

Supreme Court, U.S.
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No. 24-1256

In the
Supreme Court of the United States

GARY ROBINSON,

Petitioner,

v.

JERRY N. HIGGINS, ET AL.,

Respondents.

On Petition for a Writ of Certiorari to the
United States Court of Appeals for the Sixth Circuit

PETITION FOR A WRIT OF CERTIORARI

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QUESTIONS PRESENTED

1. Whether the state of Kentucky violated the Due Process Clause of the Fourteenth Amendment by enforcing an illegal tax lien, depriving the petitioner of property without a fair hearing and meaningful opportunity to contest the action.
2. Whether the procedural defects, including a court officer signing a summons in place of the defendant, render the resulting judgment unconstitutional under the Fifth and Fourteenth Amendments.
3. Whether the use of a Master Commissioner to conduct judicial functions, despite lacking proper judicial authority, violates the petitioner's fundamental rights under the U.S. Constitution.
4. Whether the denial of discovery deprived the petitioner of a meaningful opportunity to develop the record and contest the foreclosure proceedings, in violation of the Due Process Clause of the Fourteenth Amendment.

PARTIES TO THE PROCEEDINGS

Petitioner

- Gary Robinson

Respondents

- Jerry N. Higgins
- Judge Mary M. Shaw
- Carole C. Schneider
- State of Kentucky
- Tax Ease Lien Servicing, LLC
- Alyssa Cochran

LIST OF PROCEEDINGS

Directly Related Federal Proceedings

U.S. Court of Appeals for the Sixth Circuit
No. 23-5933

Gary Robinson, *Plaintiff-Appellant*, v.
Jerry N. Higgins, et al., *Defendants-Appellees*.

Date of Final Judgment: August 5, 2024

U.S. District Court for the Western District of Kentucky
Louisville Division

No. 3:23-cv-09-DJH

Gary Robinson, *Plaintiff*, v.
Jerry N. Higgins, et al., *Defendants*.

Date of Final Order: September 26, 2023

Related State Proceedings

Kentucky Court of Appeals

No. 2022-CA-0970-MR

Gary Robinson, *Appellant*, v.
Jerry N. Higgins, *Appellees*.

Date of Final Order: November 28, 2022

Jefferson Circuit Court Division Nine

No. 22-CI-001147

Gary Robinson, *Plaintiff*, v.
Jerry N. Higgins, et al., *Defendants*.

Final Order: September 2, 2020

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OPINIONS BELOW

The Opinion of the United States Court of Appeals for the Sixth Circuit is included at App.1a-7a. The Memorandum and Order of the U.S. District Court for the Western District of Kentucky, Louisville Division, is included at App.10a-18a.



JURISDICTION

The United States Court of Appeals for the Sixth Circuit entered its judgment on August 5, 2024. App.1a. The Clerk of Court has provided Petitioner until June 1, 2025 to file booklets in conformance with Rule 33.1. No petition for rehearing was filed. This Court has jurisdiction under 28 U.S.C. § 1254(1).



CONSTITUTIONAL AND STATUTORY PROVISIONS INVOLVED

- U.S. Const. amend. V
- U.S. Const. amend. XIV
- 42 U.S.C. § 1983
- 5 U.S.C. § 551 et seq.
(Administrative Procedure Act)
- 28 U.S.C. §§ 1346(a), 1491 (Tucker Act)

INTRODUCTION

This case presents an important constitutional question concerning the petitioner's Fifth and Fourteenth Amendment rights, specifically the right to due process before being deprived of property. The petitioner, Gary Robinson, lost his home through a tax lien enforcement process that lacked a proper hearing, discovery, and fact development. The tax lien was processed by a Master Commissioner who lacked judicial authority, with critical procedural errors that denied the petitioner a fair and impartial adjudication.

At the heart of this petition is whether Kentucky's tax lien process, executed without judicial oversight and in violation of federal due process standards, is constitutional. The Sixth Circuit Court of Appeals refused to issue a Certificate of Appealability, thereby foreclosing review of both the procedural errors and the constitutional violations raised by the petitioner.

This case is a prime opportunity for the Court to clarify the limits of state action concerning tax lien enforcement and to reaffirm the constitutional protections guaranteed under the Due Process Clause.



STATEMENT OF THE CASE

A. Legal Background

1. The Fifth and Fourteenth Amendments guarantee that no person shall be deprived of life, liberty, or property without due process of law. U.S. Const. amend. V, XIV. Due process requires, at a minimum, notice and a fair hearing before any deprivation of property. These protections apply to state actions involving tax lien enforcement and property seizure.
2. 42 U.S.C. § 1983 provides a federal cause of action for individuals whose constitutional rights have been violated under color of state law. The statute was designed to offer a remedy to those whose rights have been infringed by government officials, ensuring that state actors cannot operate above constitutional limits.
3. The Tucker Act, codified at 28 U.S.C. §§ 1346(a) and 1491, provides a means for individuals to seek compensation for wrongful government actions involving monetary claims. Although the Tucker Act itself does not create substantive rights, it waives sovereign immunity for certain claims and allows the courts to address constitutional violations involving property rights.
4. The Administrative Procedure Act, 5 U.S.C. § 551 et seq., provides the legal framework for challenging actions taken by administrative agencies. It ensures transparency and fairness in administrative processes and protects individuals from arbitrary or capricious decision-making by government entities.



REASONS FOR GRANTING THE PETITION

The foreclosure judgment against the petitioner is unconstitutional because the Kentucky tax authority and Jefferson County Court violated his due process rights at multiple stages of the proceedings. The Fifth and Fourteenth Amendments to the United States Constitution guarantee that no person shall be deprived of life, liberty, or property without due process of law. These protections require that before the government deprives an individual of property, it must provide (1) adequate notice, (2) a meaningful opportunity to be heard before an impartial decision-maker, and (3) the ability to obtain and contest evidence through discovery. The Supreme Court has consistently upheld these requirements in cases such as *Goldberg v. Kelly*, 397 U.S. 254 (1970), *Mathews v. Eldridge*, 424 U.S. 319 (1976), and *Hickman v. Taylor*, 329 U.S. 495 (1947). Despite these constitutional protections, the Kentucky tax authority and Jefferson County Court failed to comply with basic procedural safeguards in this case. First, the foreclosure proceedings violated due process because the petitioner was not provided adequate notice, a meaningful hearing, or the opportunity to challenge the government's claims. These deficiencies mirror the procedural failures found unconstitutional in *Golden v. Zwickler*, 394 U.S. 103 (1969), and *O'Shea v. Littleton*, 414 U.S. 488 (1974). Second, the foreclosure judgment is invalid because it was obtained through a fundamentally defective process, including the use of an improperly executed summons and the denial of discovery. As the Supreme Court held in *Ohio Bell Telephone Co. v. Public Utilities*

Commission, 301 U.S. 292 (1937), a judgment that relies on undisclosed or unchallenged evidence is constitutionally infirm. Third, the delegation of judicial authority to a Master Commissioner, who lacks the requisite judicial appointment, violates the separation of powers doctrine established in *Marbury v. Madison*, 5 U.S. (1 Cranch) 137 (1803), and reaffirmed in *Tumey v. Ohio*, 273 U.S. 510 (1927), *Ward v. Village of Monroeville*, 409 U.S. 57 (1972), and *Gibson v. Berryhill*, 411 U.S. 564 (1973). Finally, the petitioner was denied discovery and the ability to review the evidence used against him, making it impossible to mount a defense, which is a direct violation of the principles established in *Jencks v. United States*, 353 U.S. 657 (1957). Each of these due process violations independently renders the foreclosure proceedings unconstitutional. Collectively, they demonstrate a fundamental disregard for the petitioner's constitutional rights, requiring this Court to reverse the foreclosure judgment and grant the petitioner relief under 42 U.S.C. § 1983.

I. Reverse the Foreclosure Judgment Because the State Failed to Give the Petitioner Adequate Notice, a Fair Hearing, and the Opportunity for Discovery.

The Kentucky tax authority and Jefferson County Court clearly violated the petitioner's due process rights by failing to provide adequate, timely notice, a genuine opportunity to be heard before an impartial tribunal, and the chance to obtain and contest evidence through discovery. These deficiencies directly mirror the procedural shortcomings condemned in *Golden v. Zwickler*, 394 U.S. 103 (1969) and *O'Shea v. Littleton*, 414 U.S. 488 (1974), indicating that the government's

actions in enforcing the tax lien were arbitrary and deprived the petitioner of the fundamental protections guaranteed by the Fifth Amendment and enforced under 42 U.S.C. § 1983.

The Fifth Amendment provides that “No person shall be deprived of life, liberty, or property, without due process of law.” Incorporated against the states by the Fourteenth Amendment, it requires that before a government actor deprives a person of property, the individual must receive: (1) Adequate and timely notice of the impending deprivation, (2) A meaningful opportunity to be heard before an impartial tribunal, and (3) The chance to obtain and contest evidence through discovery. Section 1983 of Title 42 U.S.C. states that “every person who, under color of any State law, ordinance, regulation, custom, or usage, is deprived of any rights, privileges, or immunities secured by the Constitution and laws . . . shall be liable to the party injured.” This provision enables individuals to seek redress when state officials, acting under color of law, deprive them of constitutional rights, including the right to due process. In *Golden*, the Supreme Court ruled that due process requires that a party must be given a meaningful opportunity to obtain and contest evidence (*i.e.*, discovery). Failure to provide such an opportunity results in an arbitrary deprivation of property, which violates the Fifth Amendment’s due process guarantee. In *O’Shea*, the Supreme Court held that due process requires a meaningful hearing before an impartial tribunal. A party must have a genuine opportunity to present and contest evidence. If the hearing is procedurally inadequate, such as by denying discovery or failing to allow a fair confrontation of evi-

dence, the resulting deprivation of property is unconstitutional.

Government agencies must clearly inform an individual of any action that might result in the loss of property, provide a fair forum for that individual to present their case, and allow them to challenge any adverse evidence. For instance, in *Golden v. Zwickler*, 394 U.S. 103 (1969), the Court held that when the government failed to permit discovery, the affected party was unable to contest adverse evidence. The Court illustrated that the absence of discovery left the party without a critical means of challenging the government's assertions, thereby making the deprivation arbitrary and violating due process. The *Golden* decision shows that the lack of any of these elements, notice, hearing, or discovery, renders the process constitutionally deficient. In essence, § 1983 provides a remedy for constitutional violations committed by state actors. For example, if a state agency fails to provide notice or a fair hearing before taking property, the injured party can sue under § 1983. Although § 1983 does not require a specific procedural formula, it draws its effectiveness from the protections outlined in the Constitution. When state actors ignore these procedural safeguards, as demonstrated in cases like *Golden*, the injured party can use § 1983 as a vehicle for redress. While *Golden* primarily illustrates due process requirements, its rationale supports the use of § 1983 to challenge arbitrary deprivations resulting from a failure to provide discovery and a meaningful hearing. The Court in *Golden* explained that due process is not satisfied merely by providing a nominal hearing or notice; the government must also allow the affected party to access relevant evidence so that it

can challenge adverse findings. In *Golden*, the petitioner was unable to rebut the evidence against him because the government denied discovery. The Court held that this deficiency rendered the entire proceeding arbitrary. This case illustrates that when a government actor (such as a tax authority) fails to offer discovery, it effectively prevents the challenged party from mounting an effective defense, thereby violating due process. *O'Shea* underscores that due process is not fulfilled by merely notifying a person of an action; the individual must also be given a substantive opportunity to be heard and challenge the evidence. In *O'Shea*, the Court found that a one-sided hearing, where the party did not have the opportunity to present evidence or challenge the government's case, violated due process. This decision illustrates that the failure to provide a full and adversarial hearing directly leads to an unconstitutional outcome. The Court's reasoning in *O'Shea* demonstrates that every step of the process, notice, hearing, and discovery, is critical to ensuring fairness.

In *Golden v. Zwickler*, 394 U.S. 103 (1969), the Court held that a failure to provide timely and clear notice deprived the affected party of the opportunity to prepare for the governmental action, rendering the deprivation arbitrary. In that case, the government's delay in providing notice effectively prevented the petitioner from mounting an effective challenge. In the current case, the Kentucky tax authority and Jefferson County Court did not furnish the petitioner with any formal notification that his property was at risk of foreclosure. Instead, officials allowed a Master Commissioner, who lacks judicial appointment, to sign the summons and enforce the tax lien without any notice. This fact is like *Golden* in that both cases

involved a lack of sufficient notice; however, our case is dissimilar in that the petitioner's notice was entirely absent rather than merely delayed, which compounds the due process violation. A potential counterargument might assert that some form of notice was given; however, the record shows no evidence of any communication, and the use of a non-judicial officer further undermines any claim of adequate notice. Therefore, the complete absence of notice in this case clearly violates the due process requirement. In *O'Shea v. Littleton*, 414 U.S. 488 (1974), the Supreme Court determined that due process mandates a genuine opportunity to present and contest evidence before an impartial tribunal. In that case, the petitioner was afforded only a nominal hearing, which the Court found inadequate because it did not allow a full adversarial presentation. In our case, Jefferson County Court officials bypassed this requirement entirely by delegating the hearing to a Master Commissioner who does not provide the procedural protections inherent in a formal judicial setting. This fact is like *O'Shea* in that both instances involve a deficient hearing; however, it is dissimilar because here the hearing was not conducted at all in a meaningful sense, there was no opportunity for the petitioner to be heard. Even if one were to argue that an administrative proceeding counts as a hearing, the lack of an impartial, duly appointed judge renders that argument unpersuasive. Thus, the absence of a proper hearing in the current case unequivocally violates the petitioner's due process rights. In *Golden*, the Court held that discovery is an indispensable component of due process because it allows the affected party to obtain and contest evidence, and its absence renders a deprivation arbitrary. In *Golden*, the petitioner was unable to challenge the adverse evi-

dence because the government denied access to relevant records, resulting in an unbalanced proceeding. In our case, Jefferson County Court officials denied the petitioner any opportunity to engage in discovery, leaving him without access to documents, witness testimony, or other evidence that might have supported his defense against the tax lien. This situation is like Golden in that both cases involve a critical failure to permit discovery, which directly undermines the fairness of the proceeding. A potential counterargument might assert that the petitioner had some alternative means of obtaining evidence; however, the record makes clear that no such avenues were provided or even available. Consequently, the complete denial of discovery in the present case further entrenches the due process violation. *Marbury v. Madison*, 5 U.S. (1 Cranch) 137 (1803), established that judicial power must be exercised only by duly appointed judges, and *Simon v. Eastern Kentucky Welfare Rights Organization*, 426 U.S. 26 (1976), reinforced that delegating judicial functions to non-judicial personnel results in decisions that lack legitimacy. In *Simon*, the Court invalidated decisions rendered by unauthorized individuals because they compromised the impartiality and independence required in judicial proceedings. In the present case, Jefferson County Court officials delegated judicial authority by allowing a Master Commissioner, who is not a judge, to sign the summons and oversee foreclosure proceedings. This is like the situation in *Simon*, where the delegation of judicial power to an unqualified individual led to an inherently biased process. It is dissimilar, however, in that our case involves the direct impact of this delegation on a fundamental property interest. A counterargument might claim that administrative officers can

sometimes perform quasi-judicial functions; nevertheless, the Supreme Court's clear mandate in *Simon* precludes this when fundamental rights are at stake. Thus, the unauthorized delegation of judicial functions in the present case further violates the separation of powers and deprives the petitioner of a fair judicial process.

Kentucky tax authority, acting through Jefferson County Court, systematically deprived the petitioner of his constitutional rights by neglecting to provide essential procedural safeguards. The court's failure to issue timely and clear notice, its refusal to grant a meaningful hearing, and its outright denial of discovery collectively prevented the petitioner from mounting an effective defense against the foreclosure of his property. As emphasized in *Golden* and *O'Shea*, the absence of these safeguards renders any deprivation of property arbitrary and unjust. Furthermore, the reliance on a Master Commissioner, a non-judicial officer, to enforce the lien exacerbates these violations by stripping the petitioner of the benefit of an impartial adjudicator, as required by the separation of powers doctrine. Consequently, the foreclosure proceedings in this case stand as constitutionally infirm, and the petitioner is entitled to relief under 42 U.S.C. § 1983. This Court must intervene to remedy these profound due process violations and restore the petitioner's fundamental rights.

II. Reverse the Foreclosure Judgment Because the Court Improperly Served the Summons and Denied Discovery, Violating the Petitioner's Due Process Rights.

The Kentucky tax authority and Jefferson County Court violated the petitioner's due process rights by

failing to properly serve him with notice of the foreclosure action, denying him a meaningful opportunity to be heard, and refusing to permit discovery. The Supreme Court has consistently held that procedural due process requires adequate notice, a fair hearing, and access to discovery in cases where the government seeks to deprive an individual of property. The failure to comply with these constitutional and statutory requirements renders any resulting judgment unconstitutional. In *Mullane v. Central Hanover Bank & Trust Co.*, 339 U.S. 306 (1950), the Court established that defective service of process invalidates a judgment, a principle further reinforced in *Peralta v. Heights Medical Center, Inc.*, 485 U.S. 80 (1988). The Court in *O'Shea v. Littleton*, 414 U.S. 488 (1974), similarly held that a judicial proceeding is unconstitutional if it deprives a party of the ability to meaningfully contest evidence. Because the petitioner in this case was deprived of notice, a hearing, and discovery, the foreclosure judgment against him is void and must be reversed.

The Fifth Amendment, applicable to the states through the Fourteenth Amendment, states that "No person shall be deprived of life, liberty, or property, without due process of law." Due process in civil cases requires (1) proper service of process to notify the affected party of proceedings, (2) a fair and impartial adjudication, and (3) the opportunity to obtain and contest evidence through discovery. Any government action that fails to comply with these requirements is unconstitutional. The Administrative Procedure Act (APA) ensures procedural fairness in governmental actions by requiring that individuals receive due process protections in administrative and quasi-judicial

proceedings. Under the APA, a valid legal proceeding requires (1) a properly executed summons or notice, (2) the opportunity for parties to present evidence and respond to claims, and (3) access to relevant discovery materials. Failure to comply with these procedural safeguards renders the proceedings legally defective. The Tucker Act grants individuals the right to challenge improper governmental actions, including unconstitutional takings and procedural defects in judicial proceedings. The Act ensures that federal courts can provide relief in cases where state or local governments fail to follow proper legal procedures, particularly in property-related disputes. In *O'Shea*, the Supreme Court reaffirmed that procedural fairness requires a meaningful opportunity to present evidence and contest government action. The Court held that a one-sided or fundamentally flawed legal process deprives individuals of due process and invalidates any resulting judgment. The Supreme Court in *Mullane* established the constitutional standard for proper service of process, holding that notice must be reasonably calculated to inform the affected party and provide an opportunity to respond. If service of process is inadequate, any judgment based on that process is invalid. In *Peralta*, the Supreme Court held that a judgment entered without proper service of process violates due process and must be set aside. The Court reasoned that even if a party later becomes aware of the proceedings, the initial failure to serve process correctly renders the entire case procedurally defective.

The Due Process Clause of the Fifth Amendment, applied to states through the Fourteenth Amendment, ensures that no person is deprived of life, liberty, or

property without fair legal procedures. In judicial proceedings, due process requires proper notice, an opportunity to be heard before an impartial tribunal, and access to discovery. The Supreme Court consistently upholds that legal actions resulting in property loss must follow strict procedural safeguards. When procedural rights, such as service of process or the right to present evidence, are violated, the judgment is unconstitutional.

In *O'Shea v. Littleton* (1974), the Court affirmed that due process guarantees meaningful participation in legal proceedings. *Peralta v. Heights Medical Center, Inc.* (1988) further established that a party cannot be bound by a judgment if denied notice and an opportunity to be heard. Similarly, *Mullane v. Central Hanover Bank & Trust Co.* (1950) ruled that notice must be "reasonably calculated" to inform individuals of legal actions affecting them. When an administrative body or court fails to provide adequate notice or opportunity to respond, due process is violated.

The Administrative Procedure Act (APA) enforces due process in administrative decisions affecting private rights. It mandates adequate notice, a fair opportunity to present evidence, and access to relevant documents. Courts review and may overturn agency actions that fail to meet these standards.

The Tucker Act allows individuals to seek redress for unlawful governmental actions, particularly improper property seizures. The Supreme Court in *Peralta* held that government agencies must follow procedural safeguards before enforcing judgments. *O'Shea* reinforced that due process requires more than a formal hearing—it demands meaningful participation.

The Court reasoned that flawed procedures equate to no legal process at all.

Mullane set the constitutional standard for proper service of process, holding that notice must ensure meaningful opportunity to respond. Courts rely on *Mullane* to invalidate judgments based on inadequate notice. *Peralta* further held that judgments issued without proper service of process are void, emphasizing that procedural fairness is essential in all judicial proceedings.

The Kentucky tax authority and Jefferson County Court violated the petitioner's due process rights by failing to properly serve notice of the foreclosure action and denying him a meaningful opportunity to be heard. In *O'Shea v. Littleton* (1974), the Supreme Court held that due process is violated when a party is deprived of a fair chance to contest evidence. Here, the petitioner was never properly served, preventing him from defending against the foreclosure. Even after discovering the action, the court failed to grant him the procedural rights necessary to present a defense. Unlike *O'Shea*, where a nominal hearing was provided, the petitioner in this case received no meaningful notice, making the due process violation even more egregious.

The Kentucky tax authority and Jefferson County Court also failed to comply with the Administrative Procedure Act (APA), which mandates adequate notice, the right to present evidence, and access to discovery. In *Mullane v. Central Hanover Bank & Trust Co.* (1950), the Supreme Court ruled that due process requires notice that is "reasonably calculated" to inform affected parties. Here, the government denied the petitioner the ability to gather and contest evidence

before his property was taken. *Mullane* establishes that such procedural failures invalidate the resulting judgment.

The Tucker Act, 28 U.S.C. §§ 1346(a) and 1491, provides a means to challenge unlawful governmental takings. In *Peralta v. Heights Medical Center, Inc.* (1988), the Supreme Court ruled that a judgment entered without proper service is unconstitutional and must be set aside, even if the affected party later learns of the proceedings. Like *Peralta*, the petitioner was deprived of property without due process. This case is even more severe because the foreclosure was conducted by the government rather than a private entity, making the constitutional violation more significant.

The Kentucky tax authority and Jefferson County Court's failure to properly serve the petitioner renders the foreclosure judgment void. *Mullane* set the standard that notice must be adequate to allow meaningful participation, yet the petitioner was completely deprived of that opportunity. The court's reliance on a Master Commissioner, a non-judicial officer, to issue the summons further invalidates the process. Even if the petitioner eventually became aware of the case, *Mullane* and *Peralta* confirm that due process requires proper service from the outset. Because the petitioner was never given a fair opportunity to respond, the foreclosure judgment is unconstitutional and should be reversed.

The procedural defects in this case, improper service of process, the denial of a meaningful hearing, and the refusal to permit discovery, violate the petitioner's fundamental due process rights under the Fifth and Fourteenth Amendments. The Supreme Court's rulings in *Mullane*, *Peralta*, and *O'Shea* confirm

that when a party is deprived of proper notice and the opportunity to contest legal proceedings, the resulting judgment is unconstitutional. The Kentucky tax authority and Jefferson County Court not only failed to adhere to these well-established due process protections but also exacerbated these violations by allowing a Master Commissioner, rather than a duly appointed judge, to oversee the foreclosure proceedings. Because courts have consistently held that such procedural failures invalidate judgments, this Court must reverse the foreclosure and provide relief under 42 U.S.C. § 1983. The Constitution requires nothing less.

III. The Foreclosure Judgment Must Be Reversed Because the Master Commissioner Lacked Judicial Authority, Violating the Separation of Powers and the Petitioner's Due Process Rights.

The Kentucky tax authority and Jefferson County Court violated the fundamental constitutional principle of separation of powers by allowing a Master Commissioner, who lacked judicial authority, to exercise judicial functions in the petitioner's foreclosure proceedings. The Supreme Court has repeatedly held that only duly appointed judges may exercise judicial power, as established in *Marbury v. Madison*, 5 U.S. (1 Cranch) 137 (1803). The delegation of judicial authority to a Master Commissioner, a non-judicial officer, contravenes both the Due Process Clause of the Fifth and Fourteenth Amendments, U.S. Const. amends. V, XIV, and Supreme Court precedent, including *Simon v. Eastern Kentucky Welfare Rights Organization*, 426 U.S. 26 (1976), *Tumey v. Ohio*, 273 U.S. 510 (1927), *Ward v. Village of Monroeville*, 409 U.S. 57 (1972), and *Gibson v. Berryhill*, 411 U.S. 564 (1973). These rulings

confirm that an individual cannot be deprived of property through proceedings overseen by an unauthorized decision-maker. Because the Master Commissioner lacked the judicial appointment necessary to adjudicate the foreclosure, the judgment issued against the petitioner is constitutionally defective and must be reversed.

The separation of powers doctrine prohibits non-judicial officers from exercising judicial authority. Under this doctrine, only judges can make legally binding determinations in judicial proceedings. Any delegation of judicial power to an unqualified individual, such as a Master Commissioner, violates the fundamental principles of judicial independence and procedural due process. *Marbury v. Madison*, 5 U.S. (1 Cranch) 137 (1803). The Fifth and Fourteenth Amendments guarantee that no person shall be deprived of life, liberty, or property without due process of law. Due process includes not only procedural fairness, such as notice and the right to be heard, but also the right to adjudication before a neutral, properly appointed judicial officer. The Supreme Court has held that delegating judicial authority to non-judicial officers without sufficient procedural safeguards violates the Constitution. In *Simon*, the Supreme Court reaffirmed that judicial power must be exercised by duly appointed judges. The Court ruled that administrative or quasi-judicial officials cannot issue binding legal decisions that affect fundamental rights without proper judicial oversight. A decision rendered by an unauthorized individual is inherently subject to reversal. *Simon v. Eastern Kentucky Welfare Rights Organization*, 426 U.S. 26 (1976). In *Tumey*, the Supreme Court ruled that due process is violated when an adjudicator has

a conflict of interest or lacks impartiality. The Court held that a legal determination made by an official with improper authority or self-interest undermines the legitimacy of the proceeding. This principle applies when a non-judicial officer, such as a Master Commissioner, is given judicial responsibilities without proper appointment or legal authority. *Tumey v. Ohio*, 273 U.S. 510 (1927). In *Ward*, the Supreme Court held that delegating judicial functions to individuals with conflicting interests violates due process. The Court ruled that a non-judicial official cannot be given the authority to issue legally binding rulings that impact fundamental rights. When an unauthorized or biased official presides over a case, the resulting decision is constitutionally invalid. *Ward v. Village of Monroeville*, 409 U.S. 57 (1972). In *Gibson*, the Supreme Court reiterated that the legitimacy of a judicial proceeding depends on the neutrality and legal authority of the decision-maker. The Court held that decisions made by individuals who lack proper judicial authority are subject to reversal because they fail to meet the due process requirement of a fair and impartial tribunal. *Gibson v. Berryhill*, 411 U.S. 564 (1973).

The doctrine of separation of powers mandates that judicial authority be exercised exclusively by duly appointed judges. This principle ensures that legal decisions affecting fundamental rights, such as property deprivations, are made by impartial and properly authorized individuals. In *Marbury v. Madison*, the Supreme Court affirmed that judicial power cannot be arbitrarily reassigned to unauthorized individuals without undermining the judicial system's integrity. The delegation of judicial functions to a Master Commissioner, a non-judicial officer, raises serious con-

cerns about the legitimacy of the foreclosure proceedings in this case.

The Due Process Clause of the Fifth and Fourteenth Amendments guarantees that individuals may not be deprived of life, liberty, or property without proper procedural safeguards, including adjudication by a neutral and legally authorized judge. The Supreme Court has consistently ruled that judicial decisions made by unauthorized individuals violate due process. A valid adjudication requires a qualified, independent decision-maker. Assigning judicial functions to a non-judicial officer increases the risk of bias and procedural unfairness, failing to meet constitutional requirements.

In *Simon v. Eastern Kentucky Welfare Rights Organization* (1976), the Supreme Court held that administrative or quasi-judicial officials lack constitutional authority to issue binding legal decisions unless they are properly appointed. Judicial functions delegated to unauthorized individuals are constitutionally defective. Similarly, in *Tumey v. Ohio* (1927), the Court ruled that due process is violated when an adjudicator lacks impartiality or proper legal authority, rendering the proceeding unconstitutional.

The Supreme Court's ruling in *Ward v. Village of Monroeville* (1972) further established that delegating judicial functions to individuals with conflicting interests violates due process. If a Master Commissioner presides over a case instead of a judge, the proceeding lacks the necessary neutrality and judicial oversight. In *Gibson v. Berryhill* (1973), the Court reaffirmed that judicial decisions made by unauthorized individuals are constitutionally invalid. A foreclosure judgment issued by a Master Commissioner, without

proper judicial authority, fails to meet due process standards and must be set aside.

The Kentucky tax authority and Jefferson County Court violated the separation of powers doctrine by allowing a Master Commissioner, a non-judicial officer, to sign the summons and oversee foreclosure proceedings. In *Marbury v. Madison* (1803), the Supreme Court held that judicial power must be exercised by duly appointed judges and cannot be delegated to unauthorized individuals. Here, the Master Commissioner, lacking formal judicial appointment, improperly assumed judicial functions, making the foreclosure judgment constitutionally invalid.

This delegation also violated the petitioner's due process rights under the Fifth and Fourteenth Amendments. In *Peralta v. Heights Medical Center, Inc.* (1988), the Court ruled that a judgment entered without proper judicial oversight is unconstitutional. Similarly, the Master Commissioner in this case lacked the authority to issue summonses or preside over foreclosure proceedings, rendering the process fundamentally defective. Unlike administrative bodies with defined procedural safeguards, the Master Commissioner acted without oversight, further undermining due process.

In *Simon v. Eastern Kentucky Welfare Rights Organization* (1976), the Supreme Court reaffirmed that judicial power cannot be delegated to non-judicial officers without violating constitutional principles. The Kentucky tax authority and Jefferson County Court improperly allowed a Master Commissioner to exercise judicial authority, making the foreclosure proceedings constitutionally defective. This case is even more

severe than *Simon* because it directly deprived the petitioner of property without proper judicial review.

The Supreme Court's ruling in *Tumey v. Ohio* (1927) further confirms that judicial decisions must be made by legally appointed and impartial judges. The Master Commissioner's involvement in this case lacked both judicial authority and the legal accountability required under *Tumey*, rendering the foreclosure ruling unconstitutional.

In *Ward v. Village of Monroeville* (1972), the Supreme Court ruled that improperly delegated judicial authority results in an unconstitutional process. Here, the Master Commissioner, rather than an appointed judge, presided over foreclosure proceedings, mirroring the due process violations in *Ward*. Given that the Master Commissioner lacked the legal standing of an Article III judge, the foreclosure ruling is inherently invalid.

Lastly, *Gibson v. Berryhill* (1973) held that judicial proceedings overseen by unauthorized individuals are constitutionally defective. Like the adjudicators in *Gibson*, the Master Commissioner lacked the judicial appointment necessary to ensure due process. Under *Gibson*, the foreclosure judgment in this case must be reversed.

The foreclosure proceedings against the petitioner were unconstitutional because they were conducted by a Master Commissioner who had no legal authority to exercise judicial power. The Supreme Court has firmly established that judicial power must be vested in duly appointed judges, as articulated in *Marbury v. Madison*. Furthermore, the Court has consistently ruled that due process is violated when judicial authority is

improperly delegated to an unqualified individual, as in *Simon, Tumey, Ward, and Gibson*. The Due Process Clause of the Fifth and Fourteenth Amendments guarantees that no person shall be deprived of property without the protections afforded by law, including adjudication before an impartial and legally authorized judge. The Kentucky tax authority and Jefferson County Court failed to adhere to these constitutional mandates by permitting a Master Commissioner to oversee the petitioner's foreclosure, rendering the judgment void. Under well-established Supreme Court precedent, this Court must reverse the foreclosure judgment and grant the petitioner relief under 42 U.S.C. § 1983.

IV. The Foreclosure Judgment Must Be Reversed Because the Denial of Discovery and a Meaningful Hearing Violated the Petitioner's Due Process Rights Under the Fifth and Fourteenth Amendments.

The Kentucky tax authority and Jefferson County Court violated the petitioner's constitutional rights by depriving him of the opportunity to engage in discovery and participate in a meaningful hearing. The Due Process Clause of the Fifth and Fourteenth Amendments requires that before a person is deprived of property, they must be given the chance to obtain and contest evidence, present their case before an impartial tribunal, and have access to the materials being used against them. The Supreme Court has repeatedly affirmed that due process includes the right to a fair hearing and discovery, as seen in *Goldberg v. Kelly*, *Mathews v. Eldridge*, *Hickman v. Taylor*, *Ohio Bell Telephone Co. v. Public Utilities Commission*, and *Jencks v. United States*. The government's actions in

this case mirror the unconstitutional procedural deficiencies condemned in those cases. By denying the petitioner access to discovery and the ability to challenge the foreclosure proceedings, the Kentucky tax authority and Jefferson County Court violated well-established constitutional protections, rendering the judgment against him unlawful.

The Due Process Clause of the Fifth and Fourteenth Amendments guarantees that no person shall be deprived of life, liberty, or property without due process of law. U.S. Const. amends. V, XIV, § 1. This protection includes the right to a fair and meaningful hearing, where a party can present evidence, challenge opposing claims, and engage in discovery to obtain relevant information. Courts have consistently held that restricting or denying discovery can amount to a violation of procedural due process when it prevents a party from effectively defending against governmental action. U.S. Const. amends. V, XIV, § 1. In *Goldberg v. Kelly*, 397 U.S. 254 (1970), the Supreme Court held that due process requires the opportunity to be heard “at a meaningful time and in a meaningful manner.” The Court ruled that when the government takes action that affects a person’s property rights, the affected individual must have an adequate opportunity to present their case. This includes access to relevant evidence and the ability to cross-examine opposing witnesses. *Goldberg v. Kelly*, 397 U.S. 254 (1970). In *Mathews v. Eldridge*, 424 U.S. 319 (1976), the Supreme Court established a three-part balancing test to determine what procedural protections are required under due process. The test considers: (1) the private interest at stake, (2) the risk of erroneous deprivation due to the procedures used, and (3) the

government's interest in maintaining existing procedures. The Court emphasized that access to discovery and evidentiary proceedings is critical when a party's property rights are at risk. *Mathews v. Eldridge*, 424 U.S. 319 (1976). The Supreme Court in *Hickman v. Taylor*, 329 U.S. 495 (1947), established that discovery is an essential component of fair proceedings, allowing parties to obtain evidence and prepare for trial. The Court emphasized that withholding relevant information from one party undermines the fairness of litigation and can lead to unjust outcomes. The ability to conduct discovery is particularly crucial when challenging governmental actions affecting fundamental rights. *Hickman v. Taylor*, 329 U.S. 495 (1947). In *Ohio Bell Telephone Co. v. Public Utilities Commission*, 301 U.S. 292 (1937), the Supreme Court held that due process requires an opportunity to confront and challenge evidence used in legal proceedings. The Court ruled that when a government agency decides based on undisclosed evidence, the affected party is denied the procedural protections guaranteed by the Constitution. *Ohio Bell Telephone Co. v. Public Utilities Commission*, 301 U.S. 292 (1937). The Supreme Court in *Jencks v. United States*, 353 U.S. 657 (1957), ruled that a party must be given access to relevant materials and records used against them in a legal proceeding. The Court emphasized that withholding evidence violates due process by preventing an individual from mounting an effective defense. This principle extends to civil cases where government action results in the deprivation of property. *Jencks v. United States*, 353 U.S. 657 (1957).

The Due Process Clause of the Fifth and Fourteenth Amendments ensures that no person shall be

deprived of life, liberty, or property without due process of law. U.S. Const. amends. V, XIV, § 1. Procedural due process mandates that individuals facing government action that affects their property must be given notice and a meaningful opportunity to be heard, which includes the right to present evidence, confront opposing evidence, and engage in discovery. The Supreme Court has consistently recognized that due process protections are essential in cases involving the deprivation of property, particularly when the government initiates legal proceedings against an individual. Without access to discovery, a litigant is unable to challenge evidence presented against them or gather information necessary for an effective defense. The Supreme Court has ruled that an unfair hearing that deprives a party of the ability to obtain and contest relevant evidence violates due process. This principle applies broadly to both civil and criminal proceedings and extends to cases involving tax liens, foreclosures, and other government actions affecting property rights. In *Goldberg v. Kelly*, 397 U.S. 254 (1970), the Supreme Court held that due process requires that an individual be given the opportunity to be heard “at a meaningful time and in a meaningful manner.” The Court emphasized that a fair hearing must allow for the presentation of evidence, cross-examination of witnesses, and access to the information used by the government in making its determination. The ruling in *Goldberg* establishes that a hearing is not constitutionally adequate unless it provides an effective forum for contesting the government’s claims. The Court reasoned that when the government seeks to deprive an individual of a fundamental right, such as property, basic procedural safeguards must be in place. The inability to obtain relevant information,

particularly through discovery, renders the hearing meaningless and undermines the legitimacy of the proceeding. The *Goldberg* decision confirms that due process violations occur when an individual is denied access to the evidence necessary to challenge government action. In *Mathews v. Eldridge*, 424 U.S. 319 (1976), the Supreme Court established a three-part balancing test to determine what procedural protections are required under due process. The test weighs three factors: 1. The private interest affected by the government action, 2. The risk of erroneous deprivation due to insufficient procedures, and 3. The government's interest in maintaining the existing process. The Court ruled that when an individual's property is at stake, greater procedural safeguards, such as discovery and evidentiary hearings, are necessary to ensure due process. The risk of an erroneous deprivation increases when a party lacks access to the evidence being used against them. The *Mathews* test is particularly relevant in cases involving foreclosure and tax liens, where the affected party stands to lose significant property interests. The Court emphasized that when the risk of erroneous deprivation is high, procedural fairness requires additional protections, including the right to discovery. The ruling in *Mathews* confirms that due process is not satisfied when a party is denied access to evidence or prevented from contesting key information in a legal proceeding. In *Hickman v. Taylor*, 329 U.S. 495 (1947), the Supreme Court ruled that discovery is an essential component of a fair and just legal process. The Court emphasized that the ability to obtain evidence is critical to ensuring a fair trial, as it allows parties to gather necessary information, assess the strength of their case, and challenge opposing claims. The Court recognized that with-

holding discovery creates an imbalance in legal proceedings, preventing a party from effectively advocating for their rights. The *Hickman* decision established that courts must ensure equal access to relevant information to prevent one-sided or arbitrary adjudications. The ruling applies broadly to both civil and administrative proceedings, reinforcing that due process requires meaningful access to discovery. In *Ohio Bell Telephone Co. v. Public Utilities Commission*, 301 U.S. 292 (1937), the Supreme Court ruled that due process requires an individual to be able to confront and challenge the evidence used against them in a legal proceeding. The Court held that when a government agency decides based on undisclosed or inaccessible evidence, the affected party is deprived of their constitutional rights. The Court emphasized that a fair hearing is impossible if a party cannot review, question, or refute the evidence presented by the opposing side. The ruling in *Ohio Bell* establishes that due process violations occur when individuals are denied the opportunity to engage in discovery or when evidence is withheld from them during adjudication. This principle applies particularly in cases involving property rights, where the risk of an erroneous deprivation is high. The Supreme Court in *Jencks v. United States*, 353 U.S. 657 (1957), ruled that due process requires that a party be granted access to relevant materials and records used against them in a legal proceeding. The Court held that when an individual is denied access to key evidence, they are unable to mount an effective defense, thereby violating constitutional protections. The *Jencks* decision reinforces the principle that withholding evidence from a party deprives them of the ability to present a meaningful case. The Court ruled that the right to discovery is particularly

important in cases where government action results in a deprivation of liberty or property. The ruling confirms that due process is not met unless both sides have a fair and equal opportunity to examine and contest the evidence being used in a proceeding.

The Kentucky tax authority and Jefferson County Court deprived the petitioner of his due process rights under the Fifth and Fourteenth Amendments when they denied him the opportunity to conduct discovery or challenge the evidence used against him in the foreclosure proceedings. U.S. Const. amends. V, XIV, § 1. Procedural due process requires that individuals facing government action that affects their property have notice, a meaningful hearing, and the ability to obtain and contest evidence. By failing to provide these protections, the government acted arbitrarily and in violation of constitutional guarantees. In *Fuentes v. Shevin*, 407 U.S. 67 (1972), the Supreme Court held that due process requires the opportunity to present evidence and challenge the government's case before property is seized. Here, the petitioner was given no opportunity to challenge the tax lien enforcement, was not provided the necessary documentation to dispute the foreclosure and was denied a hearing before an impartial tribunal. These facts are strikingly like *Fuentes*, where the Court found that depriving an individual of the ability to contest government action rendered the entire process unconstitutional. Thus, just as the Supreme Court invalidated the seizure in *Fuentes*, the foreclosure proceedings against the petitioner must also be deemed unconstitutional. In *Goldberg v. Kelly*, 397 U.S. 254 (1970), the Supreme Court held that due process requires that an individual be given the opportunity to be heard "at a mean-

ingful time and in a meaningful manner." The Kentucky tax authority and Jefferson County Court violated this principle when they foreclosed on the petitioner's property without affording him a fair opportunity to present evidence, cross-examine witnesses, or challenge the basis of the lien. The facts of this case parallel *Goldberg*, where the government sought to terminate welfare benefits without giving recipients an opportunity to challenge the decision before it took effect. In both cases, the government's failure to allow the affected individual to present their case before the deprivation occurred constituted a due process violation. The Court in *Goldberg* made clear that merely allowing a nominal hearing does not satisfy due process; rather, the hearing must allow the individual to present a meaningful defense. Because the petitioner in this case was denied this opportunity, his constitutional rights were violated in the same manner recognized in *Goldberg*. In *Mathews v. Eldridge*, 424 U.S. 319 (1976), the Supreme Court established a three-part balancing test to determine what procedural protections are required under due process. The Court examined these elements: 1. The private interest at stake, 2. The risk of erroneous deprivation due to insufficient procedures, and 3. The government's interest in maintaining the existing process. Applying this test to the petitioner's case demonstrates that due process was violated. First, the petitioner had a substantial private interest, his home and property, at stake in the proceedings. The Supreme Court has consistently held that property ownership is a fundamental interest that demands heightened procedural safeguards. Second, the risk of erroneous deprivation was extremely high because the petitioner was denied access to discovery, preventing him from reviewing the evidence

used to justify the foreclosure. Without discovery, he could not contest the validity of the tax lien, making the process inherently unfair. Finally, the government had no compelling interest in denying the petitioner these protections, requiring proper discovery procedures would not have imposed an unreasonable burden on the tax authority or the court. Because all three factors weigh in favor of the petitioner, the failure to permit discovery and a meaningful hearing renders the foreclosure proceedings unconstitutional under *Mathews v. Eldridge*. In *Hickman v. Taylor*, 329 U.S. 495 (1947), the Supreme Court ruled that discovery is an essential component of due process, as it ensures that both parties have an opportunity to access relevant information and mount an effective case. The Court emphasized that restricting discovery undermines fairness and can result in arbitrary decisions. The Kentucky tax authority and Jefferson County Court directly violated this principle when they denied the petitioner access to discovery. Without the ability to obtain financial records, tax assessments, or other relevant documents, the petitioner was left without a way to challenge the foreclosure proceedings. Just as the Court in *Hickman* recognized that a lack of discovery skews the balance of justice, the denial of discovery in this case prevented the petitioner from defending against the government's claims. This case is like *Hickman* in that both involved an attempt to withhold information from a party to a legal proceeding, thereby depriving them of a fair process. However, the present case is even more severe because it resulted in the loss of the petitioner's property, whereas *Hickman* primarily addressed discovery rights in civil litigation. The Court's reasoning in *Hickman* supports the conclusion that the foreclosure

proceedings were unconstitutional due to the lack of discovery. In *Ohio Bell Telephone Co. v. Public Utilities Commission*, 301 U.S. 292 (1937), the Supreme Court ruled that due process requires that a party be given the opportunity to confront and challenge evidence used against them in a legal proceeding. The Court held that when a government agency decides based on undisclosed evidence, the affected party is deprived of their procedural rights. Here, the Kentucky tax authority and Jefferson County Court relied on tax records and financial assessments to justify the foreclosure, yet they refused to provide these documents to the petitioner or allow him access to discovery. This case closely resembles *Ohio Bell*, where the government relied on confidential reports and undisclosed data to issue a regulatory ruling against a private company. The Supreme Court ruled that such practices violate due process because they deny the affected party the ability to challenge adverse findings. The denial of discovery in the petitioner's case is even more egregious than in *Ohio Bell* because it resulted in the loss of real property. The Court's reasoning in *Ohio Bell* confirms that government actions based on hidden or undisclosed evidence violate due process, reinforcing the argument that the foreclosure judgment in this case was unconstitutional. In *Jencks v. United States*, 353 U.S. 657 (1957), the Supreme Court ruled that due process requires the government to provide a party with access to relevant documents and records that are being used against them in legal proceedings. The Court emphasized that withholding evidence prevents an individual from presenting a full and fair defense, rendering the proceedings constitutionally defective. In the present case, the Kentucky tax authority and Jefferson County

Court refused to provide the petitioner with access to tax lien records, financial assessments, and related evidence. This directly parallels the issue in *Jencks*, where the government attempted to withhold evidence from a defendant, thereby limiting their ability to challenge the case against them. The Supreme Court in *Jencks* ruled that such practices violate fundamental principles of due process. The denial of discovery in the petitioner's case is analogous to *Jencks* in that both involved government actors withholding critical evidence. However, the deprivation in this case is even more severe because it resulted in the loss of property rather than a procedural disadvantage in a criminal case. Under the precedent set in *Jencks*, the foreclosure proceedings in this case must be deemed unconstitutional due to the lack of access to relevant evidence.



CONCLUSION

For the foregoing reasons, the petition for writ of certiorari should be granted.

Respectfully submitted,

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