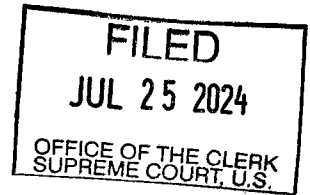


ORIGINAL

No. 24-

100

**In the
Supreme Court of the United States**



DOUGLAS ALAN DYSON,

Petitioner,

v.

TIFFANY DEAKINS, WHITLEY COUNTY AUDITOR, ET AL.

Respondents.

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

PETITION FOR A WRIT OF CERTIORARI

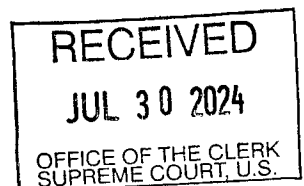
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JULY 26, 2024

SUPREME COURT PRESS

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QUESTIONS PRESENTED

1. Whether the trial court violated the organic law and constitutional provisions to supplant its orders superseding my rights to a judicial proceeding according to the course of the common law and a jury of my peers secured by the conditions stated in the 1816 Enabling Act, passed at the First Session of the Fourteenth Congress of the United States, U.S. Statutes at Large III, 289-291.

2. Whether the trial court deprived me of liberty and property, without just compensation and due process of law under the Fifth Amendment resulting in an unlawful taking.

3. Whether the trial court had subject matter jurisdiction absent determining liability under Ind. Code § 6-1.1-2-4 as it relates to U.S. Const. Art. I, § 8, cl. 3 of my fee simple absolute ownership private property held in conventional ownership for my personal use.

4. Whether Whitley County Auditor is bound by oath and law to make proper tax identification under Ind. Code § 36-2-9-18 (App.47a-48a) upon demand with the payment of the stated fee.

PARTIES TO THE PROCEEDINGS

Petitioner

- Douglas Alan Dyson

Respondents

- Tiffany Deakins, Whitley County Auditor
- Kay Gatton, Whitley County Treasurer

LIST OF PROCEEDINGS

Whitley County Circuit Court Columbia City, Indiana
No. 92C01-2309-MI-000824

Douglas Alan Dyson, *Petitioner*, v. Whitley County
Auditor, Tiffany Deakins; Whitley County Treasurer,
Kay Gatton, *Respondents*

Date of Final Order: 10/26/2023

Whitley County Circuit Court Columbia City, Indiana
No. 92C01-2309-TS-864

Douglas Alan Dyson, *Petitioner*, v. Whitley County
Auditor, Tiffany Deakins; Whitley County Treasurer,
Kay Gatton, *Respondents*

Date of Final Order: 10/27/2023

Indiana Court of Appeals

No. 23A-TS-2791

Douglas Alan Dyson, *Petitioner*, v. Whitley County
Auditor, Tiffany Deakins; Whitley County Treasurer,
Kay Gatton, *Respondents*

Date of Final Order: 03/19/2024

Indiana Supreme Court (Petition to Transfer)

No. 23A-TS-2791

Douglas Alan Dyson, *Petitioner*, v. Whitley County
Auditor, Tiffany Deakins; Whitley County Treasurer,
Kay Gatton, *Respondents*

Date of Denying Transfer: 06/19/2024

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PRAECIPE FOR COMMON LAW WRIT OF CERTIORARI

The U.S. Constitution First Amendment *right to petition the Government for a redress of grievance* is enshrined in accord with the Magna Carta (1215), clause (34), *The writ called Praecipe is not in future to be issued to anyone for any tenement in respect of which a free man could lose his court.*, clause (39), *No free man shall be seized, imprisoned, dispossessed, outlawed, exiled or ruined in any way, nor in any way proceeded against, except by the lawful judgement of his peers and the law of the land.*, and clause (40), *We will not sell, or deny or delay right or justice to anyone.*

The U.S. Constitution Amendment IX, *The enumeration in the Constitution, of certain rights, shall not be construed to deny or disparage others retained by the people.*, and U.S. Constitution Article IV § 4, *shall guarantee to every State in this Union a Republican Form of Government, and shall protect each of them against Invasion;* petitions this Court for a writ of certiorari to issue to the Indiana Supreme Court, a court of last resort.



OPINIONS BELOW

A Notice of Tax Sale (App.50a-55a) was served specifying that the Respondents would apply on or after 09/15/2023 for a court Judgment in the Whitley County Circuit Court against my allodial owned property for the amount listed therein. The notice

stated that any defense was to be filed before 09/15/2023.

The defense was served by suit, that was brought against the Respondents under case number 92C01-2309-MI-000824 on 09/08/2023 (App.27a-45a) with a demand for Seventh Amendment Constitutional Judicial Proceeding according to the course of the common law and for a judgment of my peers.

On 09/18/2023 the Respondents applied for a judgment in case number 92C01-2309-TS-864, (App.18a-20a) the trial court then commingled my defenses from my suit without making a proper determination of liability for property tax, then entering a judgment and Order of Sale (App.24a-25a) without a Judicial Proceeding or judgment of my peers, nor the Respondents answering the defense and the trial court refusing my right to cross examination of Auditor Tiffany Deakins. (App.15a-16a)



JURISDICTION

The Indiana Supreme Court has denied my Petition to Transfer (App.1a) from the Indiana Court of Appeals affirming the trial Court's denial of a judicial proceeding according to the course at common law and a jury of my peers and without making a proper determination of liability for property tax (App.46a) all under the color of law.

This Court has jurisdiction by U.S. Const. Art. III § 2, United States Title 28 §1257(a), United States Title 28 § 1651, United States Supreme Court Rule

20, and binding the Justices of their oath's by U.S. Const. Art. VI to support the Constitution.



CONSTITUTIONAL PROVISIONS INVOLVED

Northwest Ordinance of 1787, Art II

The Northwest Ordinance of 1787, which (following its readoption by Congress in 1789) subjected the territory to the federal Judiciary Act of 1789. The Ordinance guaranteed to the territorial inhabitants the “benefits” of trial by jury of peers “and of judicial proceedings according to the course of the common law.”

Art. II. The inhabitants of the said territory shall always be entitled to the benefits of the writ of *habeas corpus*, and of the trial by jury; of a proportionate representation of the people in the legislature; and of judicial proceedings according to the course of the common law.

Act of Aug. 7, 1789, ch. 8, 1 Stat. 50, art. II (readopting Ordinance of July 13, 1787), *reprinted in* 1 U.S.C. LVII (2018).

Indiana Enabling Act § 4

The Congressional accepted 1816 Indiana Enabling Act § 4, And be it further enacted, That the members of the convention, thus duly elected be, and they are hereby authorized to meet at the seat of the government of the said territory, on the second Monday of June next, which convention, when met, shall first determine, by a

majority of the whole number elected, whether it be, or be not expedient, at that time, to form a constitution and state government, for the people within the said territory, and if it be determined to be expedient, the convention shall be, and hereby are authorized, to form a constitution and state government: or if it be deemed more expedient, the said convention shall provide by ordinance for electing representatives to form a constitution, or frame of government; which said representatives shall be chosen in such manner, and in such proportion, and shall meet at such time and place, as shall be prescribed by the said ordinance, and *shall then form, for the people of said territory, a constitution and state government: Provided, That the same, whenever formed, shall be republican, and not repugnant to those articles of the ordinance of the thirteenth of July, one thousand seven hundred and eighty-seven, which are declared to be irrevocable between the original states, and the people and states of the territory northwest of the river Ohio; . . .*

U.S. Const. amend. V

. . . nor be deprived of life, liberty, or property, without due process of law; nor shall private property be taken for public use, without just compensation.

U.S. Const. amend. VII

In suits at common law, where the value in controversy shall exceed twenty dollars, the right of trial by jury shall be preserved, and no fact tried by a jury shall be otherwise reexamined in any

Court of the United States, than according to the rules of the common law.

U.S. Const. amend. IX

The enumeration in the Constitution, of certain rights, shall not be construed to deny or disparage others retained by the people.

U.S. Const. Art. IV § 4

The United States *shall guarantee to every State in this Union a Republican Form of Government, and shall protect each of them against Invasion;* and on Application of the Legislature, or of the Executive (when the Legislature cannot be convened) against domestic Violence.

U.S. Const. Art. VI

. . . judicial Officers, both of the United States and of the several States, shall be bound by Oath or Affirmation, to support this Constitution; . . .



STATEMENT OF THE CASE

This case arises out of a Notice of Tax Sale from case number 92C01-2309-TS-864. resulting in a judgment and Order of Sale (App.50a-55a) of my unencumbered fee simple allodial titled property that I inhabit under conventional ownership for my private use, against my defense filed in case number 92C01-2309-MI-000824 (App.27a-45a) in which was dismissed without a hearing or answer to my complaint and

denial of the right to cross examine Auditor Tiffany Deakins (App.15a-16a).

My right to a judicial proceeding according to the course of the common law and judgment of my peers was denied by the trial court, upheld by the Ind. Ct. of Appeals and transfer to the Ind. Supreme Ct. was denied under the color of law in violation of U.S. Title 18 §§ 241 & 242.

The right to a judicial proceeding according to the course of the common law and judgment of my peers is enshrined in Article 2 of The Northwest Ordinance (1787). In *State v. \$2,435 In U.S. Currency*, 220 N.E.3d 542 (Ind. 2023): Supreme Court 2023, Justice Goff opined

The Indiana Constitution guarantees the same right to a jury trial in a civil case as existed at common law when the current constitution was adopted in 1851, then instead of upholding and supporting the Constitution as mandated by his oath of office, he did not participate in the denial to transfer, causing irreparable harm with no adequate remedy at law and remedy by due course of law. (App.1a)

Proper subject matter jurisdiction and determination of liability for the property tax was not made under Ind. Code § 6-1.1-2-4. The court entered judgment pursuant to Ind. Code § 6-1.1-24-4.7 contrary to Ind. Code § 6-1.1-2-4 and U.S. Const. Art. I, § 8, cl. 3.



SUMMARY OF ARGUMENT

The Courts below have trespassed and evaded important issues of subject matter jurisdiction, organic and constitutional law questions. This petition also presents significant issues regarding this Court's own jurisdiction to review cases from the Ind. Supreme Ct. This Court needs to grant this Praecipe for common law writ of certiorari petition, and address the merits of the case. That is because, this is a paradigmatic case for common-law certiorari.

The common-law writ of certiorari originated in the supervisory power of the court of King's Bench, which could review and correct the proceedings of any inferior court. The writ was a discretionary writ, never available as of right to litigants, but suitable to ensure the consistent administration of the King's justice by lower courts. At the American founding, the States' highest courts inherited the jurisdiction of King's Bench within their respective territories, as did this Court for the United States—subject only to the limitations of Article III.

This Court retains power to issue a common-law writ of certiorari under the All Writs Act. 28 U.S.C. § 1651(a); Sup. Ct. R. 20.6. Traditionally, this Court has used the extraordinary writs available under the Act “to confine an inferior court to a lawful exercise of its prescribed jurisdiction or to compel it to exercise its authority when it is its duty to do so.” *Roche v. Evaporated Milk Ass’n*, 319 U.S. 21, 26 (1943). Indeed, jurisdictional review is at the core of certiorari's common-law role. *Harris v. Barber*, 129 U.S. 366, 371—

372 (1889) (citing *People v. Betts*, 55 N.Y. 600 (1874) and *Gaither v. Watkins*, 66 Md. 576 (1887)). And the All Writs Act retains this gap-filling role today.

This Praecipe common-law writ of certiorari has seldom been used in recent years, but that is not because of abrogation or desuetude. The gaps common-law certiorari exists to fill have merely gotten smaller as this Court's interpretations of the various certiorari statutes have grown more and more expansive. See *Hohn v. United States*, 524 U.S. 236, 248 (1998). But where a gap exists, common-law certiorari is there as needed to fill it.

It would be inconsistent with the basic structure of the federal judicial hierarchy for these inferior courts' jurisdictional rulings—which bar me from any consideration of these constitutional claims by the Ind. Supreme Ct. and perhaps by any court—to be final but yet not subject to supervisory review by this Court.

Fortunately, that is not the situation. The common-law writ is in aid of this Court's appellate jurisdiction, exceptional circumstances exist, and no other court can compel the lower courts to follow the organic and constitutional law that this Praecipe seeks.



ARGUMENT

This Court retains the power to issue the common-law writ of certiorari to review the decision below.

28 U.S.C. § 1257 empowers this Court to issue writs of certiorari to the Ind. Supreme Court for the validity of the non-application of the Northwest

Ordinance of 1787, of trial by jury of my peers “and of judicial proceedings according to the course of the common law.” Act of Aug. 7, 1789, ch. 8, 1 Stat. 50, art. II (readopting Ordinance of July 13, 1787), *reprinted in* 1 U.S.C. LVII (2018) and Ind. Code 6-1.1-2-4 contrary to U.S. Const. Art. I, § 8, cl. 3. regarding subject matter jurisdiction and determination of liability of the tax that is repugnant the Constitution and laws of the United States as applied.

The All Writs Act codifies this Court’s power to “issue all writs necessary or appropriate in aid of [its] . . . jurisdiction[] and agreeable to the usages and principles of law.” 28 U.S.C. § 1651(a). “The All Writs Act is a residual source of authority to issue writs that are not otherwise covered by statute.” One of the extraordinary writs available to this Court under the All Writs Act is the “common-law writ of certiorari.” Sup. Ct. R. 20.6. History shows that the common-law writ of certiorari is uniquely appropriate for situations like this case, in which a lower court has erroneously concluded that it lacks jurisdiction to consider a petition seeking to vindicate constitutional rights. The writ of certiorari originated at the court of King’s Bench alongside the other prerogative writs of mandamus, prohibition, and quo warranto. Frank J. Goodnow, *The Writ of Certiorari*, 6:3 POL. SCI. Q. 493, 497 (1891). To administer this prerogative, the King’s Bench held “supervisory authority over inferior tribunals” and exercised this authority via the “prerogative or discretionary writs.” *Hartranft v. Mullett*, 247 U.S. 295, 299 (1918); *see also* 4 William Blackstone, Commentaries *314–317 (describing certiorari as a prerogative writ of the King’s Bench).

Certiorari practice at King's Bench formalized three ways for the King's prerogative to be exercised. First, certiorari could "bring up an indictment or presentment before trial in order to pass upon its validity, to take cognizance of special matters bearing upon it, or to assure an impartial trial." *Hartranft*, 247 U.S. at 299. Second, certiorari could serve as an "auxiliary writ in aid of a writ of error" to bring up any parts of a record omitted when a case was transferred for appeal. *Id.* at 300. Third, and most relevant here, certiorari served "as a *quasi* writ of error to review judgments of inferior courts of civil or of criminal jurisdiction, especially those proceeding otherwise than according to the course of the common law and therefore not subject to review by the ordinary writ of error." *Id.* (second emphasis added).

As this Court has recognized, the first Congress ratified the common-law writ of certiorari in the Judiciary Act of 1789:

By section 14 of the Judiciary Act of September 24, 1789 (1 Stat. 81, c. 20), carried forward as section 716 of the Revised Statutes, this court and the Circuit and District Courts of the United States were empowered by Congress "to issue all writs, not specifically provided for by statute, which may be agreeable to the usages and principles of law"; and, under this provision, we can undoubtedly issue writs of certiorari in all proper cases.

In re Chetwood, 165 U.S. 443, 461–462 (1897); see also James E. Pfander, *Jurisdiction-Stripping and the Supreme Court's Power to Supervise Inferior Tribunals*, 78 TEX. L. REV. 1433, 1456 (2000) (explaining

that the Framers believed the Supreme Court could use discretionary writs to supervise lower courts). This Court has acknowledged that “[t]he purposes for which the writ is issued [in America and by the King’s Bench] are alike.” *Ex parte Vallandigham*, 68 U.S. (1 Wall.) 243, 249–250 (1864). Although we lack a “King as fountain of justice” (Goodnow, 6:3 POL. SCI. Q. at 495), we have a Supreme Court and a Vesting Clause.

As under the English common law, common-law certiorari was, by “general and well-established doctrine,” the means by which “the review and correction of the proceedings” “and determinations of inferior boards or tribunals of special jurisdiction” “must be obtained.” *Ewing v. City of St. Louis*, 72 U.S. (5 Wall.) 413, 418–419 (1867). Those tribunals were not subject to review by the ordinary writ of error (*Hartranft*, 247 U.S. at 300) and certiorari review of them was “in the nature of a writ of error” (*Harris*, 129 U.S. at 369). For ordinary tribunals whose merits decisions were reviewable by writ of error, certiorari was available only to review jurisdictional determinations. *Id.* at 371 372 (“Certiorari goes only to the jurisdiction.”).

This common-law version of the writ still exists today. The Court’s Rules expressly provide for it: “[I]f the case involves a petition for a common-law writ of certiorari, . . . the parties shall prepare a joint appendix in accordance with Rule 26.” Sup. Ct. R. 20.6.

Though the Court’s power to issue the writ persists, it has done so infrequently as the scope of statutory certiorari has expanded. For instance, in *House v. Mayo*, the district court and the court of appeals denied a certificate of probable cause to a habeas petitioner. The petitioner then sought a writ of certiorari. This Court concluded that no writ could

issue under the certiorari statute because “the case was never ‘in’ the court of appeals, for want of a certificate of probable cause.” 324 U.S. 42, 44 (1945). Nevertheless, the Court “grant[ed] a writ of certiorari to review the action of the court of appeals in declining to allow an appeal to it” under the All Writs Act. *Id.* at 44–45.

Hohn v. United States, 524 U.S. 236, 248 (1998). In dissent, four Justices argued that the Court should adhere to *House* and therefore determine whether it could “issue a common-law writ of certiorari under the All Writs Act” under the circumstances. *Id.* at 263 (Scalia, J., dissenting).

While *Hohn* obviated the need for common-law certiorari in such cases, it remains available where needed. As historically, the writ is still a safety valve in such cases that meet the discretionary criteria for certiorari but do not technically meet the criteria of the certiorari statute: “The wholesome function of this particular writ is to permit the Supreme Court to review cases of which it could not otherwise accept jurisdiction.” Wolfson, 51 COLUM. L. REV. at 984. As this Court has explained, the All Writs Act “contemplates the employment of [common-law certiorari] in instances not covered by” the certiorari statute “as a means ‘of giving full force and effect to existing appellate authority and of furthering justice in other kindred ways.’” *In re 620 Church Street Bldg. Corp.*, 299 U.S. 24, 26 (1936). This is precisely such a case.

As discussed, the Court’s power to issue the common-law writ of certiorari comes from the All Writs Act, 28 U.S.C. § 1651(a). The Court has distilled its discretion to issue extraordinary writs under the All Writs Act to a three-part test in its Rule 20.1:

To justify the granting of any such writ, the petition must show that [1] the writ will be in aid of the Court's appellate jurisdiction, [2] that exceptional circumstances warrant the exercise of the Court's discretionary powers, and [3] that adequate relief cannot be obtained in any other form or from any other court.

This case meets all three prongs.

The Court has "appellate Jurisdiction, both as to Law and Fact," in all cases "arising under the Constitution" or "the Laws of the United States." U.S. Const. Art. III, § 2, Cl. 1. This Court has appellate jurisdiction to review this case because it is an appeal from an Article III court's ruling on questions arising under the Constitution and federal law.

Even if the Court concluded that Petitioner did not meet all three parts of the Rule 20.1 test, the Court could still grant the common-law writ because "[t]he procedural rules adopted by the Court for the orderly transaction of its business are not jurisdictional and can be relaxed by the Court in the exercise of its discretion when the ends of justice so require." *Schacht v. United States*, 398 U.S. 58, 64 (1970).

21 C.J.S. Courts § 296 Exceptions to Anti-Injunction Act, generally; effect of All-Writs Act (2023), If an injunction falls within any one of the foregoing three exceptions, the All Writs Act, which provides that federal courts have power to issue all writs necessary or appropriate in aid of their respective jurisdictions and agreeable to the usages and principles of law, provides the positive authority for federal courts to issue injunctions of state court proceedings.⁷ In turn, the

federal court's authority to issue an injunction under the All Writs Act is limited by the Anti-Injunction Act, which prohibits federal courts from enjoining state court proceedings unless one of the three narrow exceptions applies.

Under the Anti-Injunction Act, federal courts are statutorily prohibited from enjoining state court proceedings except in three narrowly excepted categories of cases: (1) as expressly authorized by Act of Congress; or (2) where necessary in aid of its jurisdiction; or (3) where necessary to protect or effectuate its judgments. In the interest of comity and federalism, the exceptions to the Anti-Injunction Act's bar are construed strictly.

The hierarchy governing Indiana is declared to be by Ind. Code § 1-1-2-1,

First. The Constitution of the United States and of this state.

Second. All statutes of the general assembly of the state in force, not inconsistent with such constitutions.

Third. All statutes of the United States in force, and relating to subjects over which congress has power to legislate for the states, and not inconsistent with the Constitution of the United States.

Fourth. The common law of England, and statutes of the British Parliament made in aid thereof prior to the fourth year of the reign of James the First (except the second section of the sixth chapter of forty-third Elizabeth, the eighth chapter of thirteenth

Elizabeth, and the ninth chapter of thirty-seventh Henry the Eighth,) and which are of a general nature, not local to that kingdom, and not inconsistent with the first, second and third specifications of this section.

Whitley County Auditor failed to comply and refused to make proper tax identification under Ind. Code § 36-2-9-18 upon demand with the Payment of the stated fee. Violating my due process rights. (App.46a)

Ind. Code § 6-1.1-24-3(c) & Ind. Code § 6-1.1-24-1(d) declares that the "Auditor" is to obtain a list recorded in the office of the county recorder, of all mortgaged, leased, and land contract properties to give notice for tax sale to any mortgagee, or purchaser under an installment land contract.

Proof of a mortgagee, or purchaser under an installment land contract by a list recorded in the office of the county recorder, of all mortgaged, leased, and land contract properties, to exercise subject matter jurisdiction over "the property, to list assess and tax is required.

Respondent's authority, to list, assess, and tax property, have not complied with Ind. Code § 6-1.1-2-4 liability for tax, Ind. Code § 6-1.1-24-3(c) & Ind. Code § 6-1.1-24-1(d).

Where there is a failure to comply with jurisdictional requirements embodied in a statute, like Ind. Code § 6-1.1-2-4 liability for tax, Ind. Code § 6-1.1-24-3(c) & Ind. Code § 6-1.1-24-1(d), a trial court does not acquire jurisdiction of the parties or the particular case. *Ballman, supra*, 230 Ind. at 229, 102 N.E.2d at 649; *Hunter, supra*, at 1268. The court has inherent

power to order a dismissal of an action of which it has no jurisdiction. *Ballman, supra*, 230 Ind. at 229; 102

The authority with which these statutes vests in the court to enforce the limitations of its jurisdiction precludes the idea that jurisdiction may be maintained by mere averment or that the party asserting jurisdiction may be relieved of their burden by any formal procedure. Jurisdiction should affirmatively appear, and the question may be raised at any time. *Grace v. American Central Ins. Co.*, 109 U.S. 278, 283; *M.C. L.M. Railway Co. v. Swan*, 111 U.S. 379, 382; *Mattingly v. Northwestern Virginia Railroad Co.*, 158 U.S. 53, 56, 57.

A court must stay within the limit of its jurisdiction. 21 C.J.S. Courts § 77 Statutory and constitutional limits of jurisdictional powers (2023). It is axiomatic that “[t]he tax court is a court of special limited jurisdiction.” Ind. Code § 33-3-5-2(a) (1998); 21 C.J.S. Courts § 93 Jurisdiction shown by record for courts of inferior, limited, or special jurisdiction Limitations of the State . . . (2023), However, Jurisdictional facts must affirmatively appear on the record of a court of limited jurisdiction¹ or an inferior tribunal., A court cannot expand its jurisdiction beyond the statutory or constitutional grant, and a constitutional grant of jurisdiction is not subject to expansion by statute or court rule. 21 C.J.S. Courts § 16 Enlargement or expansion of courts’ jurisdiction beyond grant of jurisdiction (2023). Both subject matter & personal jurisdiction over a defendant is a constitutional requirement to render a valid judgment, mandated by the Due Process Clause of the Fourteenth Amendment. *Anthem Ins. Companies v. Tenet Healthcare*, 730 N.E.2d 1227 (Ind. 2000). As subject matter jurisdiction cannot be con-

ferred by consent, agreement, waiver, or estoppel. When a court is without jurisdiction in the particular case, its acts and proceedings can be of no force or validity and are a mere nullity and void, not voidable, even prior to reversal 12. 21 C.J.S. Courts § 104 Acts and proceedings of court as void without jurisdiction (2023).

This evaded & ignored constitutional provision in 84 C.J.S. Taxation § 151 Real property and appurtenances and interests therein, on conventional ownership being not taxable is supposed to control in any conflict with lesser laws, such as statutes, local ordinances, administrative regulations, and case law. Per: 16 C.J.S. Constitutional Law § 8. Conformance of statutory and common law to constitution.

This Court of its historic common law jurisdiction. *See Utah v. Evans*, 536 U.S. 452, 463 (2002) (“We do not normally read into a statute an unexpressed congressional intent to bar jurisdiction that we have previously exercised.” (citation omitted)); *Ex parte Yenger*, 75 U.S. (8 Wall.) 85, 103 (1869) (“doubtful words” cannot “withhold[] or abridg[e] this jurisdiction”); Stephen I. Vladeck, *The Increasingly “Unflagging Obligation”: Federal Jurisdiction After Saudi Basic and Anna Nicole*, 42 TULSA L. REV. 553, 573 (2007) (describing clear statement rule in *Hamdan*).

Finally, exceptional circumstances also exist here because “unless it can be reviewed under [the All Writs Act, the order below] can never be corrected if beyond the power of the court below.” *De Beers Consol. Mines, Ltd. v. United States*, 325 U.S. 212, 217 (1945) (describing *U.S. Alkali Exp. Ass’n*, 325 U.S. 196). “If [the Court] lacked authority to” review decisions like

this, then “decisions of The Indiana Supreme Court to dismiss for want of jurisdiction would be insulated entirely from review by this Court.” *Nixon v. Fitzgerald*, 457 U.S. 731, 743 n.23 (1982).

The final factor is that “adequate relief cannot be obtained in any other form or from any other court.” This usually refers to a failure of a litigant to seek relief in an intermediate court. *In re Blodgett*, 502 U.S. 236, 240 (1992) (“The State should have lodged its objection with the Court of Appeals, citing the cases it now cites to us.”); *Hohn*, 524 U.S. at 264 (Scalia, J., dissenting) (“Because petitioner may obtain the relief he seeks from a circuit justice, relief under the All Writs Act is not necessary.”); cf. *Wolfson*, 51 COLUM. L. REV. at 977 (“[T]he Supreme Court has frequently said, in cases reviewable by the courts of appeals, that application for such writs should be made in the first instance to the intermediate courts.”).

In short, this Court’s supervisory power is the only judicial power that can check The Indiana Supreme Court’s supervisory power over its own records and files. Coupled with the other circumstances discussed above, that warrants the use of common-law certiorari.

By the 1816 Indiana Enabling Act § 4, the Inhabitants were enabled to form a constitution and state government, for the people within the said territory, to form a constitution and state government: and shall then form, for the people of said territory, a constitution and state government: Provided, That the same, whenever formed, shall be republican, and not repugnant to those articles of the ordinance of the thirteenth of July, one thousand seven hundred and eighty-seven, which are declared to be irrevocable

between the original states, and the people and states of the territory northwest of the river Ohio.

Justice Goff opined in *State v. \$2,435 In U.S. Currency*, the Indiana Constitution guarantees the same right to a jury trial in a civil case as existed at common law when the current constitution was adopted in 1851.

Indiana adopted and Congress accepted the 1816 Indiana Constitution Art. 1 § 11, "That all Courts shall be open, and every person, for his injury done him, in his lands, goods, person, or reputation shall have remedy by due course of law; and right and justice administered without denial or delay". The Congressional accepted 1816 Ind. Const., Art. V § 3 states;

The Circuit Courts shall each consist of a President, and two associate Judges. The State shall be divided by law into three circuits, for each of which, a president shall be appointed, who during his continuance in office, shall reside therein. The President and associate Judges, in their respective Counties, shall have Common law and chancery Jurisdiction, as also complete criminal Jurisdiction, in all such cases and in such manner, as may be prescribed by law. The President alone, in the absence of the associate Judges, or the President and one of the associate Judges, in the absence of the other shall be competent to hold a Court, as also the two associate Judges, in the absence of the President, shall be competent to hold a Court, except in capital cases, and cases in chancery, provided, that nothing herein contained, shall prevent the General Assembly from

increasing the number of circuits, and Presidents, as the exigencies of the State may from time to time require.

The Congressional accepted 1816 Ind. Const., Art. V § 7 states;

The Judges of the supreme Court shall be appointed by the Governor, by and with the advice, and consent of the senate. The Presidents of the circuit Courts shall be appointed by Joint Ballot of both branches of the General Assembly, and the associate Judges of the Circuit Courts, shall be elected by the qualified electors in the respective Counties.

The Congressional accepted 1816 Ind. Const., Art. V § 10 states;

When any vacancies happen in any of the Courts occasioned by the death, resignation, or removal from office of any Judge of the supreme, or Circuit Courts, or any of the clerks of the said Courts, a successor shall be appointed in the same manner, as herein before prescribed, who shall hold his office for the period which his predecessor had to serve, and no longer unless re-appointed.

By Ind. Code § 33-33-92-1; Whitley County constitutes the eighty-second judicial circuit.

The Trial Court Judge Matthew Rentschler is an elected associate judge of the Whitley County Circuit Court and the President of the court is vacant and in need of an appointment by Joint Ballot of both

branches of the General Assembly together with a special election for another associate judge.

I, Douglas Alan Dyson have been denied remedy by due course of law and right to justice, administered without denial or delay, as it existed under the Northwest Ordinance, to a proceeding "according to the course of the common law," subjected to administrative procedure that has caused irreparable harm to my lands, goods, person, and reputation, without due course of law; and right to justice all without an adequate remedy of law and constitutional determination of subject matter jurisdiction.

To aid in this Court's constitutional jurisdiction and to effectuate this Court's judgments on jurisdiction, that have been evaded and ignored, it is paramount this Court issue this Common law writ of certiorari expediently.



CONCLUSION

By this Praeipce for a common law writ of certiorari and payment of fees, this Court's grant of this common law writ of certiorari petition is just, proper, and lawful to address the merits of the case, or issue an order to the Indiana Supreme Court to provide and serve upon this Court why the Petitioner herein was not entitled to "benefits" of trial by jury of my peers" and of judicial proceedings according to the course of the common law in case 92C01-2309-TS-864, a determination of subject matter jurisdiction and determination of tax liability under Ind. Code § 6-1.1-2-4 as it relates to U.S. Const. Art. I, § 8, cl. 3 of my fee simple absolute

ownership private property held in conventional ownership for my personal use, or issue an order vacating the trial court's judgment and Order of Tax Sale, vacating the order of dismissal of case number 92C01-2309-MI-000824 and order it set for a judicial proceeding according to the course of common law. To deny this Praeipe for a common law writ of certiorari would be the denial of a republican form of government.

Respectfully submitted,

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