

CASE NUMBER 23-7428

UNITED STATES SUPREME COURT

ROBERT PANN 254048-PETITIONER

v

ULMER-RESPONDENT

MOTION FOR REHEARING RULE 44

SUMMARY OF PROCEEDINGS

March 9, 2023 Florida Circuit Court entered final judgment for garnishment (EXHIBIT A)

12/19/23 Florida District Court of Appeals denied review (EXHIBIT B)

2/15/24 Florida District Court of Appeal denied rehearing (EXHIBIT C)

March 4, 2024 Florida Supreme Court dismissed due to no written opinion on the merits (EXHIBIT D)

October 7, 2024 this Court denied certiorari (EXHIBIT E)

This timely filed motion for rehearing contains a question of law for this Court's review. Petitioner claims Florida Court's lack subject matter jurisdiction rendering their judgment's void. Petitioner respectfully requests this Court's review for application and interpretation pursuant to Florida Statutes Sections 55.081 and 95.11(1). Specifically, review on limitations on actions. When registration and enforcement of a foreign judgment exceeds 21 years from date of entry Appellee's registered their Michigan Foreign Court Order in Florida Court more than 21 years from the original date of entry. Florida Court's awarded Appellee \$226,661.65 in violation of both Michigan's and Florida Statutes.

Review by this Court is necessary to answer the question of law for limitations on actions.

Original
FILED
OCT 31 2024

OFFICE OF THE CLERK
SUPREME COURT, U.S.

STATEMENT OF FACTS

- 1) May 3, 2001, Sixteenth Judicial Court Macomb County Michigan ordered, Petitioner, Pann, to pay criminal restitution to Ulmer's for \$102,505.95 (EXHIBIT G)
- 2) The Michigan order contains no addendum for an award of interest. See Sentencing Order (EXHIBIT G) and MCL 780.766 Michigan Statute for criminal restitution contains no provision for awarding interest on a restitution order
- 3) Florida Court's amending a Michigan Court order violates Petitioner's Due Process pursuant to United Constitution Amendment Four, the full faith and credit clause for state court orders, judgments, and decrees
- 4) The Michigan judgment is to be given full faith and credit as they have in the rendering state. Florida applied it's restitution law to the Michigan judgment violating the Fourth Amendment. Florida criminal restitution orders are treated as civil matters. Michigan restitution orders are not treated as civil orders and contain no provision for awarding interest
- 5) Appellee registered Michigan's May 5, 2001 order (foreign judgment) in Florida, November 16, 2022 (EXHIBIT F) Florida Docket Sumary
- 6) Appellee recorded their foreign judgment claim more than 21 years from the date of entry in Michigan. Violating Florida Statute's Sections 55.081 and 95.11(1)
- 7) Appellee relied and presented to Florida court's Michigan Compiled Law 600.6013 which has a life span of 10 years (EXHIBIT H see last page) and is inapplicable to Michigan Criminal Restitution orders
- 8) Petitioner only presented Constitutional claims in his original petition, due process and Const Amd 4 violations.
- 9) Petitioner now presents his preserved Florida State Law claims for

review

A FLORIDA STATUTE OF LIMITATIONS BAR THE REGISTRATION IN FLORIDA PURSUANT TO FLORIDA ENFORCEMENT OF FOREIGN JUDGMENT ACT (FEFJA) FOR A MONEY JUDGMENT OBTAINED IN MICHIGAN IN 2001 MAKES THE JUDGMENT VOID FOR LACK OF SUBJECT MATTER JURISDICTION

ANALYSIS

Robert Pann timely appealed all Florida court's orders and respectfully requests this Court's review. Ulmer obtained a Michigan judgment awarding him \$102,505.95 on May 3, 2001. Ulmer registered the judgment in Florida pursuant to sections 55.501-509 Florida Statutes, the Florida Enforcement of Foreign Judgments Act (FEFJA). The trial court incorrectly deemed the judgment timely and incorrectly determined registration starts the limitations period anew. The judgment is enforceable until 2042.

Robert Pann timely filed for dismissal due to lack of subject matter jurisdiction (See Exhibit D numbers 26, 29-32). Robert Pann never was afforded an opportunity to be heard by the trial court. 2/26/2023 Ulmer filed notice for final hearing 2/28/2023 Final Hearing set for 3/07/2023 at 2:00 PM IN ZOOM. 03/09/2023 Judge Marsh entered final order. See Docket Summary Numbers 35-39 (EXHIBIT F) U.S. Mail takes 8 days time to travel from Florida to Michigan. Robert Pann had 16 hours notice and due to his incarceration Prison authorities could not schedule the ZOOM conference. Robert Pann timely sent notice to Florida Court pleading for reschedule (EXHIBIT F #41) only to be denied.

An elementary and fundamental requirement of due process in any proceeding which is to accord finality is notice reasonably calculated under all circumstances to apprise interested parties of the pendency of the action and afford them an opportunity to present their objections. Milner v. Meyers, 311

U S 457; Grannis v Ordean 243 U S 385; Priest v Las Vegas. 232 U S 604

The notice must be of such nature as reasonably to convey the required information Grannis Id but if with due regard for the practicalities and peculiarities of the case these conditions are reasonably met, the constitutional requirements are satisfied. The criterion is not the possibility of conceivable injury but the just and reasonable character of the requirements having reference to the subject with which the statute deals

Mullane v Cent Hanover Bank & trust CO , 339 U S 306 (1950)

Petitioner Pann was not afforded reasonable notice. He received 16 hours notice to final hearing. Pann timely petitioned the Court informing them of this only to be denied. U S Mail requires 8 days travel time from Florida to Michigan. See Docket Summary, notice sent 2/28/23 hearing set for 3/7/23 see (EXHIBIT F # 36). Clearly Pann's due process violated.

A jurisdictional defect is one that strips the court of its power to act and makes the judgment void. McCoy v United States 206 F 3d 1245, 1249 (11th Cir 2001)

§ 55.081 statute of limitations lien on a judgment;

Subject to 55.10 no judgment order or decree of any court be lien upon real or personal property within the state after the expiration of 20 years from the date of entry of such order decree or judgment.

Florida's version for the Uniform Enforcement of Foreign Judgments Act (FEFJA). Provides a procedure so that out of state foreign judgments will be given full faith and credit by the courts of Florida. It is a simplified process that does not require the creditor to file a lawsuit. There is no dispute that Ulmer properly registered the Michigan judgment in Florida before the judgment expired in Michigan but pursuant to Florida Statutes 55.081 and 95.11(1) this action is time barred.

A creditor who brings an action on a foreign judgment is subject to the twenty year statute of limitations measured from the date the Michigan judgment was rendered in 2001; thus the Michigan judgment is unenforceable in Florida. Petitioner looks to section 55.503(1) provides that a foreign

judgment properly recorded under FEFJA shall have the same effect and shall be subject to the same rules of civil procedure, legal and equitable defenses and proceedings for reopening, vacating or staying judgments and it may be enforced, released or satisfied as a judgment of a circuit court of this state (Florida). Thus section 55 503(1) provides that a judgment domesticated under FEFJA shall be enforced as a Florida judgment and Florida courts have so held. See Zitani v Reed 992 So 2d 403 406 Fla 2d DCA 2008 (citing to section 55 503(1) and stating that a "California judgment became enforceable like any judgment entered by a circuit court in Florida")

With respect to the statute of limitations question here, FEFJA does not contain its own statute of limitations and Pann argues that Florida's twenty-year statute of limitations for an action on a Florida judgment applies. See § 95 11(1). Ulmer and Florida courts contended that a different result is required and registration starts the limitation period anew. This is absolutely incorrect and violates both Florida Statutes and decisions.

Under FEFJA, recording a foreign judgment does not start the statute of limitations period anew. Once registered under the FEFJA, a foreign judgments are treated as Florida judgments and therefore become subject to section 55 081 Florida Statutes (2000), which states that no judgment shall be a lien on personal property within the state after the expiration of twenty years from the date that the judgment was entered, regardless of when it was actually

recorded. Therefore simply recording the judgment pursuant to FEFJA should not be viewed as an independent action on a judgment that would fall under the statute of limitations in section 95 11(2)(a). Michael v Valley Trucking 832 So 2d at 217 HNC HN10

55 501 Florida Enforcement of Foreign Judgments Act; short title Sections

55 501 55 509 may be cited as the "Florida Enforcement of Foreign Judgments Act."

55.502 Construction of act --

(1) As used in ss 55 501 55 509 the term foreign judgment means any judgment decree or order of a court of any other state or of the United States if such judgment decree or order is entitled full faith and credit in this state

(2) this act shall not be construed to impair the right of a judgment creditor to bring an action to enforce his or her judgment instead of proceeding under this act

(3) This act shall be interpreted and construed to effectuate its general purpose to make uniform the law with respect to the subject of this act among states enacting it

(4) Nothing contained in this act shall be construed to alter, modify, or extend the limitation period applicable for enforcement of foreign judgments

(Emphasis added.)

55 503 Recording and status of foreign judgments; fees --

(1) A copy of any foreign judgment certified in accordance with the laws of the United States or of this state may be recorded in the office of the clerk of the circuit court of any county. The clerk shall file, record, and index the foreign judgment in the same manner as a judgment of a circuit or county court of this state. A judgment so recorded shall have

the same effect and shall be subject to the same rules of civil procedure, legal and equitable defenses and proceedings for reopening, vacating or staying judgments and it may be enforced, released, or satisfied as a judgment of a circuit or county of this state

Petitioner contends that 55 502 subsection (4) applies and Florida's twenty year statute of limitations applicable to a foreign judgment registered under FEFJA. State and federal courts in Florida have agreed with this interpretation. See In re Goodwin 325 B.R. 328, 333-34 (Bankr. M.D. Fla. 2005) (determining that the twenty-year statute of limitations in section 95.11(1) applied to Maine judgments recorded under FEFJA); see also Le Credit Lyonnais S.A. v. Nadd 1741 So. 2d 1165, 1169, 1172 (Fla. 5th DCA

1999)(analyzing FEFJA in a case concerning out of country foreign judgments); N Y State Dep't of Taxation v Patafio 829 So 2d 314,319 (Fla 5th DCA 2002)(stating that when registered under JEFJA the foreign judgment becomes a Florida judgment and is then subject to the Florida statute of limitations for Florida judgments.)

Ulmer contends that the limitations period applicable to the enforcement of a foreign judgment recorded under FEFJA is the limitations period applicable in the state where the judgment was originally rendered under section 55 50-2(4). With respect to the statute of limitations FEFJA does not contain its own statute of limitations. As worded, section 55 502(4) applies to Florida's twenty year statute of limitations applicable to enforce a foreign judgment referenced in subsection (2) of the same section not the varied statutes of limitation in states around the country.

Section 95 11(1), Florida Statutes (2012), provides the following statute of limitations

Actions other than for recovery of real property shall be commenced as follows

- (1) WITHIN TWENTY YEARS -An action on a judgment or decree of a court of record in this state
- (2) WITHIN FIVE YEARS -
 - (a) An action on a judgment or decree of any court not of record of this state or any court of the United States or any other state or territory in the United States or a foreign country

Enforcement of judgments within the state must be conducted within the time constraints of section 95 11, Florida Statutes Nadd v Le Credit Lyonnais 804 So 2d 1226 1232 (Fla 2002)

In Patrick v Hess 212 So 334 1039 1044 n2 (Fla 2017)(The Second District

In Hess also determined the limitations period begins to run when the judgment is rendered in the foreign jurisdiction. We do not address this issue as it is not necessary for a resolution in this case.)

A Florida judgment recorded in any circuit court can only have a life span of twenty years. A lien can only be extended by re-recording for up to twenty years. See Michaels v. Valley Trucking, 832 So. 2d 213, 215 HN2 (Fla. 4th DCA 2002).

Under FEFJA, recording a foreign judgment does not start the statute of limitations period anew. Once registered under the FEFJA, a foreign judgments are treated as Florida judgments and therefore become subject to section 55.081 Florida Statutes (2000), which states that no judgment shall be a lien on personal property within the state after the expiration of twenty years from the date that the judgment was entered regardless of when it was actually recorded. Therefore simply recording the judgment pursuant to FEFJA should not be viewed as an independent action on a judgment that would fall under the statute of limitations in section 95.11(2)(a) Michaels v. Valley Trucking, 832 So. 2d 213, 217 HN9 HN10 (Fla. 4th DCA 2002).

B FLORIDA STATUTE RENDER THE JUDGMENT VOID DUE TO LACK OF SUBJECT MATTER JURISDICTION IN ANY FLORIDA COURT PURSUANT TO FLORIDA STATUTES?

A jurisdictional defect is one that strips the court of its power to act and makes the judgment void McCoy v. United States, 206 F.3d 1245, 1249 (11th Cir. 2001)

§ 55.081 statute of limitations. Lien on a Judgment;

Subject to 55.10 no judgment, order, or decree of any court be lien upon real or personal property within the state after the expiration of 20 years from the date of entry of such order, decree or judgment

§ 55.10

(3) in no event shall the lien by this section be extended beyond the period provided in § 55.081

The plain language of section 55.081 and 55.10(3) limits the recovery for property real or unreal

Section 95.11 Limitations for other than for recovery of real property

Within twenty years An action on a judgment or decree of a court or record in this state

(2) within 5 years

(a) an action on a judgment or decree of any court shall of the United States any other state or territory in the United States or any foreign country

Ulmer registered his May 3, 2001 Michigan judgment (Exhibit A) in Florida on November 16, 2022 (Exhibit F) Pursuant to Florida Statutes and decisions Ulmer is time barred for registration

Section 55.501 Florida Enforcement of Foreign Judgments Act (FEFJA) gives Full Faith and Credit Clause of the United States Constitution Under FEFJA recording a foreign judgment does not start the statute of limitations anew;

once registered under the FEFJA foreign judgments are treated as Florida judgments and therefore become subject to Fla Stat § 55.081; which states that no judgment shall be a lien on personal property within the state after the expiration of 20 years from the date of entry of the judgment Valley Trucking, 882 So 2d at 213

Ulmer's foreign judgment exceeds 21 years from date of entry to date of recording in Florida. Ulmer has no standing and all Florida courts lack subject matter jurisdiction due to time

A jurisdiction tainted by a jurisdictional defect must be reversed. A jurisdictional defect is one that strips the court of its power to act and makes the judgment void. McCoy, 266 F 3d at 1249 HN3 Id

A jurisdictional defect may not be procedurally defaulted and that therefore a defendant need not show cause and prejudice to justify his failure to raise such a defect. Harris v United States 149 F 3d 1304, 1309 (11th Cir 1998); McCoy Id at 1248

A judgment is void because the court that issued it lacked the power to do so: not because it is erroneous. William Skilling & Assocs v. Cunard Transp. Ltd 594 F 2d 1078 1081 (5th Cir 1979); City Cab Co of Orlando v. All City Yellow Cab 591 F Supp 2d 1197 1199 (Middle Dist Fla 2008)

Enforcement of a foreign judgment within the state must be conducted within the time constraints of § 95.11(1), Fla Stat (2012) Section 95.11(1) Fla Stat provides that an action to enforce a foreign judgment of a court of record of Florida must be commenced within 20 years see Patrick v Hess, 212 So 3d 1039 HN2, HN3, HN6, HN10, HN11 (Fla 2017)

Petitioner in his first response to Florida's Circuit Court clearly stated Plaintiff's lack of jurisdiction wherein fact he should have stated standing Plaintiff is not an attorney and his pleadings should be given

leeway. Petitioner uses lack of subject matter jurisdiction and again in his request to stay proceedings due to Michigan's unlawful restitution order currently under review in Michigan Court of Appeals. No. 372457 People v. Robert Penn

Whether a cause of action should be dismissed is a question of law, which is reviewed de novo. City of Gainesville v. State of Florida Dept. of Transp. 778 So. 2d 514, 522 (Fla. 1st DCA 2001). Under section 95.11(1) Fla. Stat. the statute of limitations applicable to an action on a judgment is 20 years. Nadd v. LeCredit Lyonnias 804 So. 2d 1226 (Fla. 2001). See In re Goodwin 325 B.R. 328, 333-34 (Bankr. MD Fla. 2005) (Determining that the 20 year statute of limitations in Sec. 95.11(1) applied to Main judgments recorded under FEFJA)

Ulmer, received his restitution award May 5, 2001. He registered in Florida under FEFJA. More than 21 years elapsed from the original forum's court

The controlling case for review is:

New York State Comm'n of Taxation & Finance v. Farfona 9021 So. 2d 864, 866 (4th DCA 2005) (Once domesticated a foreign judgment will be effective for a period no longer than the original forum's statute of limitations or 20 years whichever comes first)

The key words are whichever comes first. Respondent's Michigan judgment exceeds 20 years and is therefore time barred. The Circuit Court lacked subject matter jurisdiction. Under FEFJA recording a foreign judgment does not start the statute of limitations period anew. Under FEFJA foreign judgments are treated as Florida judgments and therefore become subject to section 55.081 Fla. Stat. (2000) which states that no judgment shall become a lien on personal property within the state after expiration of 20 years from the date of entry of the judgment. See Michael v. Valley Trucking Co. 823 So. 2d 213, 217 (4th DCA 2002) (Valley Trucking may only have a lien for 20 years)

after the date that the judgment was entered, regardless of when it was actually recorded.)

NO FLORIDA COURT DECISION ALLOWS RECORDING OR DOMESTICATION OF A FOREIGN JUDGMENT ORDER OR DECREE AFTER 20 YEARS FROM DATE OF ENTRY IN THE FOREIGN COURT'S JURISDICTION!

The Circuit Court rendered its decision without subject matter jurisdiction a procedural due process violation see Kramer v. Chemical Const. Corp., 456 U.S. 461, 483 84 (1982). This Honorable Court pursuant to Florida Statutes should order the judgment void due to lack of subject matter jurisdiction

C PETITIONER'S DUE PROCESS VIOLATED BY FLORIDA COURT'S NEVER ISSUING A WRITTEN DECISION ON THE MERITS FORFEITING FLORIDA SUPREME COURT REVIEW

No Florida Court ever entered a decision on the merits. Due to Petitioner being a Michigan prisoner unrepresented by counsel Florida Court's accepted respondent's arguments at face value even though their arguments were in direct conflict with Florida statutes and decisions. No Florida court ever entered a written decision on the merits for appellate review. Thus barring Florida Supreme court review. See (EXHIBITS A,B,C,D) to comply with Florida Court Rule 1.140 requiring 30 day notice prior notice for final hearing. See Florida Register of Actions #'s 35-41 (EXHIBIT F). Respondent's only allowed 16-hours notice and Petitioner's prison could not verify on such short notice. Petitioner has no relief other than this Court. Only conditions of confinement or criminal sentences are applicable for federal court review. This is a civil matter outside of Petitioner's right's of access to the courts Constitution First Amendment protections.

This Court has the authority to remand for Florida courts to enter a written decision on the merits

RELIEF

Petitioner, Pann respectfully requests this Honorable Court to grant rehearing determining Florida Court's lack subject matter jurisdiction due to their statute's of limitations. Order the judgment 2022-CA-2036 null and void.

Respectfully submitted



Robert Pann 254048
Carson City Correctional Facility
10274 Boyer Rd
Carson City, MI 48811

Dated: October 31, 2024

1746 Verification

I placed this R 44 motion in prison official P/C Miller's hands for mailing on October 31, 2024. All facts are true and issues federally preserved. Robert Pann, swear under the penalty of perjury this is a factual verification.



RULE 44 CERTIFICATE OF GOOD FAITH

This Rule 44 petition for rehearing is presented in good faith and not for delay. Petitioner's initial petition only presented U.S. Fourth Amendment for Florida Court's amending Michigan's criminal court order. This Court denied review.

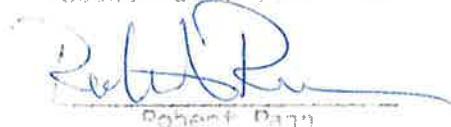
Petitioner now requests review for "QUESTIONS OF FLORIDA STATE LAW." Review for Florida's courts application of statutes and court rules. Pursuant to Florida case law and statutes their Court's lack subject matter jurisdiction over Petitioner and their judgment and order is void pursuant to Florida statutes. Enforcement of foreign judgments is strictly limited to 20-years from date of entry in the foreign court's jurisdiction. Respondent domesticated / registered their foreign judgment over 21-years from date of entry. No Florida court has jurisdiction pursuant to Fla.Stat sec 55.081 and sec 95.11. Florida court's incorrectly ordered domestication of a foreign judgment starts the limitation period anew.

This Court has the authority and duty to seek the truth and justice in correcting unjust State judgments entered in violation of their State laws and statutes.

Secondly Petitioner was denied timely notice for final hearing., Respondent provided 16 hours notice. Pursuant to Florida Court Rule Petitioner was to be provided 30-day notice for final hearing. This is a procedural due process violation, 14th Amendment violation. No Court ever entered a decision on the merits for this question of law.

Petitioner respectfully requests this Court's review for questions of state law.

Respectfully submitted


Robert Damm

**SUPREME COURT OF THE UNITED STATES
OFFICE OF THE CLERK
WASHINGTON, DC 20543-0001**

November 18, 2024

Robert Pann
#254048
10274 Boyer Road
Carson City, MI 48811

RE: Pann v. Ulmer
No: 23-7458

Dear Mr. Pann:

* My petition required 15-days to reach
your Court.*
I received your letter 34-days, i.e.
December 23, 2024. *
Rule 30 motion attached

The petition for rehearing in the above-entitled case was postmarked October 31, 2024 and received November 14, 2024 and is herewith returned for failure to comply with Rule 44 of the Rules of this Court. The petition must briefly and distinctly state its grounds and must be accompanied by a certificate stating that the grounds are limited to intervening circumstances of substantial or controlling effect or to other substantial grounds not previously presented.

You must also certify that the petition for rehearing is presented in good faith and not for delay.

Please correct and resubmit as soon as possible. Unless the petition is submitted to this Office in corrected form within 15 days of the date of this letter, the petition will not be filed. Rule 44.6.

Sincerely,
Scott S. Harris, Clerk

By:


Redmond K. Barnes
(202) 479-3022

Enclosures