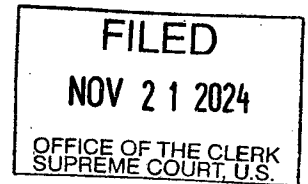


No. 24-6140

ORIGINAL



IN THE
SUPREME COURT OF THE UNITED STATES

TERRANCE L. LAVOLL — PETITIONER
(Your Name)

vs.

JERRY HOWELL, et al., — RESPONDENT(S)

ON PETITION FOR A WRIT OF CERTIORARI TO

THE UNITED STATES COURT OF APPEALS FOR THE NINTH CIRCUIT
(NAME OF COURT THAT LAST RULED ON MERITS OF YOUR CASE)

PETITION FOR WRIT OF CERTIORARI

TERRANCE L. LAVOLL
(Your Name)

HIGH DESERT STATE PRISON - HDSP P.O. BOX 650
(Address)

INDIAN SPRINGS, NEVADA, 89070
(City, State, Zip Code)

N/A
(Phone Number)

QUESTION(S) PRESENTED

1. WHETHER MR. LAVOLL WAS DENIED HIS RIGHT TO THE PROTECTION AGAINST DOUBLE JEOPARDY IN VIOLATION OF THE FIFTH AMENDMENT, WHEN AFTER HE BEGAN SERVING HIS SENTENCE ON THE ORIGINAL SENTENCE, A NEW AND INCREASED SENTENCE IS IMPOSED.

2. WHETHER MR. LAVOLL WAS DENIED HIS RIGHT TO THE ASSISTANCE OF COUNSEL IN VIOLATION OF THE SIXTH AMENDMENT, WHEN THE COURT FAILED TO INFORM HIM OF HIS RIGHT TO COUNSEL OR TO APPOINT COUNSEL BEFORE A NEW AND INCREASED SENTENCE WAS IMPOSED.

3. WHETHER MR. LAVOLL WAS DENIED HIS RIGHT TO DUE PROCESS IN VIOLATION OF THE FOURTEENTH AMENDMENT, WHEN THE COURT DENIED HIS REQUEST FOR APPOINTED COUNSEL AT HIS INITIAL REVIEW COLLATERAL PROCEEDING, AND WHEN IT FAILED TO APPOINT COUNSEL BEFORE THE NEW AND INCREASED SENTENCE WAS IMPOSED.

LIST OF PARTIES

- ☐ All parties appear in the caption of the case on the cover page.
- ☒ All parties **do not** appear in the caption of the case on the cover page. A list of all parties to the proceeding in the court whose judgment is the subject of this petition is as follows:

CALVIN JOHNSON, WARDEN, HIGH DESERT STATE PRISON; WILLIAM -
GITTERE, ACTING DIRECTOR, NEVADA DEPARTMENT OF CORRECTIONS,
AND AARON FORD, NEVADA ATTORNEY GENERAL.

RELATED CASES

LAVOLL v. HOWELL, NO. 2:19-CV-02249-GMN-EJY (D. NEV) U.S. DISTRICT COURT
FOR THE DISTRICT OF NEVADA. JUDGMENT ENTERED JANUARY 6, 1998,
AMENDED JUDGMENT OF CONVICTION FILED ON JULY 6, 2012.

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APPENDIX E ORDER, NEVADA DISTRICT COURT - AMENDED JUDGMENT OF CONVICTION.
(PLEA).

APPENDIX F ORDER, NEVADA DISTRICT COURT - ORIGINAL JUDGMENT OF CONVICTION
(PLEA).

TABLE OF AUTHORITIES CITED

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JOHNSON V. ZERBST, 304 U.S. 458 (1938)	13.
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OTHER

IN THE
SUPREME COURT OF THE UNITED STATES

PETITION FOR WRIT OF CERTIORARI

Petitioner respectfully prays that a writ of certiorari issue to review the judgment below.

OPINIONS BELOW

☐ For cases from **federal courts**:

The opinion of the United States court of appeals appears at Appendix A to the petition and is

☐ reported at _____; or,
☐ has been designated for publication but is not yet reported; or,
☒ is unpublished.

The opinion of the United States district court appears at Appendix B to the petition and is

☐ reported at _____; or,
☐ has been designated for publication but is not yet reported; or,
☒ is unpublished.

☐ For cases from **state courts**:

The opinion of the highest state court to review the merits appears at Appendix _____ to the petition and is

☐ reported at _____; or,
☐ has been designated for publication but is not yet reported; or,
☐ is unpublished.

The opinion of the _____ court appears at Appendix _____ to the petition and is

☐ reported at _____; or,
☐ has been designated for publication but is not yet reported; or,
☐ is unpublished.

JURISDICTION

☐ For cases from **federal courts**:

The date on which the United States Court of Appeals decided my case was AUGUST 29, 2024.

☐ No petition for rehearing was timely filed in my case.

☐ A timely petition for rehearing was denied by the United States Court of Appeals on the following date: _____, and a copy of the order denying rehearing appears at Appendix _____.

☐ An extension of time to file the petition for a writ of certiorari was granted to and including _____ (date) on _____ (date) in Application No. ____ A ____.

The jurisdiction of this Court is invoked under 28 U. S. C. § 1254(1).

☐ For cases from **state courts**:

The date on which the highest state court decided my case was _____.
A copy of that decision appears at Appendix _____.

☐ A timely petition for rehearing was thereafter denied on the following date: _____, and a copy of the order denying rehearing appears at Appendix _____.

☐ An extension of time to file the petition for a writ of certiorari was granted to and including _____ (date) on _____ (date) in Application No. ____ A ____.

The jurisdiction of this Court is invoked under 28 U. S. C. § 1257(a).

CONSTITUTIONAL AND STATUTORY PROVISIONS INVOLVED

THE FIFTH AMENDMENT TO THE U.S. CONSTITUTION PROVIDES... NOR SHALL ANY PERSON BE SUBJECT FOR THE SAME OFFENSE TO BE TWICE PUT IN JEOPARDY OF LIFE OR LIMB... NOR BE DEPRIVED OF LIFE, LIBERTY, OR PROPERTY, WITHOUT DUE PROCESS OF LAW.

THE SIXTH AMENDMENT TO THE U.S. CONSTITUTION PROVIDES THAT IN ALL CRIMINAL PROSECUTIONS, THE ACCUSED SHALL ENJOY THE RIGHT... TO HAVE THE ASSISTANCE OF COUNSEL FOR HIS DEFENSE.

THE FOURTEENTH AMENDMENT TO THE U.S. CONSTITUTION PROVIDES... NOR SHALL ANY STATE DEPRIVE ANY PERSON OF LIFE, LIBERTY, OR PROPERTY, WITHOUT DUE PROCESS OF LAW, NOR DENY TO ANY PERSON WITHIN ITS JURISDICTION THE EQUAL PROTECTION OF THE LAWS.

28 U.S.C. 2244(d). AT APP. B

28 U.S.C. 2254. AT APP. B

28 U.S.C. 2253. AT APP. B

STATEMENT OF THE CASE

IN THE EIGHTH JUDICIAL DISTRICT COURT, CLARK COUNTY NEVADA ON DECEMBER 17, 1997 WITH COUNSEL, MR. LAVOLL WAS SENTENCED TO LIFE IN THE NEVADA DEPARTMENT OF PRISONS. APP.F. ON NOVEMBER 29, 2012 LAVOLL WAS AGAIN SENTENCED IN THIS COURT WITHOUT COUNSEL, AT THAT TIME THE COURT IMPOSED A NEW JUDGMENT UPON HIM. SPECIFICALLY, THE COURT REIMPOSED THE ORIGINAL SENTENCE OF LIFE AND ADDED A SPECIAL SENTENCE OF LIFETIME SUPERVISION WITH A REQUIREMENT TO REGISTER AS A SEX OFFENDER. APP.E. LAVOLL WAS PRESENT AT BOTH PROCEEDINGS.

THE 2012 PROCEEDING WAS HELD ACCORDING TO A REQUEST FROM THE NEVADA DEPARTMENT OF CORRECTIONS TO CORRECT THE JUDGMENT OF CONVICTION. LAVOLL WAS NOT CHALLENGING HIS CONVICTION AND WAS NOT INFORMED OF HIS RIGHT TO COUNSEL OR OF HIS RIGHT TO APPEAL, NOR WAS HE APPOINTED COUNSEL. UNINFORMED, LAVOLL WAS UNAWARE OF THE FACT THAT THE AMENDMENT WAS SUCH AS WOULD AFFECT HIS LEGAL AND CONSTITUTIONAL RIGHTS AND WAS IGNORANT OF STATE RULES OF PROCEDURE. THEREFORE, NO DIRECT APPEAL WAS FILED.

ON JANUARY 10, 2018, LAVOLL'S POST-CONVICTION PETITION WAS FILED IN THE STATE DISTRICT COURT, HIS FIRST STATE PETITION FILED AFTER THE JUDGMENT WAS AMENDED AT THE 2012 PROCEEDING. APP.K. A HEARING WAS SCHEDULED FOR MARCH 27, 2018, THE COURT DENIED HIS REQUEST FOR AN EVIDENTIARY HEARING, HIS REQUEST FOR THE APPOINTMENT OF COUNSEL, AND HIS PETITION AS PROCEDURALLY BARRED. APP.G. THE 2018 PROCEEDING WAS LAVOLL'S INITIAL-REVIEW COLLATERAL PROCEEDING.

IT'S PARTICULARLY IMPORTANT PETITIONER HAVE EFFECTIVE COUNSEL DURING AN INITIAL-REVIEW COLLATERAL PROCEEDING BECAUSE OTHERWISE "NO COURT WILL REVIEW THE PRISONER'S CLAIM." UNDER NEVADA LAW NRS. 34.726(1), LAVOLL WAS REQUIRED TO BRING HIS CLAIM ON POST-CONVICTION, BOTH BECAUSE HIS DIRECT APPEAL PROCEEDING'S HAD LONG SINCE CONCLUDED WHEN THE CLAIM WAS DISCOVERED AND BECAUSE THE CLAIM REQUIRED EVIDENTIARY DEVELOPMENT. LAVOLL WAS NOT APPOINTED COUNSEL DURING THIS CRITICAL TIME, AND HE WAS NOT INFORMED OF THE FILING OF THE AMENDED JUDGMENT OF CONVICTION, HE DISCOVERED IT BETWEEN OCTOBER, NOVEMBER 2017.

AFTER A PAROLE HEARING IN 2017, LAVOLL DISCOVERED THE AMENDED JUDGMENT WHILE PURSUING ISSUES RELATED TO THE ORIGINAL JUDGMENT BUT HE DID NOT UNDERSTAND THAT THE AMENDMENT WOULD RESULT IN A NEW JUDGMENT AND NEW TIME PERIOD. THE PAROLE HEARING WAS HELD ON AUGUST 24, 2017. WHEN HE WAS CALLED TO THE HEARING, THIS SURPRISED LAVOLL BECAUSE HE WAS NOT CALLED FOR A PAROLE HEARING IN 2007 ACCORDING TO PLEA NEGOTIATIONS AFTER SERVING TEN YEARS. APP. II. AND BECAUSE THE ORIGINAL JUDGMENT AND THE AMENDED JUDGMENT DID NOT IMPOSE THE MANDATORY MINIMUM TERM TO HIS SENTENCE AS NEVADA LAW REQUIRED. APP. I. HIS THOUGHT IT WAS ONLY THAT HE MISUNDERSTOOD.

ALTHOUGH THE TERM LIFE IN THE SENTENCE WAS AMBIGUOUS TO LAVOLL, FROM 2007 LAVOLL WAS SURE HIS SENTENCE WAS A LIFE WITHOUT PAROLE SENTENCE UNTIL THE PAROLE HEARING IN 2017 AND HAD NO REASON TO INQUIRE ABOUT HIS CASE. ACCORDINGLY,

THE ORIGINAL JUDGMENT IN THE RELATED CASE OFFERED NOTHING TO THE CONTRARY. APP.J. IN 2017 LAVOLL WAS GRANTED AN INSTITUTIONAL PAROLE, BUT THERE WAS NO REFERENCE TO THE AMENDED JUDGMENT OF CONVICTION REGARDING NEITHER CASE. AT THE PAROLE HEARING HIS CONCERN ABOUT THE LACK OF THE MINIMUM TERM AND THERE BEING NO MENTIONING OF PAROLE ELIGIBILITY WAS ONLY EXPRESSED TOWARD THE ORIGINAL JUDGMENT OF CONVICTION, AT THIS TIME HE HAD NOT YET DISCOVERED THE AMENDED JUDGMENT OF CONVICTION.

AFTER THE PAROLE HEARING LAVOLL FILED HIS CLAIM WITH THE STATE COURT WELL WITHIN ONE YEAR OF ITS DISCOVERY. APP.K, 18. THE STATE SUPREME COURT ISSUED ITS REMITTITUR ON FEBRUARY 13, 2019. APP.L. IMMEDIATELY AFTER, ON JULY 22, 2019 LAVOLL MAILED AN AUTHORIZATION APPLICATION TO THE NINTH CIRCUIT COURT OF APPEALS TO FILE A SECOND AND SUCCESSIVE PETITION. THE COURT CONCLUDED THAT THE PETITION WAS THE FIRST PROPOSED PETITION CHALLENGING THE AMENDED JUDGMENT AND AUTHORIZATION WAS NOT REQUIRED. THE COURT ORDERED THE PETITION TO BE DEEMED FILED WITH THE DISTRICT COURT ON JULY 22, 2019. APP.D.

THE DISTRICT COURT DISMISSED THE PETITION AS TIME BARRED ON DECEMBER 19, 2023. APP.B. LAVOLL FILED HIS NOTICE OF APPEAL ON DECEMBER 27, 2023. APP.M. HIS APPEAL WAS DOCKETED IN THE COURT OF APPEALS ON JANUARY 9, 2024. APP.N. THE COURT OF APPEALS DENIED HIS CASE ON AUGUST 29, 2024. APP.A. NOW MR. LAVOLL FILES HIS PETITION FOR A WRIT OF CERTIORARI FOR REVIEW IN THIS COURT. 6.

REVIEW IN THIS COURT.

///

REASONS FOR GRANTING THE PETITION

THE EIGHTH JUDICIAL DISTRICT COURT, CLARK COUNTY NEVADA HAD NO CONSTITUTIONAL AUTHORITY OR POWER TO IMPOSE A NEW JUDGMENT ON MR. LAVOII, OR TO INCREASE HIS SENTENCE. THE NEW JUDGMENT UNDER WHICH HE IS HELD IS UNCONSTITUTIONAL AND ABSOLUTELY VOID.

ON DECEMBER 17, 1997, WITH APPOINTED COUNSEL, THE COURT IMPOSED UPON LAVOII THE SENTENCE OF LIFE IN THE NEVADA DEPARTMENT OF PRISONS. ON NOVEMBER 29, 2012 LAVOII WAS AGAIN BEFORE THIS COURT PURSUANT TO A REQUEST BY THE NEVADA DEPARTMENT OF PRISONS TO CORRECT THE JUDGMENT OF CONVICTION WITHOUT ANY NOTIFICATION TO HIM. LAVOII WAS NOT CHALLENGING HIS CONVICTION AND HE WAS NOT APPOINTED COUNSEL WHEN THE NEW JUDGMENT WAS IMPOSED UPON HIM.

SPECIFICALLY, THE COURT REIMPOSED THE ORIGINAL SENTENCE NAMELY THE LIFE IN THE JUDGMENT AND ADDED A SPECIAL SENTENCE OF LIFETIME SUPERVISION AND THE REQUIREMENT TO REGISTER AS A SEX OFFENDER. THE JUDGMENT DOES NOT INDICATE THAT LAVOII WAS NOTIFIED OF THE FILING OF THE AMENDED JUDGMENT WHEN IT WAS FILED ON DECEMBER 12, 2012. APP.-F.E.

1. THOUGH DISTRICT COURTS MAY AT ANY TIME CORRECT A JUDGMENT OF CONVICTION FOR CLERICAL ERRORS, IT DOES NOT HAVE INHERENT AUTHORITY TO RESENTENCE DEFENDANTS AT ANY TIME TO CORRECT AN ILLEGAL SENTENCE. THE DECISION OF THE COURT OF APPEALS WAS ERRONEOUS BECAUSE THIS COURT HAS ALREADY DE-

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CITED THAT DISTRICT COURTS DO NOT HAVE INHERENT AUTHORITY TO MODIFY A JUDICIALLY IMPOSED SENTENCE, MAGWOOD V. PATTERSON, 561 U.S. 320 (2010): 'WHERE... THERE IS A NEW JUDGMENT INTERVENING BETWEEN THE TWO HABEAS PETITIONS, AN APPLICATION CHALLENGING THE RESULTING NEW JUDGMENT IS NOT 'SECOND OR SUCCESSIVE' AT ALL... ACCORDINGLY, THE DISTRICT COURT ERRED IN HOLDING THAT THE TRIAL COURT 'CORRECTED ONLY A CLERICAL ERROR. MR. LAVOLL ASSERTS THAT BECAUSE THE AMENDED JUDGMENT IS A NEW JUDGMENT AND NOT SECOND OR SUCCESSIVE, THE ERROR CORRECTED IN THE JUDGMENT OF CONVICTION CANNOT BE CLERICAL. (APP. B AT 3).

HERE, THE COURT OF APPEALS HAS ALREADY CONCLUDED THAT THE AMENDED JUDGMENT IS A NEW JUDGMENT. APP. D. ALLOWING LAVOLL TO FILE A FIRST PROPOSED PETITION CHALLENGING THE AMENDED JUDGMENT. THEREFORE, THAT BECAUSE THE TRIAL COURT DID NOT HAVE THE AUTHORITY TO RENDER JUDGMENT, THE COURT OF APPEALS DECISION ALSO CONFLICTS WITH UNITED STATES V. WERBER, 51 F.3d 342, 348-49 (2d CIR. 1995), THE DISTRICT COURT CANNOT MODIFY A DEFENDANTS SENTENCE., UNITED STATES V. TURNER, 998 F.2d 534, 536 (7th CIR. 1993) (HOLDING THAT... A DISTRICT COURT'S JUDGMENT DOES NOT BECOME FINAL UNTIL THE SEVENTH DAY AFTER THE IMPOSITION OF SENTENCE, WHEN THE DISTRICT JUDGE'S POWER TO ALTER THE SENTENCE EXPIRES). A DISTRICT COURT DOES NOT HAVE INHERENT POWER TO RESENTENCE DEFENDANTS AT ANY

TIME. THE NEW JUDGMENT IS A VIOLATION OF LAVOLL'S DOUBLE JEOPARDY PROTECTION AGAINST MULTIPLE PUNISHMENT IMPOSED FOR THE SAME OFFENSE. THE UNITED STATES CONSTITUTION IS DESIGNED AS MUCH TO PREVENT THE DEFENDANT FROM BEING TWICE PUNISHED FOR THE SAME OFFENSE AS BEING TWICE TRIED FOR IT. BECAUSE HE DID NOT WAIVE HIS DOUBLE JEOPARDY PROTECTION FROM BEING SUBJECTED TO MULTIPLE AND MORE SEVERE PUNISHMENT, THE DECISION OF THE COURT OF APPEALS WAS ERRONEOUS BECAUSE THIS COURT HAS ALREADY DECIDED THAT THAT CLAUSE IN THE CONSTITUTION SERVES THE FUNCTION OF PREVENTING BOTH SUCCESSIVE PUNISHMENT AND SUCCESSIVE PROSECUTION, EX PARTE LANGE, 85 U.S. (18 WALL) 163, 21 L. ED. 872 (1873); NORTH CAROLINA V. PEARCE, 395 U.S. 711, 23 L. ED. 2D 656, 89 S.Ct. 2072 (1969).

9. ADDITIONALLY, THAT BECAUSE THE ADDITION TO HIS JUDGMENT INCREASED LAVOLL'S SENTENCE, VIOLATING HIS DOUBLE JEOPARDY PROTECTION, THE DECISION OF THE COURT OF APPEALS WAS ERRONEOUS BECAUSE THIS COURT HAS ALREADY DECIDED THAT AN INCREASE IN A DEFENDANT'S SENTENCE, ONCE SERVICE HAS COMMENCED IS PROHIBITED, E.g. EX PARTE LANGE, SUPRA., UNITED STATES V. BENZ, 282 U.S. 304, 307 S.Ct. 113, 75 L. ED. 354 (1931). THE COURT OF APPEALS DECISION ALSO CONFLICTS WITH THE DECISION OF UNITED STATES V. SACCO, 367 F.2d - 368 (2ND CIR. 1966); UNITED STATES V. ADAMS, 362 F.2d 210 (6TH CIR. 1966); CHANDLER V. UNITED STATES, 468 F.2d 834 (5TH CIR. 1972), THAT INCREASING SENTENCE ON AN UNCHALLENGED CONVICTION

VIOLATES THE DOUBLE JEOPARDY CLAUSE.

2. THE TRIAL COURTS FAILURE IN ITS DUTY TO ADVISE MR. LAVOLL OF HIS RIGHT TO COUNSEL AND HIS RIGHT TO APPEAL, OR TO APPOINT COUNSEL AT A CRITICAL STAGE. WHEN THE COURT IMPOSED THE NEW JUDGMENT, THE PROCEEDING WAS THE EQUIVALENT TO A SENTENCING PROCEEDING, A SENTENCING PROCEEDING IS A CRITICAL STAGE, IN WHICH LAVOLL HAD THE RIGHT TO THE ASSISTANCE OF COUNSEL. THE RIGHT TO THE ASSISTANCE OF COUNSEL INVOLVES THE RIGHT TO BE HEARD, WHICH IS COMPREHENDED AS THE RIGHT TO BE HEARD BY COUNSEL. THE JUDGMENT IS VOID ALSO BECAUSE OF THE COURTS FAILURE.

THOUGH MR. LAVOLL WAS PRESENT AT THE HEARING, THE RECORDS OF THE PROCEEDING DOES NOT SHOW THAT HE WAIVED HIS RIGHT TO COUNSEL. THE DECISION OF THE COURT OF APPEALS WAS ERRONEOUS BECAUSE THIS COURT HAS ALREADY DECIDED THAT A DEFENDANT HAS A RIGHT TO BE HEARD AT A CRITICAL STAGE, POWELL V. ALABAMA, 287 U.S. 45, 68-69, 77 LEd 158, 53 S.Ct. 55 84 ALR 527 (1932), MEMPHIS V. RAY, 389 U.S. 128, 136-37 (1967). THE COURT OF APPEALS DECISION ALSO CONFLICTS WITH THE DECISION OF WATSON V. UNITED STATES, 865 F.3d 123 (2d Cir - (2017)). HE REQUIRES THE GUIDING HAND OF COUNSEL AT EVERY STEP IN THE PROCEEDINGS AGAINST HIM. ALSO BECAUSE THE FAILURE VIOLATES DUE PROCESS.

THE SIXTH AMENDMENT REQUIRES THAT CRIMINAL DEFENDANTS

MUST BE PROVIDED WITH COUNSEL UNLESS THE RIGHT IS... WAIVED.

3. THE 2018 POST-CONVICTION PROCEEDING WAS MR. LAVOLL'S INITIAL-REVIEW COLLATERAL PROCEEDING. UNDER NEVADA LAW 34-726(1); PARRISH V. STATE, 116 NEV. 982, 12 P.3d 953 (2000), LAVOLL WAS REQUIRED TO BRING HIS CLAIM ON POST-CONVICTION, BOTH BECAUSE HIS DIRECT APPEAL PROCEEDING HAD LONG SINCE CONCLUDED WHEN THE CLAIM WAS DISCOVERED AND BECAUSE THE CLAIM REQUIRED EVIDENTIARY DEVELOPMENT. HE WAS DENIED HIS REQUEST FOR AN EVIDENTIARY HEARING AND HIS REQUEST FOR APPOINTED COUNSEL AND THE PETITION WAS DENIED AS PROCEDURALLY BARRED. APP.G. 11/18/18.

UNDER NEVADA LAW, PETITIONER CAN ESTABLISH GOOD CAUSE IF CLAIM IS FILED WITHIN ONE YEAR AFTER BECOMING AVAILABLE, RIPPON V. STATE, 368 P.3d 729, 739-40 (NEV. 2016). WHILE PURSUING ISSUES RELATED TO THE ORIGINAL JUDGMENT, HE DISCOVERED THE CLAIM BETWEEN OCTOBER AND DECEMBER 2017 AFTER A PAROLE HEARING IN AUGUST 2017. HIS CLAIM WAS FILED ON JANUARY 10, 2018 APP.K, AT 18. AND THE STATE SUPREME COURT ISSUED ITS REMITTITUR ON FEBRUARY 13, 2019. APP.L. AND HIS CLAIM WAS FILED WITH THE DISTRICT COURT ON JULY 22, 2019. APP.D. WHEN LAVOLL FILED HIS CLAIM WITH THE TRIAL COURT IN 2018 THE 2012 AMENDED JUDGMENT WAS NOT FINAL BECAUSE IT WAS VOID.

A VOID JUDGMENT IS A LEGAL NULLITY, AND SO AFFECTED BY A FUNDAMENTAL INFIRMITY THAT THE INFIRMITY MAY BE RAISED EVEN AFTER THE JUDGMENT BECOMES FINAL. IN A CRIMINAL CASE, THE EFFECT IS THE SAME AS IF NO ORDER

AT ALL HAD BEEN MADE, AND THE CASE NECESSARILY REMAINS PENDING UNTIL IT IS FINALLY DISPOSED OF BY THE IMPOSITION OF A LAWFUL SENTENCE.

THE DECISION OF THE COURT OF APPEALS WAS ERRONEOUS ALSO IN ITS PROCEDURAL RULINGS BECAUSE THIS COURT HAS ALREADY DECIDED THAT A PARTY CAN CHALLENGE A COURT'S JURISDICTION AT ANY TIME, UNITED STUDENT AID FUNDS, INC. V. ESPINOSA, 559 U.S. 260 (2010), JOHNSON V. ZERBST, 304 U.S. 458 (1938): A PRISONER IN CUSTODY PURSUANT TO THE FINAL JUDGMENT OF A STATE COURT OF CRIMINAL JURISDICTION MAY HAVE A JUDICIAL INQUIRY IN A COURT OF THE UNITED STATES INTO THE VERY TRUTH AND SUBSTANCE OF THE CAUSE OF HIS DETENTION... TO TEST THE JURISDICTION OF THE STATE COURT TO PROCEED TO A JUDGMENT AGAINST HIM.

THE COURT OF APPEALS DECISION ALSO CONFLICTS WITH WILSON V. BELL, 137 F.2d 716, 720 (6TH CIR. 1943); ~~BATSON V. U.S.~~, 137 F.2d 288 (10TH CIR.)... THAT A COURT SHOULD NOT IMPOSE SENTENCE IN THE ABSENCE OF COUNSEL... DISTRICT COURT

MR. LAVOIL HAS MADE A SUBSTANTIAL SHOWING OF THE DENIAL OF A CONSTITUTIONAL RIGHT. AND JURIST OF REASON WOULD DEBATE WHETHER THE PETITION STATES A VALID CLAIM OF THE DENIAL OF A CONSTITUTIONAL RIGHT AND WHETHER THE COURT'S PROCEDURAL RULING WAS CORRECT.

REVIEW IN THIS COURT IS OF IMPORTANCE TO MR. LAVOIL BECAUSE THE QUESTIONS HE PRESENTS DEP-

END ON HIS AND THE PUBLICS ASSURANCE IN THE COURT'S
ABILITY IN SECURING TO THE NATION THE PROTECTIONS
THE CONSTITUTION GUARANTEE BY THE DECISIONS
OF THE COURT THAT PRESERVE IT. BUT NOT ONLY OF
HIS ASSURANCE, BUT OF THOSE IN HIS SITUATION
HOPING TO RETURN TO SOCIETY AND LOVED ONES AS
IMPROVED CITIZENS.

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CONCLUSION

The petition for a writ of certiorari should be granted.

Respectfully submitted,

TERRANCE L. LAVOLL

Date: NOVEMBER 20, 2024