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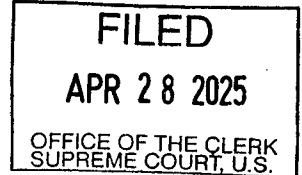
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IN THE  
**Supreme Court of the United States**

APPEAL OF LEONARD LAPADULA

On Petition For Writ Of Certiorari  
To The New Hampshire Supreme Court

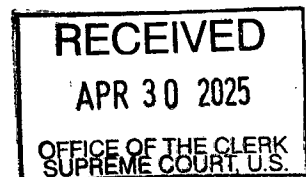
**ORIGINAL**



PETITION FOR WRIT OF CERTIORARI

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## **I. Question Presented**

Whether a United States citizen living and working abroad, whose employment remains connected to the U.S. labor market, is eligible for federal entitlements, such as Pandemic Unemployment Assistance (PUA) under the CARES Act, by virtue of a federally recognized domicile, or whether state-specific physical residency laws may lawfully disqualify such claimants.

## **II. Parties To The Case**

Leonard LaPadula, individually and on behalf of himself is Petitioner here and was Appellant below.

New Hampshire Employment Security, Respondent here and was Appellee below.

## **III. List of Proceedings**

### **N.H. Employment Security Appeals Tribunal**

Docket No: 2100914890

Title: De novo Hearing for Pandemic Unemployment Assistance

Date of Decision: March 7, 2022

### **N.H. Appellate Board**

Docket No: 0006-22

Title: Appeal of Leonard LaPadula

Date of Order: August 26, 2022

Date of Order on Motion to Reconsider: September 30, 2022

### **N.H. Supreme Court**

Docket No: 2022-0597

Title: Appeal of Leonard LaPadula

Date of Final Order: December 20, 2024

Date of Order on Motion for Reconsideration: January 27, 2025

#### IV. Table of Contents

|       |  |          |
|-------|--|----------|
| I.    | Question Presented .....   | i        |
| II.   | Parties To The Case .....  | ii       |
| III.  | List of Proceedings .....  | ii       |
| IV.   | Table of Contents .....  | iii      |
| V.    | Table of Authorities.....  | iv       |
| VI.   | Petition for Writ of Certiorari.....   | 1        |
| VII.  | Opinions Below .....   | 1        |
| VIII. | Jurisdiction .....   | 1        |
| IX.   | Constitutional and Statutory Provisions<br>Involved .....  | 2        |
| X.    | Statement of Case .....  | 3        |
| XI.   | REASONS FOR GRANTING THE WRIT .....  | 9        |
|       | <b>To preserve equal access to federal relief programs<br/>to roughly 18.1 million U.S. digital nomad workers<br/>this Court should clarify the standard for<br/>determining state filing requirements, and<br/>whether state residency requirements may<br/>disqualify otherwise eligible individuals from<br/>federal benefits. ....</b> | <b>9</b> |
| XII.  | CONCLUSION .....   | 14       |
| XIII. | Appendices .....   | 1a       |

## V. Table of Authorities

### Cases

|   |        |
|---|--------|
| <i>Appeal of Leonard LaPadula</i> , No. 2025-0597 (N.H. Dec. 20, 2024).....           | 1      |
| <i>Martin v. Dept. of Workforce Services</i> , 507 P.3d 847 (Utah Ct. App. 2022)..... | 7, 8   |
| <i>McCulloch v. Maryland</i> , 17 U.S. (4 Wheat.) 316 (1819).....                     | 10, 12 |
| <i>Mikheil v. Commissioner of Labor</i> , 171 N.Y.S.3d 606 (N.Y. App. Div. 2022)..... | 7, 8   |
| <i>Reid v. Covert</i> , 354 U.S. 1 (1956).....  | 10, 12 |

### Other

|   |    |
|---|----|
| 2024 Digital Nomads Trends Report - MBO Partners.....   | 9  |
| Digital Nomad Statistics (2025).....  | 11 |
| My Location is Remote   Establishing Domicile for the Digital Nomad, Creative Genius Law..... | 13 |

## **VI. Petition for Writ of Certiorari**

I, Leonard John LaPadula, III respectfully petition this Honorable Court for a writ of certiorari to review the judgment of the New Hampshire Supreme Court with respect to the eligibility of a federal benefit to an out-of-country U.S. worker.

## **VII. Opinions Below**

A decision of the New Hampshire Supreme Court, which denied my claim for Pandemic Unemployment because I was overseas, is reported as *Appeal of Leonard LaPadula*, Docket 2022-0597 on December 20, 2024, and is attached as Appendix I. This is the only opinion for which I seek review.

The N.H. Supreme Court did not sustain the arguments from the N.H. Appellate Board, Appendix III or the Appeal Tribunal, Appendix IV, but rather produced a Final Order based on extemporaneous legal arguments.

The other Appendices, provide context and are incorporated into the statement of this case and the reason for granting this petition.

## **VIII. Jurisdiction**

I, Leonard LaPadula, invoke this Court's jurisdiction under 28 U.S.C. § 1257(a), having timely filed this

petition for a writ of certiorari within ninety days of the New Hampshire Supreme Court's Order on the Motion for Reconsideration.

**IX. Constitutional and Statutory Provisions  
Involved**

Constitutional Provisions

United States Bill of Rights, Article III Section 2

United States Constitution, Amendment V

United States Constitution, Amendment XIV

Statutory Provisions

Section 2102 of the CARES Act of 2020, Public Law  
116-136

UIPL No. 16-20, Change 4, at I-17 (Appendix VII)

UIPL No. 16-20 Change 6 – 4.c (Appendix VIII)

N.H. RSA:21-6a (2023) (Appendix XI)

N.H. RSA 282-A:32, IV (2023) (Appendix X)

AFD-140729-041

## **X. Statement of Case**

In response to the 2020 COVID pandemic, the U.S. Legislature established Pandemic Unemployment Assistance (PUA) per Section 2102 of the CARES Act of 2020, Public Law 116-136, and the U.S. Department of Labor implemented it through state employment security agencies.

The Department of Labor entrusted \$676 billion to the states for the benefit of U.S. workers impacted by the pandemic, of which New Hampshire received \$1.8 billion.<sup>1</sup>

I am the founder, majority owner and fulltime employee of Advanced Sports Logic, Inc, a New Hampshire C-corporation in the U.S. fantasy sports industry.

I am also a digital nomad working and living outside the country. My last established residence is New Hampshire, where I lived and owned a home in Amherst N.H. for 15 years.

When the corona virus pandemic hit in 2020, U.S. Sports were suspended for 4.5 months, which temporarily eliminated the demand for my

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<sup>1</sup> Department of Labor, CARES Act Funding by State:  
[https://oui.doleta.gov/unemploy/docs/cares\\_act\\_funding\\_state.html](https://oui.doleta.gov/unemploy/docs/cares_act_funding_state.html)

company's services and impacted me financially.

I applied for Federal Pandemic Unemployment Assistance (PUA) as outlined in Section 2102 of the Federal CARES Act from New Hampshire Employment Security (NHES).

During two years of appeals with the NHES Appeals Tribunal, I argued from provisions of law in the CARES Act.

Among the provisions of law that I cited in my correspondences and appeals with NHES is Attachment I to UIPL No. 16-20 Change 6 – 4.c, which provides that PUA is extended to overseas claimants:

If the individual was working outside of the country in a job with a connection to the U.S. labor market at the time of becoming unemployed, partially unemployed, or unable or unavailable to work (e.g., as a Peace Corps participant), then the individual should file in the state in which they reside.

However, after two years, NHES failed to produce a single Decision with arguments provisioned from the CARES Act but used only provisions of law for state unemployment benefits. See Appendix IV: NHES Appeal Tribunal Decision.

I appealed to the N.H. Appellate Board. Much of my appeal was focussed on procedural issues spanning two years causing my written appeal to be more than

one hundred pages and the Appellate Record to be about eight hundred pages.

The N.H. Appellate Board did not recognize or address the procedural issues, but simply formed the following extemporaneous conclusion:

the Appeal is essentially governed by 24 specific words in the CARES Act defining who is a "covered individual" for the purposes of eligibility for the payment of federal PUA benefits:

(a)(3) The term 'covered individual'

(A) means an individual who...

(ii)(I) is otherwise able to work and available to work within the meaning of applicable state law... 15 U.S.C. Sec. 9021(a)(3)(A)(ii)(I).

See Appendix III: N.H. Appellate Board Order.

My notice of appeal to the N.H. Supreme Court also described the procedural issues I encountered. However, the Court issued an order narrowing the scope only to the conclusion of the N.H. Appellate Board. See Appendix II: Order Narrowing Scope.

In my Brief to the N.H. Supreme Court I noted that the N.H. Appellate Board mis-quoted 15 U.S.C. Sec. 9021(a)(3)(A) and used it out of context. It is misquoted because section (a)(3)(A)(i) is not included, which states that a qualification for PUA is

to not qualify for state unemployment benefits. It was also used out of context because it describes what must be sworn on as part of self-certification, the sole basis for determining if an applicant is “a covered individual.”, per the CARES Act.

The New Hampshire Supreme Court did not sustain any of the arguments from the Appeals Tribunal or the N.H. Appellate Board.

Nevertheless, the New Hampshire Supreme Court denied my claim for PUA because I was out of the country, concluding that:

The New Hampshire unemployment disqualification provision at issue states, in relevant part, that “[a]n individual shall be disqualified for benefits [f]or any week during which the individual **resides** other than in New Hampshire, another state, the District of Columbia, Puerto Rico, the Virgin Islands or a contiguous country with which the United States has an agreement with respect to unemployment compensation.” RSA 282-A:32, IV (2023) (emphasis added)

The N.H. Supreme Court extemporaneously justified the use of RSA 282-A:32, disqualification for state benefits based on a segment of UIPL No. 16-20, Change 4, at I-17, issued on January 8, 2021:

provides that provisions of the applicable state law that apply to claims for PUA include, but are not limited to . . . [d]isqualification [and] . . . [a]bility to work and availability for work, absent a COVID-19 related circumstance.” Id. Accordingly, we conclude that the CARES Act eligibility provisions incorporate state law provisions related to a claimant’s ability to and availability for work and disqualification from benefits.

Furthermore, in an attempt to claim precedence for denial of PUA to out-of-country workers, the N.H. Supreme Court cited two cases, *Mikheil v. Commissioner of Labor*, 171 N.Y.S.3d 606, 608-10 (N.Y. App. Div. 2022) and *Martin v. Dept. of Workforce Services*, 507 P.3d 847, 848-50 (Utah Ct. App. 2022).

Given that the N.H. Supreme Court’s arguments to deny were extemporaneous, I filed a Motion for Reconsideration on Dec 30, 2024 (see Appendix VI), which the Court denied with no further explanation on January 27, 2025 (see Appendix V).

I argued the N.H. Supreme Court did not fully quote UIPL No. 16-20, Change 4, at I-17, which states that state disqualification provisions are used “except as otherwise provided in Section 2102”, and that Attachment I to UIPL No. 16-20 Change 6 – 4.c, issued Sept 3, 2021, explicitly provides for out-of-

country U.S. workers.

I also argued that neither of the cases the N.H. Supreme Court cited are analogous to my case.

Regarding *Martin v. Dept. of Workforce Services*, the Utah Court of Appeals denied benefits to an out-of-country worker because the Appellant and council could not "cite any provision of the CARES Act that deals with the eligibility of claimants for benefits if they are living outside the country".

Regarding *Mikheil v. Commissioner of Labor*, the New York App. Court denied benefits because Mikheil was not working outside the country. He was away from his job visiting another country for personal reasons.

Finally, I argued that since the N.H. Supreme Court had actively tried to find cases where out-of-country applicants were denied PUA, and, in reality, was not able to do so, precedence should have been decided in my favor. (I am also unaware of any such cases, and I assume if the N.H. Supreme Court could have found such cases, it would have.)

Not only do I maintain the N.H. Supreme Court erred in formulating its opinion, but also based on principles established by the Constitution and Bill of Rights, all 18.1 million out-of-country U.S. workers working and living under similar circumstances should have the same access to federal benefit regardless of their state of domicile.

## XI. REASONS FOR GRANTING THE WRIT

**To preserve equal access to federal relief programs to roughly 18.1 million<sup>2</sup> U.S. digital nomad workers this Court should clarify the standard for determining state filing requirements, and whether state residency requirements may disqualify otherwise eligible individuals from federal benefits.**

This case presents a fundamental question of federalism: may individual states deny access to a federal benefit program based on their own, non-uniform definitions of “residency,” even where the federal statute and guidance establish broader eligibility rooted in a claimant’s U.S. labor market connection and domicile?

Under Section 2102 of the CARES Act, Congress intended to create a national safety net for American workers affected by the COVID-19 pandemic. This safety net included digital nomads—U.S. citizens working remotely abroad in jobs connected to the U.S. economy. Federal guidance (UIPL 16-20 Change 6) explicitly permits such individuals to apply for Pandemic Unemployment Assistance in the state “in which they reside.” But as applied here, the State of New Hampshire has interpreted “reside” to

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<sup>2</sup> “2024 Digital Nomads Trends Report - MBO Partners”, <https://www.mbopartners.com/state-of-independence/digital-nomads/>

mean physical presence, effectively overriding the broader federal meaning of domicile and excluding otherwise qualified claimants from eligibility.

The petitioner, a long-time New Hampshire domiciliary and U.S. citizen employed by a New Hampshire-based company, was denied benefits solely because he temporarily resided outside the United States. The New Hampshire Supreme Court adopted a narrow reading of "residence," conflicting with federal guidance and creating a potential barrier for millions of U.S. workers abroad.

This Court's intervention is necessary to prevent a patchwork of state definitions from undermining uniform access to federal programs and to resolve the uncertainty over whether federal benefit eligibility can be conditioned on compliance with divergent state residency requirements.

The ruling below also raises constitutional concerns. If allowed to stand, states could disqualify out-of-country U.S. citizens from federal benefits without due process or equal protection, particularly where federal law offers no such exclusion. Article III Section 2 of the Bill of Rights, the Fifth and Fourteenth Amendments, reinforced by this Court's decisions in *McCulloch v Maryland* and *Reid v. Covert*, guarantee that citizens abroad retain constitutional protections, including access to federal entitlements when not expressly barred by Congress.

This petition presents a rare opportunity to resolve an important and recurring question: how domicile, residency, and access to federal benefits should be

treated for U.S. citizens abroad in the digital economy era. The lack of lower court consensus, and the rising number of digital workers abroad, underscore the need for this Court's review.

Approximately one-fourth (24%) of the 18.1 million U.S. digital nomad workers have been digital nomad for more than 5 years and almost twenty percent (18%) are startup founders, many of whom save money to reinvest their income back into their businesses, focusing on long-term growth rather than immediate savings. Some live under financially fragile situations (9% make under \$25k/year) in order to give their company, the best chance to succeed, and/or are not able to afford to live in the U.S. Others have high incomes (43% make over \$100k/year) and pay federal income tax.<sup>3</sup>

This large and diverse population of digital nomads enrich U.S. society with their global perspective of the world and familiarity with diverse foreign cultures and ensuring they have equal access to federal benefits is worthy of the attention of this Honorable Court.

Article III Section 2 states "The judicial Power shall extend to all Cases, in Law and Equity, arising

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<sup>3</sup> These demographics come from "Digital Nomad Statistics (2025)", <https://blog.savvynomad.io/digital-nomad-statistics/>

under this Constitution, the Laws of the United States,...to Controversies between ... between a State, ... and foreign ... Citizens or Subjects."

The 14<sup>th</sup> Amendment states, "No State shall make or enforce any law which shall abridge the privileges or immunities of citizens of the United States; ... nor deny to any person within its jurisdiction the equal protection of the laws."

Finally, the 5<sup>th</sup> amendment guarantees all U.S. Citizens the right to due process of law, which necessitates adherence to the above two principles.

"[T]he Constitution and the laws made in pursuance thereof are supreme; ... they control the constitution and laws of the respective States, and cannot be controlled by them", *McCulloch v. Maryland*, 17 U.S. 4 Wheat. 316 at 426 but must do so "only in accordance with all the limitations imposed by the Constitution, including Art. III, § 2, and the Fifth and Sixth Amendments." *Reid v. Covert*, 354-1 U.S. 1 (1956)

These principles extend to citizens abroad:

[W]e reject the idea that, when the United States acts against citizens abroad, it can do so free of the Bill of Rights. *Reid v. Covert*, 354-5 U.S. 1 (1956)

Therefore, equal protection under the law must extend to out-of-country U.S. citizens that otherwise

qualify for a federal relief benefit (e.g. PUA) if the U.S. Legislature has either provided for or did not disqualify the out-of-country workers or their specific location (such as for national security interests or under special U.S. territory rules.)

Furthermore, state residence laws, which are not uniform and hence “unequal”, cannot be used as a disqualification for federal benefits for an otherwise qualified out-of-country applicant.

Finally, if such a benefit must be processed by a state agency in one of the 50 states, then the state must process applications of out-of-country workers either based on a federal uniform understanding of domicile, or by other factors with no regard to domicile, such as the state of their employment.

There is readily available federal precedent, such as *AFD-140729-041*<sup>4</sup>.

According to “My Location is Remote | Establishing Domicile for the Digital Nomad”, Creative Genius Law, each U.S. citizen has one and only one state domicile<sup>5</sup>, which starts with where they are born, and then moves when they establish physical residence in another state. It stays at each state,

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<sup>4</sup> <https://www.malmstrom.af.mil/Portals/43/documents/AFD-140729-041.pdf?ver=2016-07-05-131247-437>

<sup>5</sup> <https://creativegeniuslaw.com/establishing-domicile-for-the-digital-nomad/>

until they establish physical residence elsewhere with the right and intent to settle there permanently and takes considerable action to designate another state.

The digital nomad work force is now a large portion of the U.S. work force and is rapidly growing.

For the reasons stated herein, the question of law presented herein is worthy of this Honorable Court's attention so that digital nomads with U.S.-based employment will have equal access to Federal Relief programs designed to assist and/or protect U.S. workers when various crisis or needs emerge, unimpeded by various state residence laws and varied interpretation of those laws.

## **XII. CONCLUSION**

For the foregoing reasons, this Court should grant this Petition for Writ of Certiorari.

Respectfully submitted,  
Leonard J. LaPadula, III  
Petitioner

Dated: April 28, 2025

By: \_\_\_\_\_

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