

No. 23-5882

**ORIGINAL**

IN THE  
SUPREME COURT OF THE UNITED STATES

Supreme Court, U.S.  
FILED

OCT 12 2023

OFFICE OF THE CLERK

WALTER LEE MERRITTE — PETITIONER  
(Your Name)

vs.

ILLINOIS — RESPONDENT(S)

ON PETITION FOR A WRIT OF CERTIORARI TO

ILLINOIS SUPREME COURT

PETITION FOR WRIT OF CERTIORARI

WALTER LEE MERRITTE, PRO SE  
REG. No. N-72053

HILL CORRECTIONAL CENTER

P.O. BOX 1700

GALESBURG, ILLINOIS 61402

**QUESTION(S) PRESENTED**

Whether The State Trial Court's October 29, 1990 Order  
Was Issued Without Authority And Is Void For Want Of Jurisdiction?

## LIST OF PARTIES

- ☐ All parties appear in the caption of the case on the cover page.
- ☒ 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:

EARNEST MERRITTE  
REG. NO. N-74846  
P.O.BOX 1266  
Centrelia Illinois 62801

## RELATED CASES

People v. Merritte, No. 90-CF-256

## TABLE OF AUTHORITIES CITED

### CASES

### PAGE NUMBER

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

Petitioner respectfully prays that a writ of certiorari issue to review the judgment below.

**OPINIONS BELOW**

☐ For cases from **federal courts**:

The opinion of the United States court of appeals appears at Appendix \_\_\_\_\_ to the petition and is

- ☐ reported at \_\_\_\_\_; or,  
☐ has been designated for publication but is not yet reported; or,  
☐ is unpublished.

The opinion of the United States district court appears at Appendix \_\_\_\_\_ to the petition and is

- ☐ reported at \_\_\_\_\_; or,  
☐ has been designated for publication but is not yet reported; or,  
☐ is unpublished.

☐ For cases from **state courts**:

The opinion of the highest state court to review the merits appears at Appendix A to the petition and is

- ☒ reported at Merritte v. Ryan, M.D.014900; or,  
☐ has been designated for publication but is not yet reported; or,  
☒ is unpublished.

The opinion of the State Trial court appears at Appendix B to the petition and is

- ☒ reported at People v. Merritte, 90-CF-254; or,  
☐ has been designated for publication but is not yet reported; or,  
☐ is unpublished.

## JURISDICTION

☐ For cases from **federal courts**:

The date on which the United States Court of Appeals decided my case was \_\_\_\_\_.

☐ 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 file the petition for a writ of certiorari was granted to and including \_\_\_\_\_ (date) on \_\_\_\_\_ (date) in Application No. \_\_\_\_ A \_\_\_\_.

The jurisdiction of this Court is invoked under 28 U. S. C. § 1254(1).

☒ For cases from **state courts**:

The date on which the highest state court decided my case was May 23, 2023.  
A copy of that decision appears at Appendix A.

☒ A timely petition for rehearing was thereafter denied on the following date: September 26, 2023, and a copy of the order denying rehearing appears at Appendix B.

☐ An extension of time to file the petition for a writ of certiorari was granted to and including \_\_\_\_\_ (date) on \_\_\_\_\_ (date) in Application No. \_\_\_\_ A \_\_\_\_.

The jurisdiction of this Court is invoked under 28 U. S. C. § 1257(a).

## CONSTITUTIONAL AND STATUTORY PROVISIONS INVOLVED

U.S.Const.Amend.XIV,§1.....5

Ill.Const.1970,art.I,§2.....5

## STATEMENT OF THE CASE

On October 29, 1990, the state trial court entered its order granting Respondent's leave to file the criminal information instant, set bail at \$750,000.00, and continued the cause for appearance with counsel on November 1, 1990. App.C,1-4.

The LaSalle County State's Attorney, Robert R. Navarro, failure to serve defendant's with process is apparent upon the face of the record. App.C,1-3.

On March 31, 2023, defendant's filed a motion for leave to file an original writ of mandamus in the state supreme court, Pursuant to S.Ct.Rule 381(a), alleging that the state trial court's October 29, 1990 order was issued without authority and is void for want of jurisdiction. The motion was denied on May 23, 2023. App.A.

On June 2, 2023, defendant filed a motion for reconsideration, arguing that the state supreme court acted without authority in rendering an order affecting defendant's legal rights because the state trial court failed to obtain personal jurisdiction over the defendant's. The motion was denied on September 26, 2023. App.B.

## REASON FOR GRANTING THE PETITION

This is the proper case to resolve the question presented, because the state supreme court's May 23, 2023 order affecting defendant's legal rights -- even though the Respondent's failure to serve defendant's with process is apparent upon the face of the record -- is contrary to, and involved an unreasonable application of clearly established federal law as determined by a United States Supreme Court decision, *Mullane v. Central Hanover Bank & Trust Co.*, 339 U.S. 306 (1950), holding that "the fundamental requirement of due process is the opportunity to be heard." Id. at 314.

The Fourteenth Amendment of the United States constitution provives that:

No state shall "deprive any person of life, liberty or property, without due process of law." U.S.Const.Amend. XIV,§1; see also Ill.Const.1970,art.I,§2.

Providing effective service is a means of protecting an individuals right to due process by allowing for proper notification of interested individuals and an opportunity to be heard." In re Dar.C., 2011 IL 111083,¶61( citing *Mullane v. Central Hanover Bank & Trust Co.*, 339 U.S. 306 (1950). Because the termination of defendant's "rights implicate a fundamental liberty interest, the procedures employed must comply with due process." Id. at ¶61(quoting *Santosky v. Kramer*, 455 U.S. 745, 753 (1982). Accordingly, where a defendant has not been served with process, the court has no jurisdiction to enter a judgment against him. See Id. at ¶61. App C,1-4.

In the present case, the state trial court's October 29, 1990 order was issued without authority and is void because Respondent's failure to serve defendant's with "process divests the trial court of personal jurisdiction." Id. at ¶61.

Given the above, because the state supreme court has acted without authority in rendering an order affecting the defendant's legal rights, it has acted without personal jurisdiction because Respondent's failure to serve defendant's with process is apparent upon the face of the record. Id. App.C,1-4.

Hence, "[i]f a court lacks either subject matter jurisdiction over the matter or personal jurisdiction over the parties, any order entered in the matter is void ab initio and, thus may be attacked at any time." Id. at ¶60. Here, the trial court's October 29, 1990 order is void because the court failed to obtain personal jurisdiction over the defendant's. See Id. at ¶61.

In Sum, This Court must vacate the state supreme court's May 23, 2023 order; vacate the state trial court's October 29, 1990 order, and issue an order to the LaSalle County circuit court with instructions to release the defendant's from custody and dismiss the case out of court for want of jurisdiction. Id.

## CONCLUSION

The petition for a writ of certiorari should be granted.

Respectfully submitted, .

Walter Lee Merritt

Date: October 10, 2023.