. The Virginia Court of Appeal and the Supreme Court of Virginia had the mandate and authority to guide the lower court against the wrong application of law by the lower court. Still, they failed to do so, an action that potentially set a wrong for misapplication of the law by other courts, thereby leading to a massive miscarriage of justice for the citizens.

It should be noted that subject matter jurisdiction is critical for the court to acquire the authority necessary to conduct its mandates, without which a court will issue a void judgment. Additionally, fraud vitiates everything.

The Virginia Courts, including the Supreme Court, Court of Appeals, and trial courts, have shown a significant division regarding the jurisdiction limitations and time constraints when considering motions to set aside or vacate void and addressing the conflicting opinions within the Virginia Supreme Court and between state and federal courts, it is imperative to highlight the case of *Ragan v. Woodcroft Village Apartments*, 255 Va. 322, 497 S.E.2d 740 (Va. 1998). This case has been invoked by the lower courts; however, it is substantially different in

the matter at hand. Ragan does not directly address the issue of void judgments acquired through fraud and the subsequent right to challenge them at any time.

Contrary to the misinterpretation of Ragan, numerous cases like *Pure Presbyterian Church of Washington v. Grace of God Presbyterian Church* 50, 817 S.E. 2d 547 affirm the principle that a void judgment can be attacked at anytime, anywhere, and in any form. Citing the precedent established in *Rook v. Rook*, 233 Va. 92, 95 (1987), these cases emphasize the inherent flaw in void judgments and the perpetual right to challenge them.

Furthermore, the appellate courts' misinterpretation of other existing case law, particularly in considering rulings to deny motions to set aside default judgments as not final and appealable orders, underscores the need for clarity and consistency in legal interpretation. This inconsistency not only creates confusion but also undermines the fundamental right to appeal and seek redress for injustices.

In recognizing the need for clarity and uniformity in legal principles, the US Supreme Court has a duty to remedy conflicting interpretations of the law. Cases such as *Marbury v. Madison* (1803) establish the power of judicial review, empowering SCOTUS to interpret the Constitution and federal law to ensure uniformity in legal application across states.

By providing unequivocal directives on the vacating of void judgments and addressing jurisdictional issues in state courts, the US Supreme Court can eliminate ambiguity and uphold the principles of justice. Through

judicial review, SCOTUS can declare conflicting state laws or actions unconstitutional, ensuring consistent protection of due process and equal protection rights under the 14th Amendment.

The conflicting opinions within the Virginia Supreme Court and between state and federal courts regarding void judgments and jurisdictional issues highlight the need for intervention by the US Supreme Court. By exercising its authority to interpret federal law and rectify inconsistencies in legal interpretation, SCOTUS can safeguard constitutional rights and ensure the equitable administration of justice for all individuals.

III. Presence of Irreversible Error: Challenging the Void Judgment and Ensuring Judicial Integrity

It is glaringly apparent that the Court of Appeals exhibited blatant malicious intent to subvert justice in their opinion by denying the Petitioners motion to set aside an earlier order granting Cameron Bay Homeowners Association's ("Cameron Bay") warrant in debt for purported unpaid condominium fees. This flagrant disregard for the fundamental principles of fairness and truthfulness within our legal system casts a shadow upon the integrity of the judiciary. Since the inception of the cases, the attorney and the courts have persistently mischaracterized my home as a condominium unit, despite clear evidence to the contrary within the record. This misrepresentation not only undermines the accuracy of legal proceedings but also constitutes an egregious affront to this nation's foundational principles of justice.

As guardians of the rule of law, courts are entrusted with the solemn duty to uphold truth and fairness in

every aspect of their adjudication. However, the Court of Appeals' attempt to shoehorn this case into a preconceived narrative by mischaracterizing the nature of the property at issue is a blatant violation of this sacred trust. Such behavior not only erodes public confidence in the judiciary but also undermines the very fabric of justice upon which this nation stands.

In pursuing justice, there can be no room for deception or manipulation. The Court of Appeals' refusal to acknowledge the true nature of the property involved in this case is a betrayal of the principles upon which our legal system is founded. This deliberate disregard for truthfulness strikes at the heart of justice and undermines the integrity of our judicial institutions. Such actions must be scrutinized and rectified to ensure that the sanctity of our legal system remains intact. The lower court egregiously erred in its interpretation and application of pertinent law, thus subverting the foundational principles of justice. This irreversible legal error bears significant consequences, striking at the core of justice and fairness. The decision rendered by the lower court stands in stark contradiction to the established precedent, thereby setting a precarious precedent for future jurisprudence.

The petitioner contends that the judgment rendered by the General District Court (GDC), subsequently affirmed by the circuit court and appellate court, is void due to its procurement through collateral fraud orchestrated by the respondent's legal representatives. This assertion stems from the egregious fraudulent conduct exhibited during the administration of justice by the GDC, as evidenced by *Reynolds v. Volunteer State Life Ins. Co.*, Tex.Civ.App., 80 S.W.2d 1087, 1092. The petitioner implores this esteemed

court to scrutinize the case meticulously and rectify the ongoing prejudice by compelling the lower court to vacate the void judgment under contention.

As the ultimate arbiter of justice in the United States, the Supreme Court holds a solemn duty to rectify any erroneous application of the law by state courts to safeguard judicial integrity and uphold the fundamental rights of litigants. Judicial integrity stands as the cornerstone of a functional democracy. Void or fraudulent judgments not only compromise the sanctity of the legal system but also erode public confidence in the judiciary. By offering clear guidance, the Supreme Court reaffirms the paramount importance of upholding the highest standards of integrity within the judiciary, thus fostering public trust in the legal system.

The U.S. legal system encompasses federal and state courts, each governed by distinct rules and procedures. Discrepancies in the handling of void or fraudulent judgments can precipitate confusion and inequitable outcomes. Supreme Court intervention is indispensable in establishing a uniform standard that promotes consistency in the application of rules for setting aside judgments. This imperative ensures equitable treatment of litigants nationwide and fosters coherence in the judicial process.

The principles elucidated in *Caperton v. A.T. Massey Coal Co.*, 556 U.S. 868 (2009) underscore the paramount importance of safeguarding judicial integrity and ensuring impartiality in judicial proceedings. The Court's holding in this case highlights the fundamental principle that due process requires a judge's recusal if there exists a significant and disproportionate influence by a person

with a personal stake in the case in placing the judge on the case. This ruling serves as a guiding beacon in maintaining the integrity of the judicial system by ensuring that judicial decisions are free from undue influence and bias, thereby upholding the principles of justice and fairness. It underscores the critical need for impartial adjudication and underscores the broader imperative of maintaining public trust in the judiciary.

IV. Clarifying State Court Authority in Denying Motions to Set Aside Void Judgments

The legal issue presented in this case is of paramount national importance and has wide application, directly impacting the setting aside of void and fraudulent orders, thereby significantly affecting every citizen. Failure to vacate void or fraudulent orders poses an imminent risk of their continued application, potentially leading to a grave miscarriage of justice (*Marbury v. Madison*, 5 U.S. 137, 138 (1803)). Therefore, the decision of the lower court in Virginia denying jurisdiction could lead to a situation where void orders remain unchallenged. Such a scenario has far-reaching implications, extending beyond the immediate litigants.

As stated in *Rountree v. Rountree*, “an appellate proceeding in this court sits to review and correct errors of lower courts” (200 Va 57). The error at hand was brought to light through a petition for appeal, and it is imperative not to turn a blind eye. In the underlying cases, the lower courts lacked the legal authority to act; thus, no valid order could have been entered. The inaction of the appellate courts inadvertently made them accomplices to the lower court’s exercise of jurisdiction, contravening the

constraints constitutionally imposed on the judicial branch by the legislative.

Therefore, it falls upon this court to delineate the apparent confines within which a void judgment can be challenged, given the existing ambiguity in applying the law concerning motions to vacate void judgments and the extent to which state courts can deny such motions. By defining the scope of a void judgment and establishing the timeline for filing petitions or motions to vacate such orders, this Court would serve the cause of justice for citizens across the nation.

In the words of Thomas Jefferson, “The true administration of justice is the firmest pillar of good government.” As we navigate the complexities of jurisdiction and the rectification of void judgments, we are reminded of the foundational importance of ensuring justice prevails above all else. Just as our founding fathers sought to establish a system that safeguards all citizens’ rights, so must this Court uphold the principles of fairness and integrity in its decisions.

CONCLUSION

In light of the foregoing arguments and legal analysis, it is respectfully requested that the Supreme Court of the United States grants a writ of certiorari in favor of the petitioner, April D. Gallop. The petitioner urges this Court to adjudicate all claims with due consideration to the principles delineated in *Haines v. Kerner* (404 U.S. 519, 92 S.Ct. 594 (1972), construed liberally to ensure the strongest possible arguments are advanced. Furthermore, the Court is invited to interpret the pleadings expansively, guided by the precedent set forth in *Burgos v. Hopkins*, thus affording the petitioner the fullest extent of legal protection and recourse available.

Respectfully submitted,

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APPENDIX

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**APPENDIX A — MEMORANDUM OPINION OF
THE COURT OF APPEALS OF VIRGINIA,
DATED JUNE 6, 2023**

COURT OF APPEALS OF VIRGINIA

Record No. 1715-22-2

APRIL D. GALLOP

v.

CAMERON BAY HOMEOWNERS ASSOCIATION

**FROM THE CIRCUIT COURT OF
CHESTERFIELD COUNTY
Steven C. McCallum, Judge.**

Present: Judges Humphreys, White and Retired Judge Frank*

MEMORANDUM OPINION**

PER CURIAM

June 6, 2023, Decided

April D. Gallop, *pro se*, appeals the Chesterfield County Circuit Court's order dismissing her appeal

* Retired Judge Frank took part in the consideration of this case by designation pursuant to Code § 17.1-400(D).

** This opinion is not designated for publication. See Code § 17.1-413.

Appendix A

of the Chesterfield County General District Court’s (“GDC”) order denying her motion to set aside an earlier order granting Cameron Bay Homeowners Association’s (“Cameron Bay”) warrant in debt for unpaid condominium fees. On appeal, Gallop seeks to challenge the underlying order granting Cameron Bay’s warrant in debt. Gallop also argues that the circuit court’s dismissal of her appeal of the GDC’s denial of her motion to set aside the warrant in debt for lack of jurisdiction was “misguided.” After examining the briefs and record in this case, the panel unanimously holds that oral argument is unnecessary because “the appeal is wholly without merit.” Code § 17.1-403(ii)(a); Rule 5A:27(a). For the following reasons, we affirm the circuit court’s judgment.

BACKGROUND

Under familiar appellate principles, we defer to the circuit court’s factual findings and state the facts in the light most favorable to Cameron Bay, the prevailing party below. *Koons v. Crane*, 72 Va. App. 720, 732, 853 S.E.2d 524 (2021). On January 26, 2022, the GDC entered judgment for Cameron Bay against Gallop in the amount of \$525. Gallop did not appeal the GDC’s order. In March 2022, however, Gallop filed a “motion to set aside default judgment” in the GDC. The GDC denied the motion, and Gallop appealed to the circuit court.

In the circuit court, Cameron Bay filed a motion to dismiss, arguing that the circuit court did not have jurisdiction under Code § 16.1-106 to consider Gallop’s

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appeal.¹ Gallop opposed the motion. The circuit court granted Cameron Bay's motion to dismiss. The circuit court summarized Gallop's appeal as "not [challenging] the validity (vel non) of the debt asserted in the warrant in debt, but rather the lower court's denial of a Motion to Set Aside/Vacate the judgment that the debt claimed is due." Citing *Ragan v. Woodcroft Village Apartments*, 255 Va. 322, 497 S.E.2d 740 (1998), the circuit court found that Gallop's appeal was not from a final order or judgment and that the circuit court lacked jurisdiction over the appeal. The circuit court remanded the matter to the GDC. Gallop appeals.

1. Code § 16.1-106 provides for appeals from the GDC in civil cases and states in relevant part that an appeal may be taken

[f]rom any order entered or judgment rendered in a court not of record in a civil case in which the matter in controversy is of greater value than \$20, . . . or when the case involves the constitutionality or validity of a statute of the Commonwealth, or of an ordinance or bylaw of a municipal corporation, or of the enforcement of rights and privileges conferred by the Virginia Freedom of Information Act (§ 2.2-3700 et seq.), or of a protective order pursuant to § 19.2-152.10, or of an action filed by a condominium unit owners' association or unit owner pursuant to § 55.1-1959, or of an action filed by a property owners' association or lot owner pursuant to § 55.1-1819, or from any order entered or judgment rendered in a general district court that alters, amends, overturns, or vacates any prior final order, there shall be an appeal of right, if taken within 10 days after such order or judgment, to a court of record.

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ANALYSIS

I. Jurisdiction

Much of Gallop’s argument on appeal challenges the underlying award of the warrant in debt to Cameron Bay. Gallop, however, did not appeal the GDC’s order granting the warrant in debt, and the GDC’s order became final. *See* Code § 16.1-106(A); Rule 1:1(a).

Gallop does not challenge the circuit court’s holding that her appeal was of the GDC’s denial of her motion to set aside default judgment. Rather, Gallop argues the circuit court erred in dismissing her appeal for lack of jurisdiction because the circuit court’s reliance on *Ragan* was “misguided.” Gallop contends that the appellant in *Ragan* “did not in any way address the final judgment,” while, in comparison, Gallop “addressed the final judgment in her motion to set aside judgment.” Gallop argues that, based on this distinction, the circuit court erred in dismissing her appeal for lack of jurisdiction.

Whether the record establishes subject matter jurisdiction in a particular case is a question of law reviewed de novo on appeal. *Parrish v. Fed. Nat'l Mortg. Assoc.*, 292 Va. 44, 49 (2016). As noted above, the circuit court relied upon *Ragan* to determine that Gallop’s appeal from the GDC’s denial of her motion to set aside was not from a final order or judgment and that the circuit court lacked jurisdiction over the appeal. In *Ragan*, the Supreme Court held that “[a] final order or judgment is one that disposes of the whole subject of the case and gives all

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relief contemplated.” *Ragan*, 255 Va. at 327. The Supreme Court determined that although a GDC order entering a default judgment in an unlawful detainer action was an appealable order, the GDC’s order denying a motion to set aside that default judgment was not because it “was not a final order or judgment [that] dispose[d] of the merits of the unlawful detainer summons.” *Id.* Likewise, in *Architectural Stone, LLC v. Wolcott Center, LLC*, 274 Va. 519, 523, 649 S.E.2d 670 (2007), the Supreme Court of Virginia held that a GDC’s ruling to deny a motion to set aside a default judgment was not a final, appealable order or judgment.

We find the circuit court did not err in holding that Gallop’s appeal from the GDC’s denial of her motion to set aside default judgment was not from a final order or judgment and that the circuit court correctly determined that it lacked jurisdiction over Gallop’s appeal. *See Ragan*, 255 Va. at 327. We reject Gallop’s unsupported attempt to distinguish the facts of this case from that in *Ragan* by emphasizing that she sought to challenge the underlying order granting Cameron Bay’s warrant in debt. As Gallop’s appeal was from the GDC’s denial of her motion to set aside default judgment, we therefore hold that the circuit court did not err in dismissing Gallop’s appeal for lack of jurisdiction.

II. Attorney fees

Cameron Bay asks this Court to award it attorney fees and costs incurred on appeal. “The decision of whether to award attorney’s fees and costs incurred on appeal is

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discretionary.” *Friedman v. Smith*, 68 Va. App. 529, 545, 810 S.E.2d 912 (2018). Having reviewed and considered the entire record in this case, we grant Cameron Bay’s request for a reasonable amount of attorney fees and costs incurred on appeal. We remand this case to the circuit court for determination and award of the appropriate appellate attorney fees and costs, which also should include any additional attorney fees incurred at the remand hearing. Rule 5A:30(b).²

CONCLUSION

For the foregoing reasons, the circuit court’s judgment is affirmed. We remand this case to the circuit court for determination and award of the appropriate appellate attorney fees, which also should include any additional attorney fees incurred at the remand hearing.

Affirmed and remanded.

2. Cameron Bay’s request for this Court to impose a prefilings injunction on Gallop is denied. We further deny Gallop’s request for accommodation under the Americans with Disabilities Act, as we dispensed with oral argument.

**APPENDIX B — FINAL ORDER OF THE
CIRCUIT COURT FOR THE COUNTY OF
CHESTERFIELD, DATED OCTOBER 25, 2022**

VIRGINIA:

IN THE CIRCUIT COURT FOR THE
COUNTY OF CHESTERFIELD

CASE NO.: CL22-1385

CAMERON BAY HOMEOWNERS ASSOCIATION,

Plaintiff,

V.

APRIL D. GALLOP,

Defendant.

FINAL ORDER

For the reasons stated in the attached letter opinion dated October 25, 2022, it is **ORDERED** that the plaintiff's Motion to Dismiss is **GRANTED**.

The Clerk shall send attested copies of this Final Order to plaintiff's counsel of record and to April D. Gallop.

Nothing further remaining to be done herein, it is hereby **ORDERED** that this matter is remanded to the Chesterfield General District Court. It is further

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ORDERED that this matter is ended and shall be removed from the active docket of this Court and placed among the ended causes.

Endorsements are waived pursuant to Rule 1:13 of the Supreme Court of Virginia.

ENTER: 10/25/22

/s/
Hon. Steven C. McCallum, Judge

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October 25, 2022

Lenora H. Solodar, Esq.
SOLODAR & SOLODAR
4825 Radford Avenue, Suite 201
Richmond, Virginia 23230

April Gallop, Pro Se Defendant
6042 Walking Path Lane
Midlothian, Virginia 23112

Re: *Cameron Bay Homeowners Association v. Gallop*; CL22-1385

Dear Ms. Solodar and Ms. Gallop:

The Court has reviewed the file in this matter in anticipation of the trial scheduled for October 28, 2022. In particular, the Court reviewed the Motion to Dismiss filed by the plaintiff, Cameron Bay Homeowners Association, on June 21, 2022, and the Notice of Opposition/Opposition to Plaintiff's Motion to Dismiss filed by the defendant, April D. Gallop, on September 19, 2022. The Motion to Dismiss argues that this Circuit Court lacks jurisdiction to hear the case, which comes to the Circuit Court as an appeal from the General District Court. The Motion to Dismiss is well founded and it is GRANTED, for the following reasons.

The plaintiff filed a warrant in debt against Gallop in the Chesterfield County General District Court, and was awarded judgment against Gallop on January 26, 2022,

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in the principal amount of \$525.00. Gallop did not appeal the judgment order entered on January 26, 2022. Instead, on February 4, 2022, Gallop filed in the General District Court a Notice of Motions, Motion to Set Aside/Vacate Judgment. On March 30, 2022, Gallop's Motion to Set Aside/Vacate was denied in the General District Court. On April 6, 2022, Gallop filed a Notice of Appeal from the March 30, 2022 order denying her Motion to Set Aside/Vacate. In short, what Gallop has appealed to this Circuit Court is not the validity (vel non) of the debt asserted in the warrant in debt, but rather the lower court's denial of a Motion to Set Aside/Vacate the judgment that the debt claimed is due.

The plaintiffs Motion to Dismiss this appeal appropriately cites *Ragan v. Woodcroft Village Apartments*, 255 Va. 322 (1998). *Ragan* began as an unlawful detainer proceeding in General District Court. In that court, a judgment was entered awarding the plaintiff possession of the leased premises. No appeal was taken from the judgment for possession. Instead, the defendant filed in the General District Court a motion for new trial. The lower court denied that motion, and appeal was noted to the circuit court of the lower court's denial of the motion for new trial. The Virginia Supreme Court held that the circuit court lacked jurisdiction to hear the appeal. Its reasoning was as follows:

[W]e conclude that, when Code § 16.1-106 refers to an appeal from “any order entered or judgment rendered in a court not of record in a civil case in which the matter in controversy

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is of greater value than fifty dollars," this language provides for an appeal only from final orders or judgments. The decision denying Ragan's motion for a new trial was not a final order or judgment because it did not dispose of the merits of the unlawful detainer summons... As stated above, the final judgment in the unlawful detainer proceeding was the judgment awarding Woodcroft possession of the leased premises... [W]e hold that since Ragan did not appeal from a final order or judgment of the general district court, the circuit court lacked jurisdiction to hear her appeal. 255 Va. at 327-28.

The holding of *Ragan* is controlling here.

A Final Order dismissing this case for lack of jurisdiction is enclosed. The trial date on October 28 is vacated and removed from the docket.

Sincerely,

Steven C. McCallum, Judge

Enclosure

**APPENDIX C — DECISION OF THE
SUPREME COURT OF VIRGINIA, DATED
OCTOBER 26, 2023**

VIRGINIA:

In the Supreme Court of Virginia held at the Supreme Court Building in the City of Richmond on Thursday the 26th day of October, 2023.

Record No. 230458
Court of Appeals No. 1715-22-2

APRIL D. GALLOP,

Appellant,

against

CAMERON BAY HOMEOWNERS ASSOCIATION,

Appellee.

From the Court of Appeals of Virginia

Upon consideration of the record and the pleadings filed in this case, the Court finds that assignments of error nos. 1, 3, 4, and 5 are insufficient as they do not address any finding or ruling of the Court of Appeals or any failure of the Court of Appeals to rule on an issue in *April D. Gallop v. Cameron Bay Homeowners Association*, Court of Appeals No. 1715-22-2, from which an appeal is sought. Accordingly, the petition for appeal is dismissed as to those assignments of error. Rule 5:17(c)(1)(iii).

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Upon further consideration whereof, the Court
refuses assignments of error nos. 2 and 6.

A Copy,

Teste:

Muriel-Theresa Pitney, Clerk

By: /s/
Deputy Clerk

**APPENDIX D — ORDER OF THE
SUPREME COURT OF VIRGINIA, DATED
JANUARY 30, 2024
VIRGINIA:**

In the Supreme Court of Virginia held at the Supreme Court Building in the City of Richmond on Tuesday the 30th day of January, 2024.

Record No. 230458
Court of Appeals No. 1715-22-2

APRIL D. GALLOP,

APPELLANT,

against

CAMERON BAY HOMEOWNERS ASSOCIATION,

APPELLEE.

UPON A PETITION FOR REHEARING

On consideration of the petition of the appellant to set aside the judgment rendered herein on October 26, 2023, and grant a rehearing thereof, the prayer of the said petition is denied.

A Copy,

Teste:

Muriel-Theresa Pitney, Clerk

By: /s/
Deputy Clerk

**APPENDIX E — WARRANT IN DEBT OF THE
COMMONWEALTH OF VIRGINIA, DATED
JANUARY 26, 2022**

WARRANT IN DEBT (CIVIL CLAIM FOR MONEY)
Commonwealth of Virginia VA. CODE-§ 16.1-79

Chesterfield County General District Court
CITY OR COUNTY

PO Box 144 9500 Courthouse Road Chesterfield VA 23832
STREET ADDRESS OF COURT

TO ANY AUTHORIZED OFFICER: You are hereby
commanded to summons the Defendant(s).

TO THE DEFENDANT(S): You are summoned to appear
before this Court at the above address on 01/26/2022 at
9:00 a.m. to answer the Plaintiff(s)' civil claim (see below)

11/30/21 /s/
DATE ISSUED CLERK DEPUTY CLERK MAGISTRATE

CLAIM: Plaintiff(s) claim that Defendant(s) owe
Plaintiff(s) a debt in the sum of

\$ 525.00 net of any credits, with interest at 6.00% from
date of Judgment until paid,

\$ 62.00 costs and \$ 131.25 attorney's fees with the basis
of this claim being

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[] Open Account [] Contract [] Note [X] Other (EXPLAIN)
2019-2021 Association Dues

HOMESTEAD EXEMPTION WAIVED? [] YES [] NO
[] cannot be demanded

11-23-2021 /s/
DATE [] PLAINTIFF [X] PLAINTIFF'S ATTORNEY
[] PLAINTIFF'S EMPLOYEE/AGENT

CASE DISPOSITION

JUDGMENT against [✓] named Defendant(s) [] _____
for \$ _____ net of any credits, with interest at
_____ % from date of _____ until paid, \$ _____
cost and \$ _____ attorney's fees

[] and \$ _____ costs for Servicemember Civil Relief
Act counsel fees

HOMESTEAD EXEMPTION WAIVED? [] YES
[] NO [] CAN NOT BE DEMANDED [] JUDGMENT
FOR [] NAMED DEFENDANT(S) [] _____
[] NON-SUIT [] DISMISSED _____

Defendant(s) Present: [✓] NO [] YES _____

JAN 26 2022 /s/
DATE JUDGE

Appendix E

CASE NO. 21014663

Cameron Bay Homeowners Association
PLAINTIFF(S) (LAST NAME, FIRST NAME, MIDDLE INITIAL)

v.

APRIL D GALLOP
DEFENDANT(S) (LAST NAME, FIRST NAME, MIDDLE INITIAL)

6042 WALKING PATH LANE
MIDLOTHIAN VA 23112
(CHESTERFIELD)

WARRANT IN DEBT

TO DEFENDANT: You are not required to appear; however, if you fail to appear, judgment may be entered against you. See the additional notice of the reverse about requesting a change of trial location.

[] To dispute this claim, you must appear on the return date to try this case.

[X] To dispute this claim, you must appear on the return date for the judge to set another date for trial.

Bill of Particulars

ORDERED

DUE

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Grounds of Defense _____
ORDERED _____
DUE _____

ATTORNEY FOR PLAINTIFF(S)

Solodar & Soldar
4825 Radford Avenue, Suite 201
Richmond, VA 23230 (804) 510-0487

ATTORNEY FOR DEFENDANT(S)

HEARING DATE AND TIME

01/26/2022
9:00 a.m.

JUDGMENT PAID OR SATISFIED PURSUANT TO
ATTACHED NOTICE OF SATISFACTION.

DATE

CLERK

DISABILITY ACCOMMODATIONS

for loss of hearing, vision, mobility, etc., contact the
court ahead of time.

**APPENDIX F — MOTION TO SET ASIDE
DEFAULT JUDGMENT OF THE COMMONWEALTH
OF VIRGINIA, DATED MARCH 30, 2022**

MOTION TO SET ASIDE DEFAULT JUDGMENT

Cameron Bay Homeowners Association

PLAINTIFFS

1904 Byrd Avenue, Suite 100
Richmond, VA 23230

v./*In re*

April D. Gallop

DEFENDANTS

6042 Walking Path Lane
Midlothian, VA 23112

Service on Respondent type required:

[] Personal Service only

[] Personal or Substituted Service only

[X] Mailed on 02/03/2022

DATE

Appendix F

MOTION TO SET ASIDE DEFAULT JUDGMENT

Commonwealth of Virginia VA. CODE § 8.01-428

[X] General District Court
Chesterfield [] Juvenile & Domestic Relations District Court
CITY OR COUNTY

9500 Courthouse Rd, Chesterfield, VA 23832
STREET ADDRESS OF COURT

I, the undersigned, move this court to set aside the default judgment in the civil case numbered GV21014663-10 for

[X] a fraud on the court. It has been two years or less since the date of the judgment or decree.

[X] a void judgment.

[] an accord and satisfaction (attach proof).

[] the fact that the defendant, at the time of service or process or entry of the judgment, was in military service of the United States for purposes of 50 U.S.C. app § 502 (attach proof).

This motion is based on the following facts and reasons

02/03/2013 /s/ _____
DATE OF MOTION APPLICANT'S SIGNATURE

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Appendix F

April D. Gallop Pro - se Defendant
PRINT NAME OF APPLICANT TITLE OF APPLICANT

NOTICE OF HEARING

TO: Cameron Bay Homeowners Association
RESPONDENT

Take notice that a hearing will be held in this Court on

3-30-22 10:30 a. m. on this motion.
DATE AND TIME

3-1-22 /s/
DATE [] CLERK [X] DEPUTY CLERK

It is hereby ORDERED that the motion is [] granted
[√] denied [] dismissed.

3/30/22 /s/
DATE JUDGE

