

24-¹⁰5325
IN THE SUPREME COURT OF THE UNITED STATES

ORIGINAL

Richard Daniel Mooney, IV
PETITIONER

v.
STATE OF TEXAS
RESPONDENT

Supreme Court, U.S. FILED JUNE 25 2024 OFFICE OF THE CLERK

PETITION FOR THE WRIT OF CERTIORARI
TO THE COURT OF CRIMINAL APPEALS
OF TEXAS PURSUANT TO 28 USC § 1257

Written By:

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Dated: 6-25-2024

QUESTIONS PRESENTED

1. Under Substantive maritime law, is the only basis for state and federal concurrent subject matter jurisdiction, pursuant to 28 USC § 1331, admiralty and maritime jurisdiction?;
2. If the trial court is a maritime court, subject to maritime services, transactions, and other maritime matters, did the state abuse the process for what it was meant for in violation of the Fourteenth Amendment, therefore lacking subject matter jurisdiction to accept the plea in the cause?; and
3. Does the concurrent jurisdiction make the trial court essentially a federal court, under the principles of federalism, therefore allowing petitioner to retain his Tenth Amendment rights to be free from governmental action and his Fourteenth Amendment privilege and immunity rights?

LIST OF PARTIES

Richard Daniel Mooney, IV - Petitioner
STATE OF TEXAS - Respondent

CORPORATE DISCLOSURE STATEMENT

Petitioner is not a corporate entity in this cause, nor is he a juristic person subject to substantive maritime law. He is a living, breathing sentient human being.

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Basis For Jurisdiction

This court has jurisdiction of this petition from the judgment of the Court of Criminal Appeals of Texas, in the case of Mooney v. STATE, Cause No. 24449, from the 258th district court of Polk County, Texas, that was entered on May 1, 2024 by the appeals court. This court has jurisdiction pursuant to 28 USC §§ 1253 and 1257 because:

1. Three-Judge Panel was properly convened in this Action

A. The appeal concerned the concurrent subject matter jurisdiction of state and federal district courts pursuant to title 28 USC § 1331 adopted by the STATE OF TEXAS:

Under § 1331 state and federal district courts have concurrent subject matter jurisdiction coupled with the admiralty and jurisdiction of title 28 USC § 1333 allowing state courts ~~remedies~~ remedies within the concurrent jurisdiction.

B. the 258th district court of Polk County Texas has the presumed concurrent subject matter jurisdiction over the cause.

Pursuant to Tex. C. Crim. Pro. Art. 4.16 whom ever files a Complaint first retains jurisdiction to regulate the secondary conduct of litigation. The statute grants the court with litigation, not whether litigation could be brought at all.

C. Petition was filed with the Court of Criminal Appeals of Texas and reviewed by a Three-Judge panel.

The TEX. CRIM. PROC. and The TEXAS Constitution requires a three judge panel in regards to reviewing petitions for writ of habeas corpus. "Nothing in the TEX. CONST. or statutes authorizes a single judge to act alone to decide habeas petitions." Ex parte Dawson, 509 SW3d 294, 297; TEX. CONST., ART. II § 4(b).

II. Petitions are Authorized From Decisions of Three Judge Panel in This Matter

The Court of Criminal Appeals of Texas, as the "highest court of the state," In re Reece, 341 SW3d 360, 369, in regards to criminal habeas petition, failed to render any judgment that "could be had" in this instant case. 28 USC § 1257(c). The panel ignored the issue outright and denied the habeas petition without a written order.

III. Petition was properly initiated and timely

Petitioner may raise the issue of a court's lack of subject matter jurisdiction at any time. Petitioner filed his habeas petition properly with the trial court, who then transferred petition to the court of criminal appeals. Petition was denied on May 1, 2024 and timely filed in this court.

Citation of Appeals court Decision

There was no opinion by the appeals court in this case.

Controlling Provisions, Statutes, and Regulations

- The Tenth Amendment of the U.S. Const. provides: "The powers not delegated to the United States by the Constitution, nor prohibited by it to the States, are reserved to the States respectively, or to the People."
- The Fourteenth Amendment of the U.S. Const. provides, in part: "No State shall make or enforce any law which shall abridge the the privileges or immunities of citizens of the United States; nor shall any State deprive any person of life, liberty, or property, without due process of law."

- Article I, section 10, clause 3 in part, provides: "No State shall, without the consent of Congress... enter into any Agreement or Compact with another State..."
- Article 3, section 2, clause 1 of the U.S. Const., in part, provides: "the Judicial Power shall extend to all cases, in law and equity, arising under this constitution, the laws of the United States, and treaties made, or which shall be made, under their authority... to all cases of admiralty and maritime jurisdiction!"
- Article II, § 1 of the Texas Constitution provides: "The judicial power of this state shall be vested in one Supreme Court, in one Court of Criminal Appeals, in courts of appeals, in district courts, in county courts, in commissioners' courts, in courts of Justices of the Peace, and in such other courts as may be provided by law. The Legislature may establish such other courts as it may deem necessary and prescribe the jurisdiction and organization thereof, and may conform the jurisdiction of the districts and other inferior courts thereto."
- Article II, § 8 of the Tex. Const. provides: "District Court Jurisdiction consists of exclusive, appellate, and original jurisdiction of all actions, proceedings, and remedies, except in cases where exclusive, appellate, or original jurisdiction may be conferred by Constitution or other law on some other court, tribunal, or administrative body. District Court Judges shall have the power to issue writs necessary to enforce their jurisdiction, the District Court shall have appellate jurisdiction and general Supervisory control over the County Commissioners Court, with such exceptions and under such regulations as may be prescribed by law."
- Title 28 United States Code Section 1331 provides: "The district courts shall have original jurisdiction of all civil actions arising under the Constitution, laws, or treaties of the United States."
- Title 28 United States Code Section 1333 provides: "The district courts shall have original jurisdiction, exclusive of the courts of the states of any civil case of admiralty

or maritime jurisdiction, saving to suitors in all cases all other remedies to which they are otherwise entitled. Any prize brought into the United States and all proceedings for the condemnation of property taken as prize."

- Title 46 United States Code Section 740 provides: "The admiralty and maritime jurisdiction of the United States shall extend to and include all cases of damage or injury, to person or property, caused by a vessel on navigable waters, notwithstanding that such damage or injury be done or consummated on land."
- Article 4.16 of the Tex. C. Crim. Pro. provides: "When two or more courts have concurrent jurisdiction of any criminal offense, the court in which an indictment or a complaint shall first be filed shall retain jurisdiction."

Statement of the Case

Petitioner filed a writ of habeas corpus with the trial court on 9-14-2023. Petition questioned the trial court's lack of subject matter jurisdiction due to the trial court's concurrent subject matter jurisdiction with the Federal district courts pursuant to 28 § 1331 and 28 § 1333 in regards to the principle of Federalism. Trial court received and filed petition on 10-3-2023.

On 3-26-2024 the state filed their findings of fact and conclusions of law with the court of criminal appeals, only quoting statutes to recommend ~~the~~ petition be denied and never answering the underlying issues presented in the writ.

On 5-1-2024 the court of criminal appeals denied the ~~petition~~ petition without a written order on the findings and conclusions of the trial court.

Petitioner timely files this writ within the allotted time given by this court.

Argument

The 258th district court of Polk County, Texas (trial court) accepted a five year plea deal with petitioner for a deadly weapon in a penal institution. Upon petitioner's due diligence, he found that the trial court is a maritime court subject to the general maritime law, also called substantive law, concurrent with the federal district courts.

If the trial court is a maritime court subject to maritime law, the wrong, in any cause of action, must "bear a significant relationship to traditional maritime activity" EXEC. SET AVIATION v. CITY OF CLEVELAND, 409 U.S. 249, 268. If the subject matter does not bear that significant relationship the court lacks jurisdiction to proceed in the cause enabling petitioner to raise the issue at any time.

"Wisdom too often never comes, and so, one ought not to reject it merely because it comes too late." ROSE v. MITCHELL, 443 U.S. 545, 575

I.

"Since well before 1787, liberty has been understood as freedom from government action, not entitlement to government benefits." Substantive maritime, for which this case is about, "stands for nothing whatever, except for those freedoms and entitlements that this court really likes." BERGERFELL v. HODGES, 576 U.S. 644, 720, 721.

Petitioner contends that pursuant to substantive maritime law the "only basis of concurrent subject matter jurisdiction is admiralty jurisdiction." 29 MOORE'S FED. PRACTICE - CIVIL § 704.04. The issues herein have never been specifically addressed by this court: Basically, is every cause of action in a state district court subject to maritime matters within the concurrent jurisdiction of Title 28 USC § 1331?

"The presumption of concurrent state court jurisdiction, we have recognized, can be overcome by an explicit statutory directive, by administrative implication from legislative history, or by a clear incompatibility between state court jurisdiction and federal interest." MIMS v. ARROW FIN. SERVS., 565 U.S. 368, 378.

A. ADMIRALTY AND MARITIME JURISDICTION

The Judiciary Act of 1789, in relevant part, grants the Federal "district ~~the~~ courts ... exclusive original cognizance of all causes of admiralty ~~and~~ and maritime jurisdiction." 1 STAT. 73, § 9. "Congress has since codified the admiralty jurisdiction grant in 28 USC § 1333." GREGOIRE V. ENTER MARINE SERVS, 38 F Supp 2d 749, 756. "By granting Federal courts jurisdiction over maritime and admiralty cases, the constitution implicitly directs Federal courts sitting in admiralty to proceed in a manner of a common law court." DUTKA GRP V. DARTERTON, 139 S. Ct. 2275, 2278. This essentially allows the Federal court to act like a state court.

Congress then passed the Jurisdiction and Removal Act of 1875, granting state district courts "concurrent jurisdiction with the [Federal] district courts of the crimes and offenses therein", 18 STAT. 470, § 1, now codified as 28 USC § 1333, MIMS, supra, 565 U.S. at 376-77.

With these two statutes alone an issue arises! If Federal district courts have exclusive original jurisdiction of all causes of admiralty and maritime jurisdiction and state district courts have concurrent jurisdiction with that of the Federal district courts, are state district courts subject to admiralty and maritime jurisdiction as well?

This court has ruled that § 1333 "leaves state courts competent to adjudicate maritime causes of action in proceedings in personam, that is, where the defendant is a person, not a ship or some other instrument of navigation" MADRUGA V. SUPERIOR COURT OF CAL., 346 U.S. 556, 560-61, see CONTINENTAL CITIZEN CO. V. THE BARGE, 364 U.S. 19, 22-23 ("A vessel may be assumed to be a person for the purpose of filing a suit and enforcing a judgment").

Since state and Federal courts have concurrent jurisdiction "relief must have been traditionally available." ROSE V. PSA AIRLINES, INC., 80 F.2d 488, 500. And the relief available in chapter 85 of title 28 is in § 1333, which "preserves remedies and the concurrent jurisdiction of state courts...." LEWIS V. LEWIS & CLARK MARINE INC., 531 U.S. 438, 445.

Federal and state district courts have all ~~been~~ been, over time, merged within this admiralty and maritime jurisdiction under the uniform substantive maritime law. see BUCCINA V. GRTMBV, 889 F.2d 256, 259 ("In 1966 the rule makers merged

the admiralty rules and the civil rules"); see also ADVISORY COMMITTEE NOTES OF THE FED. R. CIV. PRO. -1 (2000), O'CONNOR FEDERAL RULES - CIVIL TRIALS, pg 1215 ("The merger of law, equity, and admiralty practice is complete. There is no need to carry forward the phrases that initially accomplished the merger"). Even the various courts of the past are defined as having been "consolidated, the same court may serve as a court of equity, a court of law, a civil court, a criminal court, and a court of admiralty." "COURTS", defined, THE LAW DICTIONARY (2002), ANDERSON Publishing CO.

The purpose of the implied grant of power to legislate within the subject of admiralty and maritime jurisdiction was to place the entire subject matter, both substantive and procedural law, of not only all things Federal, but of the several states as well, under federal control, because of the jurisdiction's intimate relationship with intrastate and interstate commerce. HINTS, Federalism. DETROIT TRUST CO. V. THE THOMAS BARLUM, 293 U.S. 21; see McKESSON V. DOE, 191 S.Ct. 48, 51 ("Our system of cooperative judicial Federalism presumes Federal and State courts alike are competent to apply Federal and state law"). For a while now "the sovereignty of the states is practically abolished and the erst while free and independent states are now in effect and purpose closely supervised units in the Federal system." DIETZ V. TURNER, 439 P.2d 266, 267. This was mostly accomplished because of this court's ruling under what is now known as the "REVERSE-ENR" doctrine, which should be repudiated *ad nouo*. ERIE V. TOMPKINS, 304 U.S. 64.

This essentially makes the several states only "state" in name, while operating in Federal jurisdiction, because the compact of the U.S. Constitution makes state law Federal law. CYLER V. ADAMS, 449 U.S. 433; ART. I § 10, U.S. CONST. But there are limits to Congress' power when it comes to the clause, "to forestall any suggestion to the contrary, the Tenth Amendment was adopted." U.S. V. BUTLER, 297 US 1, 67-69.

Under the Tenth Amendment "an individual has a direct interest in objecting to laws that upset the constitutional balance between the national government and the states when the enforcement of those laws causes injury that is concrete, particular, and redressable" and an illegal "incarceration ... constitutes a concrete injury, caused by the conviction

and redressable by invalidation of the conviction." ROND V. U.S., 564 U.S. 211, 217, 220-22.

B. SUBSTANTIVE MARITIME LAW

This Court has repeatedly noted that Art. III, §2, cl.1 grants "jurisdiction to establish a uniform body of substantive law called the general maritime law." GREATLAKES TMS V. RAIDERS RETREAT REALTY CO., 144 S.Ct. 637, 648. This law essentially makes interstate and maritime commerce "conducting" to ensure the harmony of "cell interstate maritime traffic"; FINNESETH V. CARTER, 712 F.2d 1041, 1046.

"Admiralty practice is a unique system of substantive law and practice with whose members of this Court are singularly deficient in experience. The Courts below are perhaps the most expounded in this country." BLACK DIAMOND SS CORP V. ROBERT STEWART and SONS, 336 U.S. 386, 403. The Texas Courts "treat admiralty and maritime law as a uniform body of substantive law, applicable not only in Federal admiralty courts but also binding upon the state courts." SUCCHIA, supra, 889 F.2d at 859; see THURMAN V. HARTIS COUNTY, 2009 TEX. APP. LEXIS, 4203, 8-9 ("Maritime law... prescribes the substantive law governing the state court action").

Under Texas law, the rules of civil procedure's objective "is to obtain a suit fair, equitable, and impartial adjudication of the rights of litigants under established principles of substantive law." TEX. R. CIV. PRO. RULE 1. They are to govern the "prescribed rules of procedure in bond or recognizance forfeiture in criminal cases." TEX. R. CIV. PRO. RULE 2. Rule two's source is the Fed. R. of CIV. PRO. subject to this substantive maritime law as well. ANDERSON V. LIBERTY LOBBY INC., 477 U.S. 242.

Substantive maritime law is "an instrument of interstate federalism," WORLD-WIDE VOLKSWAGEN V. WOODSON, 444 U.S. 286, 294, and "speaks only to process." MCDONALD V. CITY OF CHICAGO, 561 U.S. 742, 806. It "exalts judges at the expense of the people from whom they derive their authority." It is "a jurisprudence devoid of a guiding principle... an oxymoron that lacks any basis in the constitution." And "any substantive due process decision is demonstrably erroneous." DOBBS V. JACKSON WOMEN'S HEALTH ORG., 597 U.S. 215, 331-335.

C. TEXAS LAW

Petitioner now moves to show several other statutes relevant to the process in this case subject to substantive maritime law.

I. BONDS

Chapter 17 of the Tex. C. CRIM. PROC deals with the process of bail bonds in a criminal case. ARTS 17.01-17.53. Bail bonds are policies of insurance and "policies of insurance are within the admiralty and maritime jurisdiction of the United States"; DE LOVED V. BOIT, 7 F CAS 418, 444.

"Any insurance company authorized to write fidelity and surety bonds under the laws of the state of Texas... is entitled to become surety on any bail bond returned to a sheriff under any provision of code of criminal procedure authorizing bail." INT'L. FIDELITY INS CO V. SHERIFF OF DALLAS COUNTY, 476 SW2d 115, 120; see GERBORKYAN V. JUDELSON, 869 F2d 571, 581 ("New York insurance law prohibits a bail bond surety for retaining a premium when the criminal defendant is not released on bail"); see also BAIL PROJECT INC V. INDIANA DEPT. OF INS., 76 F4th 569, 572-75 ("There are two primary ways a defendant can make bail in Indiana. One is a surety bond. A surety bond is, in essence, an insurance agreement"). Even the United States Code, in regards to bonds, tells us Federal "district courts shall have original jurisdiction concurrent with state courts, of any action on a bond executed under the laws of the U.S." 28 USC § 1352.

The maritime law controls bonds and how they are issued and this court ruled that the form of the bond doesn't vary the jurisdiction of the court. "The question whether the court of admiralty has or has not jurisdiction depends on the subject matter." INS CO. V. DUNHAM, 78 US 1, 27. Moreover, every sitting judge in the state of Texas has to give bond "before beginning the duties of the office." TEX. GOVT. CODE § 25.0006; 47 TEX JUR. JUDGES § 6.

So, a \$30,000 bond for a crime committed is well within the admiralty practice. But, it's the subject matter that

allows the court to proceed in the cause. As we can see, Bail bonds and policies of insurance affect nearly every single citizen in this country, subjecting them to this substantive maritime law unknowingly; this court should really consider this law de novo.

2. CAPTAS

A Capias "is a writ issued by a judge of the court having jurisdiction of a case after commitment or bail and before trial, or by a clerk at the direction of the judge commanding the officer to arrest a person accused of an offense and bring the arrested person before the court immediately." TEX. C. CRIM. PROC. ART. 23.01(1), (2).

"In suits in personam the mens process may be by a simple warrant of arrest of the person of the defendant in the nature of a capias, or by warrant of arrest of the person of the defendant." ATKINS V. DISTILLING CO., 85 U.S. 272, 304-05. This process is the mode of attachment within admiralty and maritime jurisdiction, prescribed by this court, now codified in Federal and state statutes. TEX. C. CRIM. PROC. ARTS. 15.01-15.23, Arrest under Warrant; ARTS. 23.01-23.18, the CAPTAS; ARTS. 24.01-24.29, Subpoena and attachment; FED. R. CIV. PROC. - SUPPLEMENTAL RULES FOR ADMIRALTY AND MARITIME CLAIMS.

The Capias process is in every single judicial district court in the state of Texas and other states as well and is "required to specify the offense of which the defendant is accused." TEX. C. CRIM. PROC. ART. 23.02. And if we go by this court's understanding of the admiralty process, the capias is to have some type of concern with maritime liens, the general average, captures and prizes, limitations of liability, cargo damage and claims of damage." EXEL. JET AVIATION V. CITY OF CLEVELAND, 409 U.S. 249, 270. The 258th district court did not adhere to this, this court and all other inferior courts believe "that maritime law controls all substantive issues... regardless of form or forum of the suit." LATROS V. VICTORY CARRIERS INC, 316 F2d 63, 65.

I believe these inferior courts need to be reminded what jurisdiction they are subject to.

3. PERSONS

The statute for which petitioner was illegally convicted of states
"a person commits an offense if while confined in a penal institution, he intentionally, knowingly, or recklessly carries on or about his person a deadly weapon or possesses or conceals a deadly weapon in a penal institution!" TEXAS PENAL CODES 46.10(9)(1), (2). (my underline)

Under substantive maritime law Congress "has enforced rights and exacted liabilities by utilizing a corporate concept - by recognizing, that is, juristic persons other than human beings... Attribution of legal rights and duties to a juristic persons other than man is necessarily a metaphorical process." U.S. v. SCDFHONY CORP. OF AM, 333 U.S. 795, 821.
Under maritime law, the "juristic person" is the "personification of the vessel," CANADIAN AVIATOR LTD v. U.S., 324 U.S. 215, 224, Monopapr. In regards to interstate commerce, "persons are ingredients of interstate commerce." GONZALEZ v. RAICH, 545 U.S. 1, 34.

"Congress has by legislation affirmatively interfered to protect... persons"; this is "where the court secures the rights or liabilities of persons within the state, as between such persons and the state" in a prosecution. This also "allowed the federal government to prosecute crimes in a state." MONELL v. DEPT. OF SOC. SERVS. 436 U.S. 658, 669, 671-72.

"The saving to suitors clause allows an in personam action." DIESEL REPOWER INC. v. ISLANDER INVS. LTD, 271 F3d 1318, 1322. In personam jurisdiction, in a criminal case, "requires the filing of a valid indictment" charging a "person" with an alleged crime. JENKINS v. STATE, 592 Sw2d 894, 898. The indictment "concerns the courts power to bind a particular person or party to a judgement." IN RE GUARDIANSHIP OF FAIRLEY, 650 Sw2d 372, 379-80; cf. CONTINENTAL GRAIN, supra, at 22-23.

The indictment process creates a legal fiction and this court "does not seriously depend the legal fiction of substantive due process as consistent with the original

Understanding of the due process clause" of the Constitution of the United States of America. GAMBLE v. U.S. 139 S. Ct. 1960, 1989.

As a side note, most, or at least some, courts would like us to believe there is a difference between in rem proceedings in Federal courts and in personam proceedings in state courts. Contrary to that belief, since all this is done in Federal Jurisdiction, in reality "a maritime in personam action is more styled a ~~rem~~ quasi in rem action." DS-RENDITE FONDS v. ESSAR CAP. AM, 882 F2d 44, 47.

When it comes to the admiralty practice, this court has held that Congress has the power to extend the admiralty and maritime practice by statute, THE LOTTAWANA, 88 U.S. 558; PANAMA RR v. JOHNSON, 264 U.S. 375. However, this court has also declared that there are constitutional limitations upon that power to legislate in this area. KOSSICK v. UNITED FRUIT CO., 365 U.S. 371.

The most expensive exercise of this jurisdiction was the ADMIRALTY JURISDICTION ACT OF 1948, which gave the maritime court cognizance of in personam torts caused by vessels/persons "notwithstanding that such damage or injury be done or consummated on land." 46 U.S.C. § 740. (Without repeal, Congress seems to have recently removed this statute from the United States Code).

Contrary to §740, in a dissenting opinion, this court noted "extensions of the jurisdiction of the admiralty are our greatest grievance. The American courts of admiralty seem to be forming by degrees into a system that is overturn our constitution and to deprive us of our best inheritance, the laws of the land." JACKSON v. MAGNOLIA, 61 US 296, 330.

II. LOWER COURTS ERROR

The trial court used jurisdictional statutes (TEX CONST, ART II, §8; TEX C. CRIM PRO. ARTS 4.01 and 4.05; and, TEX GOVT CODE § 24.435, which particularly makes no sense at all because it speaks of "misdemeanors" only) to deny the writ, ignoring petitioners underlying issue. These statutes "merely address which court shall have jurisdiction to entertain a particular cause of action can fairly be said merely to regulate the secondary conduct of litigation and not the underlying primary conduct of the parties. States use of these statutes simply "create jurisdiction where none previously existed." HUGHES AIRCRAFT CO. v. U.S., 520 U.S. 939, 951; 20 AM. JUR. 2d COURTS 553.

"The fact that courts often apply newly enacted jurisdiction-allocating statutes to pending cases merely evidences certain limited circumstances... Application of a new jurisdictional rule takes no substantive right, but simply changes the tribunal that is to hear the case." Id., at 951.

The Texas Constitution allows the legislature to "conform the jurisdiction of the district courts," ART. II, §1, to some "other law of some other court, tribunal or administrative body" where "exclusive" jurisdiction exist. ART. II, §8.

"Exclusive" jurisdiction exist in 28S1337.

The TEX C. CRIM PROCEDURE statutes noted by the state only tell us which "courts have jurisdiction in criminal actions", ART 4.01, and these courts have jurisdiction over "felony" cases and some misdemeanors. ART. 4.05. Those raised by the state, "even though phrased in 'jurisdictional terms', is as much subject to our presumption against concurrent jurisdiction as any other statute. HUGHES AIRCRAFT, 520 U.S., at 951.

The trial court had "concurrent jurisdiction" with that of federal district courts. TEX C. CRIM PRO. ART. 4.16. And "the general rule that when two courts have concurrent jurisdiction, the first court in which jurisdiction attaches has priority to consider the case... In both in rem and in personam ~~actions~~ actions, jurisdiction reverts back to

the filing of the complaint." U.S. v. KINLEY CONSTR. CO., 816 F.Supp 2d 1139, 1150.

The state, filing its complaint against petitioner, abused the maritime process "primarily to accomplish a purpose for which it is not designed." RESTAT 2d OF TORTS § 682. The appeals court abused their discretion by not even addressing the primary issue presented by petitioner in his writ, subsequently using substantive due process to "deny relief upon findings and conclusions" of the trial court. TEX. C. CRIM PRO ART. 11.07 § 5.

III. LACK OF SUBJECT MATTER JURISDICTION

The trial court lacked subject matter jurisdiction in cause no 24449 because, as a maritime court, "the wrong did not bear a significant relationship to traditional maritime activity." SESSION v. RUBY, 497 U.S. 358, 361. The subject matter must have "reference to maritime services and maritime transactions" or any other maritime matter dealing with the laws of the sea. LIGHTENING v. TECHMAN, 328 F.Supp 3d 625, 636.

"A trial court's lack of subject matter jurisdiction is a fundamental error and must be noted and reviewed." FORD MOTOR CO. v. AGUIÑIGA, 952d 252, 261. It may be raised "at any stage of the proceeding," BASSO v. UTAH POWER & LIGHT CO., 495 F2d 906, 910. "Can never be waived or forfeited," U.S. v. COTTON, 535 U.S. 625, 630, and "at the end of the day and case, if a jurisdictional defect remains uncorrected, the judgment must be vacated." CATERPILLAR INC v. LEWIS, 519 U.S. 61, 76-77.

"In resolving the question of jurisdiction, courts can refer to evidence outside of the pleadings." LUCKETT v. BURE, 290 F3d 493, 496-97. "The true test lies in the power in which the court was created and in the jurisdiction conferred." EX PARTE BAKELITE CORP., 279 U.S. 438, 458-60.

CONCLUSION

Petitioner has shown that the trial court sits in admiralty and administers its practice through its chambers. Nowhere in cause no. 24449 does the record bear any relationship to traditional maritime activity, nor any other maritime matter.

The Fourteenth Amendment provides, in part, that no state shall deprive any person of life, liberty or property without "due process of law." The state lacked subject matter jurisdiction to proceed in the case and violated due process subjecting petitioner to a practice that lacks any basis in the constitution. Petitioner is not the corporate juristic person created under substantive maritime law, therefore he retains his rights to be free from such subject under the privileges and immunities clause of the Fourteenth Amendment.

Because the compact clause makes state law federal law, petitioner retains his Tenth Amendment rights to be free from governmental action not enumerated in the constitution. "The individual," pursuant to this amendment, "can assert injury from governmental action taken in excess of authority that federalism defines." Petitioner's "rights in this regard do not belong to the state." BOND V. U.S., 564 U.S. 211, 220.

For these reasons cause no 24449 from the 258th district court of Polk County, Texas should be dismissed and petitioner's rights, pursuant to our constitution should be reinstated.

GOD BLESS

Respectfully Submitted


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