

NO: 23-359

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IN THE
SUPREME COURT OF THE UNITED STATES

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Kelvin Lionell Wright II, *Petitioner*

v.

Eric Yuen, *Respondent(s)*

-----oOo-----

ON PETITION FOR A WRIT OF CERTIORARI TO

United States Court of Appeals, Appellate Court

-----oOo-----

PETITION FOR WRIT OF CERTIORARI

-----oOo-----

Kelvin Lionell Wright II

c/o: 15335 Harlin Drive

Baytown, Texas [77523]

QUESTIONS PRESENTED FOR REVIEW

The United States District Court, Western District of Texas lacked lawful jurisdiction in cause no: **5:19-CR-321-FB-1** for the reasons below:

1. The Complaint (Notice of Void Judgment and Jurisdictional Challenge cause no: 5:22-CV-753) presents a detailed recitation of Plaintiffs' assertions that more than satisfies the pleading requirements of a Jurisdictional Challenge of the Trial Court.
2. Consideration of the Complaint, at LAW, as a whole demonstrates that said complaint meets the requirements established under the Federal Rules for a lawful challenge of the Courts alleged Jurisdiction asserted by Eric Yuen.

3. In reviewing a facial challenge, which contests the sufficiency of the pleadings, "the court must only consider the allegations of the complaint and documents referenced therein and attached thereto, in the light most favorable to the plaintiff NOT the alleged merits of the cause in question as it was presented to the court.

4. The Court[s] must accept as true all material allegations set forth in the complaint, or present documented evidence of fact which would testify to the inconsistency of any/all material allegation(s) and must construe those facts in favor of the nonmoving party.

[] All parties appear in the caption of the case on the cover page

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

- 1.) Kelvin Lionell Wright II, Plaintiff
- 2.) Eric Yuen, D/B/A ERIC YUEN, et al,
Respondent(s)
601 W. Loop 410, Suite 600
San Antonio, Texas 78216
- 3) UNITED STATES DISTRICT COURT
WESTERN DISTRICT OF TEXAS
SAN ANTONIO DIVISION
U.S. District Clerk's Office
2450 State Hwy. 118
Alpine, Texas 79830

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APPENDIX A

Final Judgement of the United States Court for
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(October 31, 2022)

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APPENDIX B

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**IN THE SUPREME COURT OF
THE UNITED STATES
PETITION FOR WRIT OF CERTIORARI**

Petitioner, Kelvin Lionell Wright II, respectfully prays that a writ of certiorari be issued to review the judgment below:

OPINIONS

For the case from the Federal Courts:

1. The opinion of the United States District Court Western District of Texas San Antonio Division appears at Appendix A, App. 1 to the petition and is ☐ reported at _____; or ☐ has been designated for publication but is not yet reported; or ☒ is unpublished

For the case from the **Appellate Court**:

2. The opinion of the United States Court of Appeals for the Fifth Circuit appears at Appendix B, App. 3 to the petition and is reported at
 - ☐ _____; or
 - ☐ has been designated for publication but is not yet reported; or
 - ☒ is unpublished

JURISDICTION OPINION

For cases from **Federal Courts**:

1. The date on which the United States district Court Western District of Texas decided the original cause was **April 16, 2021**.
 - ☒ No petition for rehearing was timely filed in my case

[] A timely petition for rehearing was denied by the United States Court of appeals on the following date: _____,

And a copy of the order denying rehearing appears at Appendix _____

[] An extension of time to the petition for the writ of certiorari was granted to and including _____ (date) on _____ (date) in Application

No: **N/A**

PETITION FOR WRIT OF CERTIORARI

Petitioner, Kelvin Lionell Wright II respectfully presents this his Petition for a Writ of Certiorari before judgment to review a decision of a United States District Court for the Western District of Texas.

OPINIONS BELOW

The opinion of the United States District Court for the Western District of Texas for which this petition is filed is reported as Cause No. **SA-22-CV-00753-OLG** which was filed under 28 USC 1331. [Decision is shown in Exhibit “A” App. 1]

JURISDICTION

The case is docketed in the United States Court of Appeals for the Fifth Circuit as Cause No. **22-51035** and was decided on **May 4, 2023**, before Barksdale, Higginson, and Ho, Circuit Judges. [See Exhibit “B” App. 3]

**CONSTITUTIONAL AND STATUTORY
PROVISIONS INVOLVED**

1. The Equal Protection Clause of Section 1 of the Fourteenth Amendment provides that no State shall “deny to any person within its jurisdiction the equal protection of the Laws.”
2. Under Federal Criminal Rule F.R.C.P. 12 (e) and the Administrative Procedures Act, to insure the right to disclosure of the Nature and cause of “The Respondent’s Action(s)” by ordering the Respondent to answer the “Petition for Redress/Demand for a more definite Statement to determine the nature of the Cause of “Respondent’s Action.”

3. The United States Court of Appeals for the Fifth Circuit in moving forward, knowing that the Plaintiff had served a Special Visitation, Commercial Affidavit, and Petition for Redress upon the Respondent as the Plaintiff's demands have not been answered and completely avoided by the Respondent, was a clear act of bad faith on the part of both the Court of Appeals and the Respondent.
4. As the Plaintiff, was never a party in interest, a substituted party of record or a proper party to any other pleading regarding "The Respondents Action" United States District Court, Western District of Texas, did not acquire lawful jurisdiction over the Plaintiff, a violation of F.R.C.P. 12(b)(2) lack of jurisdiction.

STATEMENT OF THE CASE

Petitioner requests this Court exercise its power and discretion under Rule 14.1(e) of its rules to grant a Writ of Certiorari after judgment to the United States Court of Appeals for the Fifth Circuit, which has entered judgment on an appeal of this case. The case presents questions about jurisdiction. This Court, and all public offices, is defined under **FRCP Rule 4(j)** as a FOREIGN STATE, and as defined under TITLE 28 - JUDICIARY AND JUDICIAL PROCEDURE in accord with the Foreign Sovereign Immunities Act (FSIA) of 1976, which is a United States law, codified at Title 28 U.S.C. Sections 1330, 1332, 1391(f), 1441(d), and 1602-1611, and is being jurisdictionally challenged, and “full disclosure” of the “true” jurisdiction of this court has been challenged.

FACTUAL BACKGROUND

A. Plaintiff

Plaintiff, Kelvin Lionell Wright II, is a Secured Party Creditor with Filings with the Colorado Secretary of State, **UCC # 20212103934**. An Affidavit of Notice was sent to the United States District Court, Western District of Texas, giving notice of said status. Rescinding signature for non-Full disclosure of contract signed, showing that I'm Holder-In-Due-Course of all document(s). I do not take any benefits from the government as the Birth Certificate and Social Security was discharged through the United States Secretary of State as well as other Government Agencies.

PROCEEDINGS BELOW**A. The Federal Court:**

This Action commenced on May 1, 2019, and sentencing was on April 16, 2021, in the United States District Court, Western District of Texas, by Judge Fred Biery. An Affidavit of Notice was sent to the Clerk of Court of aforementioned court to rescind signature on any/all contracts signed for, Non-Full disclosure.

B. The District Court:

This action commenced on **July 13, 2022**. The Complaint demanded that the defendants prove jurisdiction under title 28 USC 1331. The request of Jurisdiction was ignored in any/all matters. [See Exhibit "A" for ruling on The United States District Court, Western District of Texas.] This was an error pursuant to the following court cases:

- (a) "The law provides that once the state and federal jurisdiction has been challenged, it must be proven." *Main v. Thiboutot*, 448 U.S. 1, 100 S. Ct. 2502 (1980);
- (b) "Once jurisdiction is challenged, it must be proven." *Hagans v. Levine*, 415 U.S. 533 (1974);
- (c) "Where there is absence of jurisdiction, all administrative and judicial proceedings are a nullity and confer no right, offer no protection, and afford no justification, and may be rejected upon direct attack." *Thompson v Tolmie*, 2 Pet. 157, 7 L. Ed. 381; *Griffith v. Fraser*, 8 Cr. 9, 3 L. Ed. 471 (1814);
- (d) "No sanctions can be imposed absent of proof of jurisdiction." *Stanard v. Olesen et al.*, 74 S. Ct. 768 (1954); Title 5 U.S.C. Sec. 556 and 558(b);

- (e) "The proponent of the rule has the burden of proof."
Title 5 U.S.C., Sec. 556(d);
- (f) "Jurisdiction can be challenged at anytime, even on
final determination." Basso v. Utah Power & Light
Co., 495 2d 906 at 910 (1974);
- (g) When jurisdiction challenges the act of Federal or
State official as being illegal, that official cannot
simply avoid liability based on the fact that he is
a public official.[United States v. Lee, 106 U.S.
196, 220, 221, 1 S. Ct. 240, 261].
Let it be known, until such a time as evidence of
facts of jurisdiction is demonstrated and filed in the
court record of this case, the Accused shall be
entitled to the conclusive presumption the lawful
jurisdiction is lacking In Personam and In Rem.
Let this statement serve as Constructive Notice
that this common-law constitutional national entity,

in the eyes of the Law, intends to prosecute to the fullest extent of the Law, anyone who infringes its rights as “officers of the court have no immunity, when violating a constitutional right, from liability, for they are deemed to know the law.” *Owen v. City of Independence*, 445 U.S. 622 (1980); *Hafer v. Melo*, 502 U.S. 21 (1991).

C. The Court of Appeals:

The appeal was submitted on January 26th, 2023, and again jurisdictional issues were disregarded in all matters affirming with the United States District Court, Western District of Texas [see exhibit B for ruling on appeals court].

REASONS FOR GRANTING THE WRIT

This Court Should Exercise Its Power to Grant Review Before Judgment.

For several reasons, the circumstances of this case make it appropriate for granting Plaintiff's request for proof of jurisdiction.

First, the case presents issues of fundamental importance. It concerns important constitutional and civil rights, and the resolution of these issues will almost certainly have effects that extend far beyond the parties to the case.

Second, this Court knows, It is the court's responsibility to prove it has subject matter jurisdiction, and where a judge arbitrarily claims the court has jurisdiction, he is violating the defendant's

right to due process of the law. It is, in fact, the Court's responsibility to prove, on the record, that jurisdiction exists, and jurisdiction can be challenged at any time, even years later, and even collaterally, as in a private administrative process, as was done herein. It is the petitioner's right to challenge jurisdiction, and it is Eric Yuen's duty to prove it exists. The respondent, Eric Yuen, was given the opportunity (multiple times) to put the evidence of facts of jurisdiction on the official record, but acquiesced by tacit procurement to the fact that the constitutional and due process violations alleged by the petitioner did, in fact, occur, and did, in fact, deprive the court of subject matter jurisdiction, which is now the record before the court.

While voidable orders are readily appealable and must be attacked directly, void orders may be circumvented by collateral attack or remedied by mandamus, Sanchez v. Hester, 911 S.W. 2d. 173, (Tex. App.-Corpus Christi 1995).

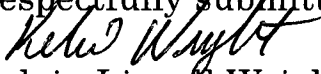
The law provides that once state and federal jurisdiction has been challenged, it must be proven. Main v. Thiboutot, 448 U.S. 1, 100 S. Ct. 2502 (1980).

A void judgment(s) under federal law is one in which the rendering court lacked subject matter jurisdiction over dispute or jurisdiction over all parties, or acted in a manner inconsistent with due process of law or otherwise acted unconstitutional and entering judgment, U.S.C.A. Const. Amend. 5, Hays v. Louisiana Dock Co., 452 N.E. 2d 1383 (III App. 5 Dist. 1983). [Emphasis added].

CONCLUSION

For the foregoing reasons, Kelvin Lionell Wright II respectfully requests this honorable court grant his petition for certiorari before judgment the petition for a writ of certiorari should be granted. Done so, this 22 day in the month of September, 2023.

Respectfully submitted,


Kelvin Lionell Wright II

NO: _____

**IN THE
SUPREME COURT OF THE UNITED STATES**

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Kelvin Lionell Wright II, Petitioner

v.

Eric Yuen, Respondent(s)

PROOF OF SERVICE

I, Kelvin Lionell Wright II, do affirm that on or about this 22 day of September 2023, as required by the PETITION FOR WRIT OF CERTIORARI on each party to the above proceeding or that party's counsel, and on every other person required to be served, by depositing an envelope containing the above documents in

United States mail properly addressed to each of them and with first-class postage prepaid, or by delivery to a third-party commercial carrier for delivery within three (3) calendar days. The names and addresses of those served are as follows:

Eric Yuen

601 N.W. Loop 410, Suite 600

San Antonio, Texas [78216]

I declare under penalty of perjury that the foregoing is true and correct.

Executed on this 22 day of September 2023.

A handwritten signature in black ink, appearing to read "Kelvin Wright", is written over a horizontal line.

Kelvin Lionell Wright II