24-6647 ORIGINAL

No. _____

IN THE

# SUPREME COURT OF THE UNITED STATES



OSCAR STILLEY,
*Petitioner*

v.

JOHN THURSTON, IN HIS OFFICIAL CAPACITY AS ARKANSAS SECRETARY OF STATE, AND ARKANSANS FOR LIMITED GOVERNMENT
*Respondents.*

On Petition for Writ of Certiorari to the
Supreme Court of the State of Arkansas

## PETITION FOR A WRIT OF CERTIORARI

By: Oscar Stilley, *Pro se*, DOJ-FBOP 10579-062
Cimarron Correctional Facility
3200 S. Kings Highway
Cushing, OK 74023

## QUESTIONS PRESENTED

1. **Is a void criminal judgment, taken contrary to the 6th Amendment right to assistance of counsel, nevertheless legally sufficient to criminally punish the convicted person for registering to vote?**

2. **Does the 1st Amendment peaceful petition clause protect persons who reasonably rely upon the US Constitution and US Supreme Court precedent, in engaging in peaceful petition or conditions precedent thereto?**

3. **What remedies should be available for violations of 1st Amendment peaceful petition rights?**

## PARTIES TO THE PROCEEDING

Petitioner is Oscar Stilley. Respondents are 1) John Thurston, in his official capacity as Arkansas Secretary of State, and 2) Arkansans for Limited Government, a ballot action committee promoting the Arkansas Abortion Amendment of 2024.

## LIST OF PROCEEDINGS

Petitioner is uncertain whether or not the following proceedings are "directly related" within the meaning of the rule, but includes these out of an abundance of precaution.

*US v. Oscar Stilley*, US District Court for the Northern District of Oklahoma, 4:09-cr-43, original judgment 4-23-2010 (Docket 338) on first revocation of supervised release (Docket #752) on 11-21-2022, judgment on second revocation of supervised release on 11-13-2024 (Docket # unknown due to incarceration).

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## STATEMENT OF JURISDICTION

On 9-5-2024 the Arkansas Supreme Court dismissed Petitioner Stilley's original action petition, mandate to issue immediately. On 10-24-2024 the Arkansas Supreme Court denied Stilley's motion to recall the mandate, thus declining to consider Petitioner's tendered petition for rehearing. The Arkansas Supreme Court had exclusive original jurisdiction pursuant to the Arkansas Constitution, Article 5 and Amendment 7.[1] This Court granted Petitioner's motion to extend the time to petition for certiorari to January 22, 2025, the day that the petition for certiorari would have been due had the Arkansas Supreme Court denied Stilley's petition for rehearing on the day that it denied his motion to recall the mandate. This Court has jurisdiction pursuant to 28 U.S.C. 1257, for review of a final decision of the highest court of a state.

## PERTINENT CONSTITUTIONAL AND STATUTORY PROVISIONS

This case principally involves:

1) US Constitution, 6th Amendment: In all criminal prosecutions, the accused shall ... have the Assistance of Counsel for his defence.

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1 Petitioner has no access to Arkansas statutes, case law, or other authorities, at his place of incarceration.

2) US Constitution, 1st Amendment, "Congress shall make no law ... abridging ... the right of the people peaceably to ... petition the Government for a redress of grievances..."

3) Arkansas Constitution Article 1 Section 5 includes but is not limited to the following provisions:

**Verification.** Only legal votes shall be counted upon petitions. Petitions may be circulated and presented in parts, but each part of any petition shall have attached thereto the affidavit of the person circulating the same, that all signatures thereon were made in the presence of the affiant, and that to the best of the affiant's knowledge and belief each signature is genuine, and that the person signing is a legal voter and no other affidavit or verification shall be required to establish the genuineness of such signatures.

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**Unwarranted Restrictions Prohibited.** No law shall be passed to prohibit any person or persons from giving or receiving compensation for circulating petitions, nor to prohibit the circulation of petitions, nor in any manner interfering with the freedom of the people in procuring petitions; but laws shall be enacted prohibiting and penalizing perjury, forgery, and all other felonies or other fraudulent practices, in the securing of signatures or filing of petitions.

4) Arkansas Code Annotated (A.C.A.) Section 7-5-204(c)(1), provides as follows:

**(c)(1)** If the Secretary of State has not determined the sufficiency of a petition for an amendment or a measure by the seventy-fifth day before the general election or if an amendment or a measure has been challenged for any reason in a court of competent jurisdiction, the Secretary of State shall nonetheless transmit the amendment or measure and the ballot title of each amendment and measure to the county election commissions to make any required posting and to place the amendment or measure on the ballot.

## STATEMENT OF THE CASE

Petitioner Oscar Stilley in *United States v. Lindsey Springer and Oscar Stilley*, OKND 4:09-cr-43 was after a 3 week trial convicted of two counts of tax evasion and one count of "defraud clause" conspiracy. *US v. Stilley*, Dkt. 338. Stilley served his 15 year prison sentence from 2010 to 2022. Promptly after commencement of supervised release, a petition to revoke supervision was filed.

Prior to the revocation proceeding, Petitioner moved that his standby counsel from the 2009 trial be reappointed for the revocation proceedings. This motion was denied. Petitioner requested an initial appearance before a magistrate, amongst other reasons for the purpose of taking up the issue of 6th Amendment assistance of counsel. This unopposed motion was likewise denied. At the revocation hearing 11-21-2022, Petitioner, seeing that he would have no assistance of counsel whatsoever during the revocation trial, requested 30 days, or if that was too generous at least 15 days, to seek assistance of counsel through his own efforts. This motion was likewise denied. Petitioner was found guilty and sentenced to a 3 month revocation sentence, with 33 months of supervision to follow. *US v. Stilley*, Dkt. 752.

On the day of the hearing, the District Judge asked a CJA (Criminal Justice Act) lawyer named John Campbell to "remain and confer with Mr. Stilley during this brief recess." Rev. TR. 14. Judge Friot emphasized that he wasn't sure Stilley was entitled to counsel, and that he wasn't appointing Mr. Campbell to anything. *Id.* Stilley scarcely had time for a personal introduction to Mr. Campbell.

As soon as the first witness was called, at page 22 of a 123-page revocation transcript, Mr. Campbell was told that he was free to go. Rev. TR. 22. From that point on, there was not the slightest pretense that Stilley was accorded his 6th Amendment right to the assistance of counsel.

One might ask why Petitioner didn't raise the issue on his one direct appeal. That's a fair question – even though a party has no duty to appeal a void order. Petitioner filed an opposed motion asking that the 13,000-word limit at the 10th Circuit be increased to 18,000 words. 10th Cir. 22-5113 Dkt. 010110844408. That request was denied the same day. 10th Cir. 22-5113 Dkt. 010110844616.

Petitioner filed an opening brief of 12,986 words, just 14 words shy of the limit. 10th Cir. 22-5113, and a reply brief of 6,459 words, just 41 under the limit. Despite Stilley's best efforts, the 10th Circuit panel faulted Stilley's briefing on the issue of "fraud upon the court," saying in its decision that the argument had not been sufficiently developed. Stilley was effectively denied the opportunity to effectively raise the 6th Amendment counsel issue on direct appeal, and by logical extension on certiorari. US Sup. Ct. #23-966.

On Friday, July 12, 2024, Petitioner read in a newspaper that the Arkansas Secretary of State was refusing to count the signatures on the Arkansas Abortion Amendment of 2024, and also claiming that his action was subject to no judicial review whatsoever. Under state law, only Arkansas registered voters have standing to sue with respect to such decisions. Petitioner registered to vote that same day.

Petitioner the following Monday sent an original action petition to the Arkansas Supreme Court via FedEx Priority overnight, (*Oscar Stilley v. John Thurston et al*,[2] Ark. Sup. Ct. CV-24-453) seeking to compel Respondent Thurston (the Arkansas Secretary of State) to count the signatures on the Arkansas Abortion Amendment of 2024. Respondent Thurston filed a motion to dismiss. Stilley responded in opposition.

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2 Petitioner named Arkansans for Limited Government (AFLG) as a matter of fairness. Petitioner sought to ensure that the Arkansas Abortion Amendment of 2024 was decided by the voters of Arkansas, the same remedy sought by AFLG. Thus the interests of AFLG and Petitioner Stilley are aligned, such that AFLG is logically entitled to be heard in this litigation.

Petitioner filed a motion to vacate both his criminal judgments in the *US v. Stilley,* (OKND) 4:09-cr-43. Docket 805 was to vacate #752, and 809 was to vacate #338. Both items are available on PACER, and also for free on Courtlistener. These pleadings have active links, which are not allowed in filed pleadings in Arkansas state courts.[3] Petitioner's *pro se* status precludes the inclusion of active links in this petition for certiorari.

Similar arguments were made in motions to suppress docket numbers 752 and 338, in Ark. Sup. Ct. CV-24-453. The Arkansas Supreme Court not only dismissed the petition without consideration of the merits of Stilley's motions to suppress, it also referred Stilley to the Crawford County Prosecutor for criminal prosecution.

The OKND District Court on 11-13-2024 revoked Petitioner's supervised release yet again, sentencing him to two years in prison with no additional supervised release. Stay pending appeal was denied. Petitioner is in the process of seeking remand from the 10th Circuit to the District Court, to secure adequate findings with respect to the decision deny release pending appeal. After filing a motion at the District Court requesting an order that the decision be made by a judge of the Northern District of Oklahoma, the judge from the Western District of Oklahoma removed himself from the case.[4] The newly assigned district judge ruled that jurisdiction had been transferred to the 10th Circuit by reason of the notice of appeal, thus declining to consider Petitioner Stilley's motion for findings and for release pending appeal at the OKND District Court.

Thus your Petitioner is preparing this *pro se* petition from prison.

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3 Underlined material in this petition indicates the existence of a link in other pleadings, mostly in dockets 805 in Petitioner's federal criminal case. Most of this petition was copied and pasted from docket 805, with whatever edits Petitioner could make with the penurious allotment of computer time the prison afforded Stilley prior to the deadline for certiorari.

4 These pleadings are to the understanding of Petitioner file marked 1-13-2025. Petitioner requested that his friends make them available for free on Recapthelaw.

## REASONS FOR GRANTING THE WRIT

**I. The Court should grant certiorari to determine that a void criminal judgment, taken contrary to the 6th Amendment right to assistance of counsel, is legally insufficient to criminally punish the convicted person for registering to vote.**

Consider the case of *Burgett v. Texas*, 389 U.S. 109, 114-15 (1967):

> The same result must follow here. *Gideon* v. *Wainwright* established the rule that the right to counsel guaranteed by the Sixth Amendment was applicable to the States by virtue of the Fourteenth, making it unconstitutional to try a person for a felony in a state court unless he had a lawyer or had validly waived one. And that ruling was not limited to prospective applications. See *Doughty* v. *Maxwell*, 376 U.S. 202; *Pickelsimer* v. *Wainwright*, 375 U.S. 2. In this case the certified records of the Tennessee conviction on their face *raise a presumption that petitioner was denied his right to counsel in the Tennessee proceeding*, and therefore that his conviction was ***void***. Presuming waiver of counsel from a silent record is impermissible. *Carnley* v. *Cochran*, 369 U.S. 506. To permit a conviction obtained in violation of *Gideon* v. *Wainwright* to be used against a person either to support guilt or enhance punishment for another offense (see *Greer* v. *Beto*, 384 U.S. 269) is to erode the principle of that case. Worse yet, since the defect in the prior conviction was denial of the right to counsel, the accused in effect suffers anew from the deprivation of that Sixth Amendment right.
>
> The **admission of a prior criminal conviction which is constitutionally infirm under the standards of *Gideon* v. *Wainwright* is inherently prejudicial** and we are unable to say that the instructions to disregard it made the constitutional error "harmless beyond a reasonable doubt" within the meaning of *Chapman* v. *California*, 386 U.S. 18.
> (Emphases added)

Consider now the case of *Lewis v. United States*, 445 U.S. 55, 59-60 (1980):

> Four cases decided by this Court provide the focus for petitioner's attack upon his conviction. The first, and pivotal one, is *Gideon* v. *Wainwright, supra*, where the Court held that a state felony conviction without counsel, and without a valid waiver of counsel, was unconstitutional under the Sixth and Fourteenth Amendments. That ruling is fully retroactive. *Kitchens* v. *Smith*, 401 U.S. 847 (1971).
>
> The second case is *Burgett* v. *Texas*, 389 U.S. 109 (1967). There the Court held that a conviction invalid under *Gideon* **could not be used for enhancement of punishment under a State's recidivist statute**. The third is *United States* v. *Tucker*, 404 U.S. 443 (1972), where it was held that such a conviction **could not be considered by a court in sentencing a defendant after a subsequent conviction.** And the fourth is *Loper* v. *Beto*, 405 U.S. 473 (1972), where the Court **disallowed the use of the conviction to impeach the general credibility of the defendant.** The prior conviction, the plurality opinion said, "lacked reliability." *Id.*, at 484, quoting *Linkletter* v. *Walker*, 381 U.S. 618, 639, and n. 20 (1965).
> (Emphases added)

Finally, consider *Parke v. Raley*, 506 U.S. 20, 24 (1992)

> When a defendant challenges a previous conviction through a suppression motion, the Commonwealth must prove the existence of the judgment on which it intends to rely. Once this is done, a presumption of regularity attaches, and the burden shifts to the defendant to produce evidence that his rights were infringed or some procedural irregularity occurred in the earlier proceeding. **If the defendant refutes the presumption of regularity, the burden shifts back to the government affirmatively to show that the underlying judgment was entered in a manner that did, in fact, protect the defendant's rights.**703 S.W.2d, at 876.

Petitioner concedes the ***existence*** of a judgment. It's Docket #752. It says plain as day, near the top of page 1, "Oscar Stilley, Pro Se." Charles Robert Burton, IV, for all his faults, was smart and sophisticated on procedure, rules, and customs of the court. Mr. Burton earned over $90,000 taxpayer dollars sitting through the jury trial proceedings in 2009 and the sentencing proceedings in 2010, as standby counsel. Petitioner wouldn't have had to do so much to "bring him up to speed." He was Petitioner Stilley's first choice.[5]

Stilley tried his best to either 1) get Charles Robert Burton, IV, in the same standby counsel role the federal District Court judge originally approved without the slightest inquiry into Stilley's financial resources or lack thereof, or 2) get some other suitable attorney to serve in a role mutually acceptable to the Court and Stilley, with the understanding that the familiarization process would take some time, or 3) get at least some time for Stilley to try to find assistance of legal counsel through his own efforts and his own pathetically meager resources, rather than be denied the 6th Amendment right of assistance of counsel altogether.

This Court needs to know just a bit more about *Lewis v. United States*, 445 U.S. 55, 71-72 (1980). The majority held that an admittedly void conviction could be used as the sole predicate felony conviction for "felon in possession of a firearm." Justices Brennan, Marshall, and Powell

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5 It now appears probable that both the federal prosecutor and the presiding judge were aware that Burton was disbarred and didn't want Stilley to know that he was disbarred for conversion, whereas Stilley went to prison because he ***would not*** convert the funds of his clients.

wrote a powerful dissent, stating in pertinent part:

> *Burgett* and its progeny appear to control the result in this case. The clear teaching of those decisions is ***that an uncounseled felony conviction can never be used*** "to support guilt or enhance punishment for another offense." Here, petitioner could not have been tried and convicted for violating § 1202(a)(1) in the absence of his previous felony conviction. It could not be plainer that his ***constitutionally void conviction*** was therefore used "to support guilt" for the current offense. The Court's bald assertion to the contrary is ***simply inexplicable.***
> (Emphases added)

Petitioner filed an original action petition with the Arkansas Supreme Court, (*Oscar Stilley v. John Thurston et al*, Ark. Sup. Ct. CV-24-453) seeking to compel Respondent Thurston (the Arkansas Secretary of State) to count the signatures on the Arkansas Abortion Amendment of 2024. Respondent Thurston filed a motion to dismiss. Stilley responded in opposition.[6]

The Arkansas Supreme Court not only dismissed the petition without consideration of the merits of Petitioner's dispositive motions, it also referred Stilley to the Crawford County Prosecutor for criminal prosecution. The prosecutor filed a criminal "information" (charging instrument) charging perjury as a Class C felony, which carries a minimum 3-years and maximum 10-years in prison. The sole count in this information contains not a solitary complete sentence, except those copied verbatim from the Arkansas code. The charge is laughable gibberish and fails to allege a crime.

The District Court for the OKND on 11-13-2024 revoked Stilley's supervised release and incarcerated him yet again, on a two year prison sentence. If Petitioner's US District Court judge truly thought Stilley committed a felony, and would go to Arkansas state prison after his jury trial scheduled for May 2025, why bother with this revocation proceeding? Why give him 2 years in federal prison when a conviction on the state charge carries a *minimum* of 3 years in state prison?

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6 This version has working links, which aren't allowed in pleadings filed in Arkansas courts.

Stilley's registration to vote was condition precedent to filing the original action petition against Secretary of State John Thurston. The Arkansas Attorney General claimed that Stilley wasn't qualified to register to vote because he was under supervision pursuant to OKND 4:09-cr-43 judgment #752. Stilley claimed he was entitled to register *inter alia* because his revocation judgment was taken in defiance of the 6th Amendment right to counsel. Stilley made no attempt to conceal his registration papers. The application and voter registration were Exhibits "1" and "2" to his response to motion to dismiss.

The Arkansas Secretary of State defaulted on three motions in CV-24-453, as follows:

1) An 8-7-2024 motion to suppress the criminal judgment on revocation (Dkt. 752);
2) An 8-12-2024 motion to suppress the original criminal judgment (Dkt. 338);
3) An 8-9-2024 motion to expedite responses to discovery which had been served 8-6-2024.

The Arkansas Supreme Court on 9-5-2024 in a *per curiam* (Pet. App. A) order dismissed the original action petition despite the defaulted motions. The *per curiam* also referred Stilley for criminal prosecution. The *per curiam* did not rule on any of Stilley's three motions. In fact, it is impossible to divine, from the face of the dismissal order, that Stilley even filed the motions. The order of dismissal was entered ***one day prior*** to the day upon which Stilley's requests for admissions would have been ***deemed admitted*** by operation of law. Appointing a Special Master for fact finding, and compelling Stilley to put up $5,000 to pay for it, was essentially a confession that factual disputes existed, which in turn implies that Stilley is ***entitled to reasonable discovery.***

***Nobody*** honestly believes Stilley committed perjury on the voter registration form. ***Nobody*** honestly believes that Stilley isn't a validly registered voter. The Arkansas Attorney General assigned five lawyers to Stilley's case – more than the four defense lawyers assigned to

the original action petition filed by Arkansans for Limited Government. With five lawyers against one disbarred and disgraced former lawyer, they ***defaulted*** on three motions, two of which were dispositive.

They didn't answer because *they had no answer.* Ditto for the Arkansas Supreme Court. They didn't rule upon any of these three defaulted motions – because they ***had no rebuttal*** to Stilley's meritorious arguments. Look at their *per curiam*.[7] They studiously avoided the very issues for which they had ordered a Special Master to "make findings of fact regarding the validity of Oscar Stilley's Voter Registration." The Special Master declared the issues, then nimbly danced his way around them. He said what Stilley was "vigorously" contending, then neglected to opine as to whether or not Stilley's contentions were meritorious.

The Arkansas Supreme Court's *per curiam* hangs solely on the slender thread of ***legal standing***. Stilley in his motion to suppress the revocation judgment utterly dismantled the standing defense on the basis of US Supreme Court case law on the 6th Amendment Right to Assistance of Counsel.

According to the voter registration application form that Stilley signed, Stilley faces up to a $10,000 fine and 10 years in prison under state and federal laws, for registering to vote based upon ***false*** information. But none of the lawyers and judges involved in this legal battle even ***think*** Stilley's statements were false. By their actions they telegraph an ***unshakable belief*** that Stilley ***told the truth*** on his voter registration application.

Look at the form. Ex. 1, Stilley's Response to Motion to Dismiss dated July 25, 2024. Stilley claimed that "I have not been lawfully convicted of a felony by a lawful court." The caselaw makes it clear that a criminal judgment taken against a defendant who is pleading for his experienced and knowledgeable standby counsel, and if that's not acceptable asking for his

7 Justice Baker did not participate in this order.

options, and if that's not acceptable practically begging for a little time to try to get at least some assistance of counsel, and yet is forced to proceed pro se with no assistance of counsel, is ***void***. It's not *voidable*. It's ***void*** in the strictest sense of the word.

Let us not forget the precise words of the Arkansas Supreme Court in its formal order July 26, 2024;

> Gary Arnold Appointed as Special Master to conduct a hearing and ***make findings of fact*** regarding the validity of Oscar Stilley's voter registration. Special Master is ordered to report his findings to this Court by August 26, 2024.
> (Emphasis added)

Stilley challenged Arkansas Secretary of State John Thurston and his five lawyers to come up with case law that says that registering to vote despite an **incontrovertibly void** federal judgment and commitment order is somehow illegal. What five lawyers? Here's the list and their lofty titles:

1) Justin Brascher, Senior Assistant Attorney General for Intergovernmental Affairs
2) Nicholas Bronni, Arkansas Solicitor General
3) Asher Steinberg, Senior Assistant Solicitor General
4) Dylan Jacobs, Deputy Solicitor General
5) Christine Cryer, Senior Assistant Attorney General, Chief, Special Litigation Section

Bronni, Jacobs, and Steinberg were awarded a **2024 U.S. Supreme Court Best Brief Award** by the National Association of Attorneys General of Washington D.C. Five blue chip lawyers not only failed to come up with any such caselaw, ***they defaulted altogether.*** What happened? Did the cat get their collective tongues?

Arkansas Supreme Court Rule 2-1(d) provides the time frame for the filing of responses to motions:

> *Response*. A response may be filed within 10 calendar days of the filing of a motion or petition. Evidence of service is required.

These five lawyers spoke more eloquently and more persuasively by their silence in the face of a duty to speak, than they ever could have spoken by black letters on white paper. The fundamental essence of due process is the right to be heard in a meaningful time and a meaningful manner. *Armstrong v. Manzo*, 380 U.S. 545, 552, 14 L. Ed. 2d 62, 85 S. Ct. 1187 (1965). Refusal to speak when speaking would force a concession does not comport with due process.

Stilley has prepared a home-made docket[8] that's much more user friendly than the official docket. Take your pick. Stilley's telling this Court, his adversaries, and the world the truth. Stilley's arguments are unassailable. Stilley's adversaries tacitly admit that Stilley is right, and that Dkt. 752 is ***void***. Manufacturing brand new arguments for the US Supreme Court, raised at trial court by *neither* the Arkansas Attorney General lawyers *nor* the federal prosecutor who sent Stilley back to federal prison for the 3rd time on a 2009 indictment, would be unseemly if not embarrassing.

A void judgment is one which, from its inception, was a complete nullity and without legal effect. *Lubben v. Selective Service System Local Bd. No. 27*, 453 F.2d 645, 649, 14 A.L.R. Fed. 298 (C.A. 1 Mass. 1972); *Hobbs v. U.S. Office of Personnel Management*, 485 F. Supp. 456 (M.D. Fla. 1980). A void judgment has the same legal effect as a blank piece of paper. It does not have to be overturned or reversed on appeal to "become void." See *Vallely v. Northern Fire and Marine Ins. Co.*, 254 U.S. 348, 353-354, 41 S. Ct. 116 (1920), where the Court explained:

> ...Courts are constituted by authority and they can not go beyond the power delegated to them. If they act beyond that authority, and certainly in contravention of it, their judgments and orders are regarded as ***nullities***. They are 354*354 not voidable, but simply void, ***and this even prior to reversal***. *Elliott* v. *Peirsol,* 1 Pet. 328, 344; *Old Wayne Mutual Life Association* v. *McDonough,* 204 U.S. 8.
> (Emphases added)

8 This docket includes the order of dismissal but isn't current. Use the official docket to see what has been added since this was uploaded to the web.

Respondent Thurston has a fantastic legal team. If they choose to argue that the rule of *Lewis v. United States* saves the day for their side, they should have the chance – yet again – to make that argument, to this United States Supreme Court. They should be prepared to explain why they defaulted when Petitioner filed his motions at the Arkansas Supreme Court.

This Court should grant certiorari and decide whether or not registration to vote is punishable on account of a criminal judgment taken in plain violation of this Court's 6th Amendment jurisprudence.

## II. The Court should grant certiorari to say that the 1st Amendment peaceful petition clause protects parties who reasonably rely upon the US Constitution and US Supreme Court precedent, in engaging in peaceful petition or conditions precedent thereto.

There seems to be a paucity of authority concerning the peaceful petition clause of the 1st Amendment. Petitioner most respectfully submits that this would be a suitable case to provide guidance to the bench and bar, on this important constitutional provision.

The sponsors of the Arkansas Abortion Amendment of 2024, in *Lauren Cowles and Arkansans for Limited Government (AFLG) v. John Thurston*, CV-24-455, challenged respondent Thurston's claim that no court had jurisdiction to question his refusal to count the signatures on that petition. They also argued that they had complied with Arkansas Act 1413 of 2013, and that Secretary Thurston had acted prejudicially to their initiative based on his well publicized opposition to their political position. Their claims were overruled in a 4-3 decision.

Petitioner Stilley in his petition brought a facial challenge to Act 1413 of 2013, and also to Act 236 of 2023. Act 1413 of 2013 imposed a whole raft of highly suspicious "anti-fraud" provisions for the sponsors of initiative petitions. Chief among them were prohibitions on paying by the signature, and onerous requirements for documentation to prove compliance with the

statute. Act 236 of 2023 added requirements even more transparently contradictory to the Arkansas Constitution.

Arkansas Constitution Article 1 Section 5 plainly prohibits these additional requirements, stating as follows:

> **Verification.** Only **legal votes** shall be counted upon petitions. Petitions may be circulated and presented in parts, but each part of any petition shall have attached thereto the **affidavit of the person circulating the same, that all signatures thereon were made in the presence of the affiant, and that to the best of the affiant's knowledge and belief each signature is genuine, and that the person signing is a legal voter** and ***no other affidavit or verification shall be required to establish the genuineness of such signatures***.
>
> (Emphases added)

A few paragraphs later the same section of the Arkansas Constitution provides:

> **Unwarranted Restrictions Prohibited.** No law shall be passed to prohibit any person or persons from giving or receiving compensation for circulating petitions, nor to prohibit the circulation of petitions, nor in any manner interfering with the freedom of the people in procuring petitions; but laws shall be enacted prohibiting and penalizing perjury, forgery, and all other felonies or other fraudulent practices, in the securing of signatures or filing of petitions.

To the extent that anyone nevertheless questions whether false affidavits are punishable in Arkansas, Petitioner Stilley is Exhibit "A."[9] He spent 3 days in jail, $830 on bail, and now must defend a state felony charge for allegedly ***committing perjury***. He now writes from a prison cell, in part for that same claim of a false affidavit, on a revocation of supervised release.

What are the fruits of Act 1413 of 2013? As of 2022, the cost per required signature for an Arkansas initiative petition was $25.28.[10] That's the highest cost on the referenced list and

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9 As Petitioner understands it, his case is quite literally case number one of the recently created "Election Integrity Unit" of the Arkansas Attorney General's office. Petitioner was locked up before he could ascertain exactly why his case number in that office was "001." Their personnel weren't interested in talking on the phone.

10 https://ballotpedia.org/Petition_drive_management_companies

roughly twice the national average.[11] Petitioner Stilley in the year 2000 spent about a tenth as much per valid signature on a statewide petition attempting to abolish the used car tax, plus the necessary signatures on several local petitions. *Kurrus v. Priest*, 342 Ark. 434 (Ark. 2000). It is safe to say that Act 1413 of 2013 is the primary reason paid Arkansas initiative petition signatures cost about ten times as much as they did 25 years ago. The people of Arkansas have seen their initiative and referendum rights crushed by Act 1413 of 2013.

Petitioner reasonably relied upon this Court's 5th and 6th Amendment jurisprudence, in registering to vote. Petitioner Stilley plainly did this to establish standing, and litigate the Arkansas Secretary of State's adverse actions with respect to the Abortion Amendment of 2024. The US Supreme Court is the *only* tribunal before which Petitioner Stilley has any reasonably arguable remedy, as to the core reasons for his registration to vote. This Court should grant certiorari to say that such reasonable reliance upon the US Constitution and constitutional jurisprudence must be respected and protected.

### III. The Court should grant certiorari to say the remedy for a violation of 1st Amendment peaceful petition rights should at minimum include restoration of that thing which was taken, to the extent of practicality.

"No right is more precious in a free country than that of having a voice in the election of those who make the laws under which, as good citizens, we must live. Other rights, even the most basic, are illusory if the right to vote is undermined." *Wesberry v. Sanders*, 376 U.S. 1, 17, 84 S. Ct. 526, 535, 11 L. Ed. 2d 481 (1964).

If Act 1413 of 2013 is stricken as unconstitutional, the Arkansas Abortion Amendment of 2013 will once again be presumptively qualified for inclusion upon the ballot. Arkansas Code Annotated (A.C.A.) Section 7-5-204(c)(1), reads as follows:

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11 https://ballotpedia.org/Ballot_measures_cost_per_required_signatures_analysis

> **(c)(1)** If the Secretary of State has not ***determined the sufficiency*** of a petition for an amendment or a measure by the seventy-fifth day before the general election ***or*** if an amendment or a measure ***has been challenged*** for ***any reason*** in a court of competent jurisdiction, the Secretary of State **shall** nonetheless transmit the amendment or measure and the ballot title of each amendment and measure to the county election commissions to make any required posting and to place the amendment or measure on the ballot. (Emphases added)

Petitioner unsuccessfully sought to compel the placement of the amendment at issue on the 2024 ballot. (Pet. App. E) In that way the merits could be litigated after the deadline for sending the ballot text to election officials, or even after the election itself, if the electorate approved the measure.

Petitioner sees no reason that the Arkansas Abortion Amendment of 2024 couldn't be qualified for a special election, or for the next regular statewide election. Petitioner would of course hope to hear AFLG's position on that, but it seems reasonable. This litigation should not end with a decision that amounts to little more than a scolding for bad behavior.

Petitioner has already shown that the US Supreme Court considers a void judgment to be a nullity. In *Dixon v. Hall*, 210 Ark. 891, 893, 198 S.W.2d 1002, 1003 (1946) the Arkansas Supreme Court concerning another initiative petition likewise opined that:

> Any attempt by the General Assembly to add something to or take substance from the constitutional provision ***would be a nullity***.
> (Emphasis added)

Courts are constituted to *say what the law is*. *Marbury v. Madison*, 5 U.S. 137, 177-78 (1803). *Marbury* says that unconstitutional statutes are "void." *Id.* When the constitution and a statute conflict, the constitution controls. *Id.* Anything repugnant to the constitution is void. *Id.*

The Arkansas Constitution plainly provides the sole remedy for preventing fraud in the collection of signatures on a ballot initiative. AFLG plainly complied with all the requirements of the Arkansas Constitution.

Abortion is a contentious issue, but that shouldn't be the focal point of this litigation. Your Petitioner sued Dr. Alan Braid for his well publicized abortion in 2021, in defiance of Texas Senate Bill 8 of 2021, (Texas SB8) the "bounty hunter" abortion law. Petitioner Stilley has argued in support of that law, to the extent consistent with his understanding of law and ethics.

Braid thereupon sued Petitioner in the Northern District of Illinois, and appealed when the District Court declined to rule on the merits. Petitioner Stilley filed a response brief to Braid's opening appellate brief in 7th Circuit #22-2815.

Petitioner Stilley has actively recruited learned counsel into the district and circuit court cases involving Texas SB8, in order to ensure that anything he missed is adequately covered by another litigant or lawyer. Indeed, your Petitioner attempted to recruit Jonathan Mitchell, the mastermind behind Texas SB8, and apparently the most prodigious litigator under that legislative act. Just as Petitioner named AFLG as Respondent in this case and the case below out of fairness and due process concerns, your Petitioner believed and continues to believe that the sponsors and promoters of Texas SB8 should have every reasonable opportunity to defend their brainchild.

The state motto of Arkansas is *Regnat Populus*, the people rule. Petitioner has pushed his chips to the middle of the table. If he loses the appeal on his federal revocation, he will serve the sentence. If he loses the Arkansas felony trial, he will serve whatever sentence the law requires him to serve. The core idea of constitutional governance is the placement of certain legal rights outside the reach of officialdom.

Your Petitioner claims the right to avail himself of every lawful avenue for 1st Amendment peaceful petition, and to resist with manly firmness any punishment for or encroachment upon those rights. He claims the same rights for others similarly situated, even for those with whom he disagrees as to the issue of the day.

What motivated Petitioner to hurry to the County Clerk's office to register to vote? His core motivation, the only one that really mattered, was the desire to ensure that the *legal voters* of the State of Arkansas would *decide for themselves* whether or not the Arkansas Abortion Amendment of 2024 becomes part of the fundamental law of the state.

A certain Pink Floyd song includes the following lyrics:

> Brezhnev took Afghanistan,
> and Begin took Beirut,
> Galtieri took the Union Jack,
> Then Maggie, over lunch one day,
> sent a cruiser with old hands,
> apparently, to make them
> give it back.

Respondent Thurston took the right to determine the fate of the Arkansas Abortion Amendment of 2024 not from Petitioner Stilley alone, but rather from the entirety of the Arkansas electorate. Petitioner most respectfully requests that this august tribunal send a *cruiser with old hands* (figuratively speaking of course) to *make him give it back.*

## CONCLUSION

This Court should grant certiorari on the questions set forth herein. This cause should be reversed and remanded with instructions to compel Respondent to count the signatures, grant any necessary cure periods, and cause the Arkansas Abortion Amendment of 2024 to be decided by the Arkansas electorate at a suitable general or special election.

Respectfully submitted,

By: _____ 1-21-2025
Oscar Stilley, *Pro se*, DOJ-FBOP 10579-062 Date
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