

NO. 21A840 **22-5238**

IN THE  
SUPREME COURT OF THE UNITED STATES

**ORIGINAL**

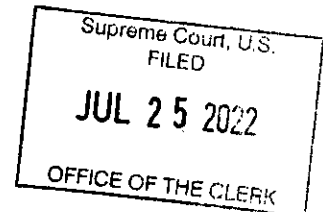
M. STEPHEN MINIX, SR., PRO SE

Petitioner

v.

CHARITY STONE, ET AL

Respondents



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

**PETITION FOR WRIT OF OF CERTIORARI**

  
M. STEPHEN MINIX, SR., PRO SE  
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## QUESTIONS PRESENTED

1. Did Respondent Judge issue rulings on Respondent Stone's claim that were void ab initio and taken without judicial immunity under Stump v. Sparkman because the judge was expressly prohibited to consider such claim under Kentucky state case law in Osborne v. Keeney?.....26
2. Did Respondent Judge deny Petitioner Minix his right to be heard under Windsor v. McVey by proceeding on the grounds that Minix's appearance had been stricken to conclude he had "failed to come before this court"?.....28
3. Did Respondent attorneys perpetrate fraud on the courts to obtain rulings that are void under H. K. Porter Co. v. Goodyear Tire & Rubber Co.?.....30
4. Were the rulings obtained by Respondent Stone against Petitioner Minix obtained in an ex parte judicial process and thus void?..... 35

### **LIST OF PARTIES**

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:

Charity Stone  
John David Caudill (retired state court judge)  
Denise Porter  
Douglas Ray Hall  
Joseph Goff  
Patricia L. Thacker (now Clevinger)  
Jimmy C. Webb  
Robin Simpson Smith  
David M. Cantor  
Keith J. Larson  
William P. Harbison  
Seiller Waterman, LLC.

### **CORPORATE DISCLOSURE STATEMENT**

The above list of parties is a full and complete list of all other persons, associations, firms, partnerships, or corporations having either a financial interest in or other interest which could be substantially affected by the outcome of this case.

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## **PETITION FOR WRIT OF CERTIORARI**

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

### **OPINIONS BELOW**

On June 22, 2022, Justice Kavanaugh granted extension of time to file application (21A830) until August 11, 2022.

There is nothing published in this case.

The Order denying en banc hearing by the United States Court of Appeals was issued on March 14, 2022 and appears at Appendix A.

The Decision by the United States Court of Appeals was issued on February 7, 2022 and appears at Appendix B.

The Judgment of the United States district Court on April 26, 2021 appears at Appendix C.

The Order Overruling Objections of the United States Court of Appeals was issued on April 26, 2021 and appears at Appendix D.

The Recommended Disposition of the United States District Court was issued on March 17, 2021 and appears at Appendix E.

The Kentucky Court of Appeals No. 2017-CA-001154-MR Opinion on September 20, 2019 and appears at Appendix F.

The Kentucky Supreme Court Order denying discretionary review appear at Appendix G.

The state trial court proceeding appears at Appendix Z.



## **PETITION FOR A WRIT OF CERTIORARI**

Petitioner M. Stephen Minix, Sr. respectfully requests the issuance of a writ of certiorari to review the judgment and denial of en banc hearing of the United States Court of Appeals for the Sixth Circuit.

### **JURISDICTION**

On June 21, 2022, Justice Kavanaugh granted extension of time to file petition for writ of certiorari until August 11, 2022 in this no. 21A830. The Sixth Circuit Court of Appeals on March 14, 2022 in 7:20:cv-00135 [App. A] entered its order denying petition for en banc hearing and entered judgment on February 7, 2022 [App. B]. This Court's jurisdiction is invoked under 28 U.S.C. § 1254.

### **CONSTITUTIONAL PROVISIONS INVOLVED**

The Fourteenth Amendment provides in pertinent part:

"No State shall...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."

### **STATEMENT OF THE CASE**

#### **1. STATE COURT COMPLAINT AND SUMMONS. [COURT PROCEEDING 1].**

The Floyd County Circuit Court case history can be found in chronological order in Appendix Z.

On December 22, 2009, Jonah Stevens, Esq. and Respondent law clerk Patricia Thacker filed a Complaint for Respondent Charity Stone in Floyd County Circuit Court [FCCC] no. 09-CI-01350, Prestonsburg, Kentucky. [App. Z, Pg. 10].

Stone alleged Minix “appears in Floyd County, Kentucky to conduct eye exams”, she was his “medical patient”, and on September 20, 2009, she went to him “for the purpose of getting an eye exam” whereupon he committed “battery” by minimum impact of “touching”. She cited no evidence or witnesses. She swore she suffered intentional “emotional distress (IED) damages” and swore her allegations were true “under penalty of perjury”. [App. Z, Pg.12].

Respondent Douglas Ray Hall, elected clerk of the Floyd Circuit Court [“Hall” or “Clerk Hall”], prepared and personally signed two initial summonses. Clerk had them served on Minix as “Mark Minix, M.D.” on January 28, 2010 at his Prestonsburg, Kentucky business, Minix Optical. [App. Z, Pg. 13-14].

Subsequently Stevens, learned Minix was not a medical doctor. Stevens and Hall and filed an Amended Complaint and Amended Summons, respectively, changing his only his name to Marcus Minix and served them on Minix again at his business on February 4, 2010. [App. Z, Pg. 18].

2. **MINIX’S APPEARANCE BY ANSWER, DEFENSE, AND COUNTERCLAIM**

On February 17, 2010, Minix went to Clerk Hall’s office to file his Appearance by Answer, Defense, and Counterclaim. [App.

Z, Pg. 21]. Respondent Denise Porter is an officer in Judge Caudill's Court assigned to supervise Minix's case. ["Supervisor Porter" or "Porter"]. Porter accepted Minix's Appearance.<sup>1</sup> M i n i x denied battery, denied being a doctor, and denied Stone was his "medical patient". Minix alleged Stone came to obtain a free left contact lens per the prescription of her doctor, Dr. Howard Crum.

Minix in his Counterclaim alleged "malicious prosecution, libel [false light], negligence (failure to file a pre-filing investigation), and perjury in a civil complaint" naming Stone, Stevens, and unknown co-conspirators. [App. Z, Pg. 22]. Stone filed an Answer alleging Minix did not tell her he was not a doctor. [App. Z, Pg. 27].

3. **CLERK HALL ESTABLISHES TWO NON-EXISTENT ADDRESSES TO SERVE MINIX.**

Stevens without citing reason filed a Motion to Withdraw as Stone's attorney. [App.Z, Pg. 30]. Minix got no notices thinking his Counterclaim brought the case to an end. Judge Caudill held a hearing on February 11, 2011 and, in Minix's absence, entered an ex parte order sustaining Stevens' withdrawal. [App. Z, Pg. 31].

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<sup>1</sup> Six years later on June 16, 2017, in response to Minix's CR 60.02 motion, Stone's third attorney, Robin Simpson Smith, Esq., appended Minix's Appearance with certificate of service which Minix alleged did not contain his signature or address.

The clerk's "Certification" of notice stamp was applied without any method of service, no clerk's initials, date, parties' names or addresses or hand delivery. Minix did not receive notice of the hearing or entry of order. Kentucky Circuit Court Clerk's Manual § 63.1 requires method of service. [App. Z, Pg. 32-33].

The record shows Hall sent two notices of the order's entry to Minix at two non-existent addresses by United States Postal Service ["USPS"] certified mail return receipt requested - one in Lexington, Kentucky and one in Prestonsburg, Kentucky. They were all returned to Clerk Hall unopened and undelivered. [App. Z, Pg. 34-35].

The Lexington return receipt was endorsed "RETURN TO SENDER-INSUFFICIENT ADDRESS-UNABLE TO FORWARD" and with its envelope was filed in the record by Supervisor Porter on February 23, 2011 [App. Z, Pg. 34]. The Prestonsburg return receipt was endorsed "RETURN TO SENDER, ATTEMPTED-NOT KNOWN, UNABLE TO FORWARD" and with its envelope filled in the record by "BH" on February 25, 2011. [App. Z, Pg. 35].

The FCCC case history shows entry in the record by their date [App.Z, Pg. 2]: (1) "February 23, 2011 Document Filed, MAIL RETURNED UNDELIVERED, Marcus Minix, insufficient

address”; and (2) “February 25, 2011 Document Filed “MAIL RETURNED UNDELIVERED” Unable to Forward”.

Minix alleged Hall and Porter deprived him of Due Process in CLAIM III by failure to take an additional reasonable step to serve him notice such at his office, and in CLAIM IV by leaving such addresses on the deputy clerk’s computer to be used as false notification for the next six years.

**4. GOFF’S MOTION TO STRIKE MINIX APPEARANCE.**

On March 25, 2011, Stone’s new (second) attorney, Respondent Joseph Goff, Esq. filed one pleading captioned “Motion to Strike Pleadings And Motion for Show Cause” and scheduled hearing on March 25, 2011. [App.Z, Pg. 36]. Goff admitted knowing “all mailings [to Minix] have been returned with indications of no mailing receptacle or unable to forward marked by the USPS”. But Goff certified false service to Minix at the non-existent Lexington address. Minix did not get the notice of pleading or hearing.

On March 25, 2011, the case history at [App.Z, Pg.2] shows Judge Caudill held the hearing but made no adjudication. Issuance of show cause would have alerted Minix of the process taking place against him. Stone and her attorneys will argue for

the next eleven years that Minix's Appearance was stricken without regard to show cause.

On January 12, 2021 at #34, Minix filed a motion in Federal District Court to hold the respondents in contempt for fabrication of an order striking. In response, no Respondents revealed an order striking. The Kentucky Court of Appeals eight years later on September 20, 2019 in No. 2017-CA-001154-MR at page 3, will find there is no written order striking in the record:

[O]n March 16, 2011, [Charity Stone] filed a motion to strike the appellant's pleadings and a motion to show cause...and...requested the trial court "strike the [Minix's] pleadings and issue a show cause Order against the [Minix] for failing to keep the Court informed of his correct mailing address." This motion was set for a hearing on March 25, 2011, at 9:00 a.m. No written order or docket notation is in the record. [App. H, Pg. 3].

**5. IT IS UNCONTESTED THAT OSBORNE V. KEENEY RENDERED STONE'S CLAIM MOOT.**

On December 20, 2012, the Kentucky Supreme Court published Osborne v. Keeney, 399 S.W.3d 1 (Ky.Sup.Ct.2012).<sup>2</sup>

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<sup>2</sup> The Kentucky Supreme Court in Osborne v. Keeney stated: "We conclude that the new rules espoused today [December 20, 2012] governing claims involving emotional distress and lost punitive damages in legal malpractice actions shall apply to: (1) the present case; (2) all cases tried or retried after the date of filing of this opinion; and (3) all cases pending, including appeals, in which the issue has been preserved." Id. at 11. "[T]he impact rule is no longer the rule of law in Kentucky. A plaintiff claiming emotional distress must satisfy the elements of a general negligence claim, as well as show a severe or serious emotional injury, supported by expert evidence." Id. at 21. In addition, the plaintiff must also show by "expert medical or scientific proof, that the claimed emotional injury is severe or serious". Id. at 9-10. "'severe' or 'serious' emotional injury," i.e., one that "a reasonable person, normally constituted, would not be expected to endure." Id. at 17-18.

Minix's allegation that that Osborne rendered Stone's claim moot is uncontested. Osborne abrogated impact claims in Kentucky such as Stone's by minimal impact claim of "touching", and required IED claims in Kentucky to be supported by "expert medical or scientific proof, that the claimed emotional injury is severe or serious". Id. at 9-10. Stone's claim offered no support.

Osborne's new rules were effective on December 20, 2012 in "all cases tried or retried after the date of filing this opinion". Id. at 11.

6. **RESPONDENT JUDGE ISSUES NOTICE TO DISMISS FOR LACK OF PROSECUTION.**

On March 7, 2013, Judge Caudill sua sponte issued a "Notice to Dismiss for Lack of Prosecution" ["NDLP"] while Goff's pleading was still pending. Deputy Clerk "K Case" served false notice on Minix at both non-existent mailing addresses. [App. Z, Pg. 38]. Minix did not get it.

7. **RESPONDENT GOFF FILES TWO EX PARTE MOTIONS GROUNDED ON THE FRAUD THAT MINIX'S APPEARANCE HAD BEEN STRICKEN.**

On April 23, 2013, Goff got it and filed two motions captioned "Motion for Default Judgment" [App. Z, Pg. 39] and "Motion to Dismiss Counterclaims" [App. Z, Pg. 44]. Goff's grounds for of his motions both was:

**The “Motion to Strike Pleadings and Motion For Show Cause was Sustained”.**

Minix in CLAIMS IX-XV that Stone and her attorney perpetrated from to obtain every ruling. Additional ground for Motion for Default Judgment was:

**“no papers have been served on him [Goff] since Defendant’s [Minix’s] Answer, Defense, and Counterclaim on or about February 18, 2010. Therefore, pursuant to Rule of the Kentucky Rules of Civil Procedure [Stone] is entitled to a Default Judgment”. [underline added].**

In CLAIM X and Argument 3 herein, Minix claims these grounds are fraud. Goff certified false notice on Minix at the non-existent Lexington address.

**8. RESPONDENT JUDGE ISSUES TWO EX PARTE RULINGS ON THE FRAUDULENT GROUNDS.**

On May 20, 2013, Judge Caudill held the hearing and, in Minix’s absence, sustained both of Goff’s motions ex parte. In the ex parte Default Judgment [App.Z, Pg. 42] he ruled:

**“[Minix]’s...[Appearance] Response and Counterclaim...were subsequently stricken.... All of the allegations of Miss Stone’s Complaint are taken as true.” [App. Z, Pg. 42]**

Minix alleges in Argument 4 herein that this was fraud on the court. Case history on June 11, 2013, shows an ex parte damage hearing held “to determine specific damage amounts due & owing” without attempting to give Minix even false notice for



an opportunity to cross-examine, present evidence, or witnesses.  
[App. Z, Pg. 3].

Judge Caudill, on Goff's grounds that Minix's Appearance had already been stricken, issued "Order Dismissing Counter-claims" [App. Z, Pg. 41] in one sentence:

**"This matter having come before the Court on plaintiff's motion to dismiss Counterclaim, and the Court having reviewed the record and being otherwise sufficiently advised, IT IS HEREBY ORDERED that [Minix's] Counterclaim is dismissed with prejudice."**

Minix in CLAIM VI contends his Counterclaim was extinguished in violation of his Due Process.

Minix had no knowledge of Judge Caudill's two orders or damage hearing because deputy clerk "C. Lafferty" served false notice on him at the non-existent Lexington address.

**9. EX PARTE CONTACT BETWEEN LAW CLERK AND JUDGE CAUDILL PRODUCES EX PARTE FINAL JUDGMENT.**

On July 31, 2014, two months before Judge Caudill publicly announced his retirement, "BH" filed in the record an ex parte communication by letter dated July 28, 2014 from law clerk Patricia Thacker to Judge Caudill. [App. Z, Pg. 49]. This letter states in its entirety:

**“Dear Honorable Judge Caudill:**

**My name is Patricia Thacker and I am a paralegal that has been asked by Mr. JOSEPH GOFF, Esquire to assist him in the collections of a Judgment in the above referenced matter. In reviewing his file and meeting, reviewing his notes and meeting with Mr. Goff, it appears as though he was to tender a Judgment and he has failed to do so. His notes indicate he was awarded a judgment in the amount of \$40,000 on June 11, 2013.**

**I have enclosed a Judgment reflecting his notes. However, should your review of the case history indicate this is inaccurate, please contact Mr. Goff immediately at (606) xxx-xxxx [redacted] or (606) xxx-xxxx [redacted] and I will make the correct adjustments to the Order and forward it to you for your signature and entry.**

**Thank you for your attention in this matter.**

**Yours Truly.**

**Patricia Thacker, Paralegal”**

Thacker appended her composition of “Findings of Facts, Conclusions of Law, and Judgment” [the “Final Judgment”] to her letter wherein she made findings that Minix was “a practicing optometrist” who “has failed to come before this Court”. Based on that fraud, Thacker awarded her client Stone Forty Thousand Dollars (\$40,000.00) plus costs and interest for “emotional distress damages”. [App. Z, Pg. 50]. Minix alleges in CLAIM XIV this ex parte process violated fundamental fairness and in CLAIM XV deprived him of “life, liberty, or property” without a hearing. Affidavit of Connie F. Calvert, Executive

Director of the Kentucky Board of Optometric Examiners swore under oath that Minix is not an optometrist. [App. Z, Pg. 78].

On July 30, 2014, Judge Caudill signed Thacker's tendered Final Judgment verbatim without making any changes. On Monday, August 4, 2014, Porter applied the clerk's "ENTERED" in the record tamp and the "CLERK'S CERTIFICATE OF SERVICE" stamp and added her initials "DP". Porter sent false notice to Minix at only the non-existent Lexington mailing address. Minix did not know of the Final Judgment.

Judge Caudill retired in September 2014 and Thomas A. Smith was elected to replace him in November 2014.

**10. VALID ADDRESSES TO COLLECT JUDGMENT.**

Minix's valid addresses are then used to collect \$40,000 plus interest ex parte judgment. Supervisor Porter authorized: (1) Goff to send Minix \$40,000 plus interest employment garnishment to his Minix's three valid business addresses on November 26, 2014 [App. Z, Pg. 52-54]; (2) Webb to send Minix notice at valid business address of \$40,000 plus interest non-employment garnishment to three banks on December 13, 2016 [App Z, Pg. 55-59]; and (3) Smith to send copy of \$40,000 plus interest Judgment Lien to Minix at his valid home address in Lexington, Kentucky on May 30, 2017 [App Z, Pg. 60].

# **11. MINIX'S DIRECT AND COLLATERAL ATTACKS**

Minix in his CLAIM V and X-XV alleged Due Process deprivation in nine (9) subsequent voluminous proceedings wherein Stone obtained rulings on the fraud that his Appearance had been stricken leaving him in default with consideration of failure of required notice to him, and Minix had been given an opportunity to be heard.

	Date	Case No.	Description	
1	December 22, 2009	FCCC Division II 09-CI-01350	Stone files Complaint	App.Z, Pg. 10
	February 17, 2020	same court & case no.	Minix files Counterclaim	App.Z., Pg. 21
2	May 30, 2017	FCCC Division I same case no.	Minix files CR 60.02 Motion	App.Z., Pg. 62
3	December 15, 2017	USFDC Pikeville, Ky. 7:17-CV-190- KKC	Minix files 1st § 1983 case	
4	September 28, 2017	USBC Lexington, Ky. 17-51915-tnw	Minix files Bankruptcy Chapter 7	
5	January 18, 2019	USBC Lexington, Ky. 18-05003-tnw	Stone obtain BR Order of non-dicharability in Adversary Proced.	App. J
6	July 25, 2019	USDC Lexington, KY. 5:19-093-DCR	Minix unsuccessful appeal of non- dischargeable ruling	App. I
7	August 5, 2017	Ky Court of Appeals 2017- CA-001154-MR	Minix unsuccessfully appeals CR 60.02 dismissal	App. H

	Date	Case No.	Description	
8	December 12, 2019-September 16, 2020	Ky Supreme Court 2019-SC-0726	Minix unsuccessfully files petition for Discretionary Review	App. G
9	April 25, 2018	USFDC Pikeville, ky 7:20-CV-00135	Minix files 2nd § 1983 case	App. D, E, & F
1	August 11, 2021	Sixth Cir. Ct. Appeals 21-CV-05489	Minix files appeal of District Court Ruling	App. B & C
1	July 2022	U.S. Supreme Court	Minix files petition for writ of certiorari	

## 12. MINIX'S CR 60.02 MOTIONS IN DIVISION I AND II.

On May 23, 2017, Minix filed his first CR 60.02 motion before Judge Smith, Division II. [App.Z, Pg.62]. Minix requested Caudill's rulings be set aside alleging he had been deprived of being heard "at a meaningful time and in a meaningful manner", *Armstrong v. Manzo*, 380 U.S. 545, and deprived of notice in an ex parte process under *Kearns v. Ayer*, 746 S.W.2d 94 (1988), *Mullane*, where the state knew the addresses were defective under *Jones v. Flowers*, 547 U.S. 220 (2006). Minix proved he was not an optometrist in appended Affidavit of Connie F. Calvert. [App. Z, Pg. 77].

Minix first served his CR 60.02 motion on Stone's new (third) attorney Jim Webb, Esq. who appeared at hearing on May 26, 2017. Minix in CLAIM VII alleged Webb, as all of Stone's

attorneys, deprived of him of Due Process by failure to intervene having the knowledge of the constitutional infirmities, standing in front of judges, having the power to correct them, but failed to do so.

Instead, Webb announced to Judge Smith that his wife (the Judge's wife) Robin Simpson Smith, Esq., would become Stone's new (fourth) attorney. Judge Smith voluntarily disqualified. [App. Z, Pg. 79]. The deputy clerks quit serving Minix false notice and Clerk Hall personally applied the clerk's "CERTIFICATE OF SERVICE" stamp along with his initials and the date. But Clerk Hall failed to list any party's name or address thus not certifying he had served anyone by mail or delivery. The Kentucky Circuit Court Clerk's Manual § 63.1 requires clerk's initial, party' name, and address to certify notice. [App. Z, Pg. 32-33]. .

On May 30, 2017, Minix filed his CR 60.02 Motion in the other division of FCCC, Judge Jonnie Ray Harris, Division I, and served notice on Smith. On June 16, 2017, Smith at hearing in response perpetrated the fraud that, "The Court docket<sup>3</sup> for March 25, 2011 reflects that the 'Motion to Strike Pleadings' was

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<sup>3</sup> Apparently "docket" here refers to motion docket the day of hearing, not the case history.

sustained, however, no formal order was entered at that time.” [App Z, pg. 80]. Further, Smith argued, “once [Minix] Appearance was stricken, it was if no answer at all had been filed and default judgment was properly entered”. [App Z, pg. 86]. Minix in Argument 2 alleges striking his Appearance exclude him from the jurisdiction of the court under Windsor v. McVey.

Smith also filed what she claimed was a copy of Minix’s Answer found in Goff’s file. Minix verbally moved to strike it as not his signature nor his mailing address which could have been manipulated by OCR. [App. Z, Pg. 89]. On June 19, 2017, Minix filed a “Verified Response” citing that he had “moved to strike a copy presented of a signature page on the grounds that copies can be manipulated by optical character recognition”. [App.Z, Pg.89].

On June 21, 2017, Judge Harris entered a one-paragraph Order Overruling Minix’s CR 60.02 motion on the grounds that Minix was required to keep Clerk Hall informed of his address. Harris did not address Minix’s motion to strike the signature page or any Due Process argument such that collateral estoppel could be applied. [App. Z, Pg.91].

### **13. CLERK HALL’S LAST TWO ACTIONS SHOW HIS PREJUDICE AND BIAS AGAINST MINIX.**

Minix in ARGUMENT 4 alleges prejudice and bias is shown in Clerk Hall's two final acts. First, Hall applied the "CLERK'S CERTIFICATE" of service stamp to the CR 60.02 Order along with the date and his initials. But Hall left blank any party's name and address for which he could certify the method of service by mail or hand delivery. [App. Z, Pg. 92]. Minix had to purchase a copy of the Order to timely file his notice of state court appeal on July 11, 2017. [App.Z., Pg. 93].

Second, on August 22, 2017, Clerk Hall certified the state court record for Minix's appeal [App.Z., Pg. 94.] in which he left out the third page - the certificate of service page - of Goff's "Motion for Default Judgment". Minix alleged this was to hide the notice defect to avoid ruling the default judgment void. On October 18, 2018, Minix obtained an order from Judge Harris to have Clerk Hall add the missing page [App. Z, Pg. 95]. Still not being added, Minix had to obtain an order from the Kentucky Court of Appeals DIRECTING clerk Hall to re-certify the record as shown in case history on March 4, 2019. [App. Z, Pg. 94B].

**14. MINIX'S 1ST § 1983 CASE. [COURT PROC. THREE].**

On December 15, 2017, Minix filed his first § 1983 case in USFDC in Pikeville, Kentucky naming respondents Stone, Goff,



Smith, Webb, Thacker and bankruptcy trustee Jim Lyon because he was not discharged from bankruptcy.

District Court after 66 entries dismissed Minix's case without prejudice pending his bankruptcy and state court appeal. Stone and her attorneys continued to perpetrate their fraud to obtain an order finding, "After filing his answer...the Floyd Circuit Court struck Minix's previous filing [his answer] and entered default judgment against Minix on May 10, 2013." DE 58 at 1.

**15. U. S. BANKRUPTCY COURT. [COURT PRO. FOUR].**

On September 28, 2017, Minix filed a Chapter 7 bankruptcy petition no. 17-51915-tnw in the U.S. Bankruptcy Court for the EDKY at Lexington, Kentucky having ninety-two entries. Stone was represented by Smith, James Keith Larsen, Esq., William P. Harbison, Esq., David Cantor, Esq., and Seiller Waterman, LLC. who filed adversary number 18-05003-tnw with 117 entries. By continuing their perpetration of fraud on January 18, 2019, they obtained ruling that Judge Caudill's judgment was non-dischargeable under 11 U.S.C. § (a)(6) by "preclusive effect" finding Debtor Minix "was duly summoned and filed a Response and Counterclaim [Appearance] which were subsequently stricken." [App. J].

**16. U.S. FEDERAL DISTRICT COURT ON APPEAL.  
[COURT PROCEEDING FIVE].**

On July 25, 2019, Minix filed an appeal to the U.S. Federal District Court for the EDKY at Lexington, Ky. in No. 5: 19-093-DCR from order of non-dischargeability with 15 entries in the case. Stone in response brief on May 28, 2019, perpetrated their fraud and added, "As a result of the evidence presented, the State court awarded...\$40,000" [App.Z, Pg. 101] but failed to explain where such "evidence" and cross-examination could be found in the state court record. Minix argued "Stone does not and cannot cite an order or date of order that makes any findings of facts, conclusions of law, or order regarding her MOTION TO STRIKE PLEADINGS AND SHOW CAUSE." On July 25, 2019 the District Court affirmed and found, "Minix also had a 'realistically full and fair opportunity' to litigate the issue," and, "The answer and counterclaims [Appearance] were subsequently stricken by the state court". [App. I]

**17. KENTUCKY COURT OF APPEALS PRE-HEARING.  
[COURT PROCEEDING SIX.]**

On August 5, 2017, Minix, on appeal in the Kentucky Court of Appeals no. 2017-CA-001154-MR, requested a pre-hearing settlement conference. Stone and Smith obtained an order dismissing on their fraud that, "The court docket...reflects

that the 'Motion to Strike Pleadings' was sustained; however, no formal order was entered at that time" [App.Z, pg. 105]. The conference was dismissed Minix was deprived of being heard in settlement.

**18. APPEAL TO KENTUCKY COURT OF APPEALS.**

On September 28, 2018, Minix filed his opening brief and Stone in response by attorneys Cantor, Larson, Smith, and Seiller Waterman LLC obtained an order Affirming [App.H] and perpetrated "once the circuit court ordered Minix's answer stricken...it was if no defendant had appeared, pleaded, or otherwise defended the action". [App.Z,Pg.110] Minix in CLAIM V alleged fraud denied his right to be heard.

The Court noted:

**If a default judgment is entered without proper notice, it is void. Kearns v. Ayer, 746 S.W.2d 94, 95-96 (Ky.App. 1988).**

**19. KENTUCKY COURT OF APPEALS REPLY BRIEF**

On October 23, 2018, Minix in his Reply Brief argued "Stone fails to cite one scintilla of evidence to support her allegations that Minix committed battery causing her emotional distress damages." [App.Z., Pg. 112]

**20. KENTUCKY COURT OF APPEALS REHEARING.**

On September 30, 2019, Minix filed a Petition for Rehearing citing Osborne rendered Stone's claim moot, failure to serve him notice under Mullane and Jones v. Flowers. Rehearing was denied on November 12, 2019. [App.Z., Pg. 113].

**21. KENTUCKY SUPREME CT [COURT PROC SEVEN].**

On December 12, 2019, Minix filed a Petition for Discretionary Review to the Kentucky Supreme Court case no. 2019-SC-0726 [App.G] claiming he "has been deprived Mr. Minix of life, liberty, or property without a hearing". [App.Z,Pg.122]. In response, Stone perpetrated the fraud on the Kentucky Supreme Court, "The Motion to Strike was noticed for March 25, 2011 hearing. Minix failed to appear and the Motion to Strike was sustained." [App.Z, Pg. 128].

On September 16, 2020, the Kentucky Supreme Court denied Discretionary Review. [App.G]

**22. MINIX'S 2ND § 1983 CASE. [COURT PRO. EIGHT].**

On April 25, 2018, Minix filed his second §1983 Amended Complaint in U.S. Pikeville District Court no. 7:20-cv-00135, with 78 entries alleging the state of Kentucky had deprived him of "life, liberty, or property" without notice or hearing. [App.Z, Pg.]. Minix named as defendants Stone, her eight attorneys, and state employees Judge Caudill and his two Court officers (Hall

and Porter) individually. The Kentucky Attorney General continues to represent the state employees although sued individually.

Minix in his fifteen (15) claims alleged act and failure to act of respondent deprived him of Due Process as follows:

CLAIM I. JUDGE FAILED TO VOLUNTARILY DISQUALIFY  
CLAIM II. JUDGE FAILED JUDICIAL DUTIES  
CLAIM III. DEPRIVED OF NOTICE BY CLERK  
CLAIM IV. FALSE NOTICE BY DEPUTY CLERKS  
CLAIM V. FRAUD ON EIGHT COURTS  
CLAIM VI. COUNTERCLAIM EXTINGUISHED BY DENIAL  
OF DUE PROCESS  
CLAIM VII. FAILURE BY ATTORNEYS TO INTERVENE IN  
EIGHT COURT PROCEEDINGS  
CLAIM VIII. PUNITIVE DAMAGES  
CLAIM IX. TORT CLAIMS VIOLATION OF KY CIVIL RULES  
CLAIMS X, XII, XIV. FRAUD ON THE COURT  
CLAIMS XI, XIII, XV. FRAUD FALSE MATERIAL FACTS

Minix in paragraph 76 of his Amended Complaint showed the signature in the copy of his Answer offered by Smith at the state court CR 60.02 hearing was, in comparison, totally unlike his signature and not his mailing address. [DC, Doc. #5App]. On April 26, 2021, his case was dismissed under (a) Rooker v. Feldman as if Minix was taking an appeal of Judge Caudill's rulings to Federal Court in his fifteen (15) claims and under (b) collateral estoppel without citing Judge Harris' one-paragraph Order overruling his CR 60.02 motion did not consider any of his

Due Process arguments [App.z., Pg. 91] presented in federal §1983 Amended Complaint.

23. **APPEAL TO U.S. SIXTH CIRCUIT COURT OF APPEALS. [COURT PROCEEDING NINE].**

On June 17, 2021, Minix filed his opening brief in the Sixth Circuit no. 21-CV-05489 alleging, inter alia, the application of Rooker-Feldman and Collateral Estoppel by District Court was erroneous. [Case No. 21-5489, Doc. #14]. Minix alleged Judge Caudill had no jurisdiction under Stump to adjudicate Stone's claim under Osborne v. Keeney and Stone and her attorneys obtained rulings based on their fraud on the court and Judge Caudill did not have judicial immunity under Stump.

All of the respondents in their response briefs, as Minix pointed out in his Reply Brief on August 11, 2021 at pages 13-14, continued to perpetrate fraud on the Sixth Circuit Court as follows: (1) Stone and her counsel perpetrated, "However, the Answer was stricken and the Court of Appeals affirmed this finding"; (2) Jim Webb and his counsel Mark S. Fenzel, Esq. that "the Floyd Circuit Court struck Appellant's previous filing and entered default judgment" on May 20, 2013; and (3) the state employees and the Kentucky Attorney General perpetrated, "So the state court struck Minix's previous filing and entered default

judgment against him on May 20, 2013” without respect of notice failure to Minix. [Case No. 21-5489, Doc.#24].

On February 7, 2022, the Sixth Circuit ruled Judge Caudill was immune and affirmed dismissal under Rooker Feldman and collateral estoppel without addressing Minix’s due process arguments.

**24. EN BANC HEARING. [COURT PROCEEDING TEN].**

On February 17, 2022, Minix filed a motion for en banc hearing citing conflict of the Panel’s Decision with: (1) Stump v. Sparkman governing judicial immunity; (2) Mullane governing notice reasonably calculated; (3) Armstrong v. Manzo governing the right to be heard; and (4) Windsor v. McVeigh, 93 U.S. 274, 294 (1876) governing striking of a party’s appearance is denial of his right to be heard. [Case No. 21-5489, Doc.#30].

On March 14, 2022, Minix was denied en banc hearing.

**25. STATE COURT JUDGE FAILED TO VOLUNTARILY DISQUALIFY.**

Minix in Claim I alleged he was denied a “fair” trial by an impartial and disinterested judge because Judge Caudill brought with him the prior conflict from Kentucky Court of Appeals no. 2006-CA-002491 of Minix’s allegation that he usurped his authority by assigning himself outside his jurisdiction as special

judge to Minix's child support hearing in Johnson Count Circuit Court [the "JCCC"].<sup>4</sup>

Judge Caudill as appointed Chief Regional Circuit Judge (CRCJ) had authority to assign one of the 28 circuit judges in the Mountain Region as a special judge to another jurisdiction upon request "in writing and specify the reason that a special judge is needed". Charter at § V(1). There was no such request in writing and therefore no authority. Moreover, the Kentucky Court of Appeals ruled Judge Caudill had authority because he was the Chief Judge of the JCCC. But Judge Caudill was not a JCCC judge he was a FCCC judge and had no such authority. "Indeed some of the most difficult and embarrassing questions which a judicial officer is called upon to consider and determine relate to his jurisdiction, or that of the court held by him, or the manner in which the jurisdiction shall be exercised." *Bradley v. Fisher*, 80 U.S. 335, 352 (1871).

Minix believes the actions of Judge Caudill in this sub judice case reveal Judge Caudill's retaliation against him.

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<sup>4</sup> The Respondent Judge was appointed the Chief Regional Circuit Judge of the Mountain Region in Kentucky by the Chief Justice of the Kentucky Supreme Court under the Regional Administration Program Charter which at § V(1) states in pertinent part: "If a circuit Judge requires the assignment of a special Judge, he or she must notify the chief regional circuit Judge in his or her Administrative Region. The request must be in writing and specify the reason that a special Judge is needed. If the need for a special Judge is because of disqualification, the ground(s) for the disqualification must be specified in the written request."



## ARGUMENT 1.

1. Did Respondent Judge issue rulings on Respondent Stone's claim that were void ab initio and taken without judicial immunity under *Stump v. Sparkman* because the judge was expressly prohibited to consider such claim under Kentucky state case law in *Osborne v. Keeney*?

In *Stump v. Sparkman*, 435 U.S. 349 (1978), Indiana circuit Judge Sparkman was sued in a §1983 suit by a young woman who discovered that as a minor she had been sterilized without her knowledge in accordance with the Judge Sparkman's order granting her mother's petition (she was told that she was having an appendectomy).

Justice White specifically observed that Judge Stump had judicial immunity because, "...[I]t is more significant that there was no Indiana statute and no case law in 1971 prohibiting a circuit court, a court of general jurisdiction, from considering a petition of the type presented to Judge Stump." *Stump* 435 U. S. 355-364.

In the present case, Judge Caudill was sued in this §1983 suit by Minix after receiving garnishment and finding Judge Caudill had issued an ex parte \$40,000 plus interest judgment against him without an opportunity to be heard. Minix's allegation that Stone's claim is moot is uncontested. *Osborne* expressly prohibited Judge Caudill the authority to entertain

Stone's minimum impact claim of "touching" because Osborne abrogated impact claims in Kentucky. Osborne expressly prohibits a Kentucky Circuit Judge, such as Judge Caudill, the authority to entertain an IED claim such as Stone's, without support by "expert medical or scientific proof, that the claimed emotional injury is severe or serious". Osborne at 9-10.<sup>5</sup> The purpose of Osborne was to weed out minor and/or inconsequential IED claims.

Judge Caudill is subject to liability by acting "in the clear absence of all jurisdiction". Stump at 356-57 (quoting *Bradley v. Fisher*). Caudill's rulings are void ab initio and cannot be validated by subsequent judicial proceedings. 30A Am Jur Judgments § 44, 45.

Justice White pointed out Indiana law gave state circuit courts "original exclusive jurisdiction in all cases at law and in equity" unless specifically prohibited by statute or case law. *Id.* at 357 (internal quotation marks omitted) (citing IND. CODE § 33-4-4-3 (1975)). Judge White ruled the critical factor was that no law expressly prohibited Judge Stump from entertaining the

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<sup>5</sup> The Sixth Circuit Court of Appeals recognized Osborne in *Gregory v. Burnett*, No. 13-5514 (6th Cir. Aug. 20, 2014) ruling that "Gregory did not present expert testimony supporting his claimed emotional damages as Kentucky law requires, and therefore his infliction-of-emotional-distress claim was properly dismissed".

petition. According to the Stump majority, as a judge sitting in a court of general jurisdiction, Judge Stump had jurisdiction over any action before him absent a specific statutory or common law prohibition. Stump at 358–359.

Under the Kentucky Constitution section 112(5), “The Circuit Court shall have original jurisdiction of all justiciable causes not vested in some other court.” The specific authority in Osborne prohibits a Kentucky circuit court, a court of general jurisdiction, from considering a moot petition of the type presented by Stone to Judge Caudill.

All proceedings founded on Judge Caudill’s void judgment are themselves regarded as invalid. 30A Am Jur Judgments § 44, 45. Judge Caudill’s adjudication of Stone’s claim was not a judicial act. Beginning December 20, 2012, no Kentucky judge has performed such an act.

Minix respectfully requests this Honorable Court to rule that Judge Caudill’s adjudication of Stone’s claim deprived Minix of Due Process, is void ab initio, and taken without judicial immunity.

## ARGUMENT 2

**2. Did Respondent Judge deny Petitioner Minix his right to be heard under Windsor v. McVey by proceeding on the grounds that Minix's appearance had been stricken to conclude he had "failed to come before this court"?**

In Windsor v. McVey, 90 U.S. 274 (1874), an action was filed to recover certain real estate property in Alexandria, Virginia District Court. McVey, a previous Confederate office holder, filed an appearance by counsel comprised of his answer and claim to ownership of his property. In response, the United States filed a Motion to Strike McVeigh's appearance which was sustained by the District Court. As a result, McVeigh's property was sold to Gregory on April 16, 1864.

On writ of certiorari this Court ruled:

**"It was not within the power of the jurisdiction of the district court to proceed with the case so as to affect the rights of McVeigh after his appearance had been stricken out, and the benefit of the citation to him thus denied. For jurisdiction is the right to hear and determine, not to determine without hearing. And where, as in that case, no appearance was allowed, there could be no hearing or opportunity of being heard, and therefore could be no exercise of jurisdiction. By the act of the court, the respondent was excluded from its jurisdiction."**

Id., 90 U.S. at 283.

In the present case, It is uncontested that Minix filed an Appearance in this case and Goff filed a motion to strike it.

Whether or not an order striking had been issued, Judge Caudill proceeded on the grounds it had been in his Default Judgment:

**“[Minix]’... [Appearance] Response and Counterclaim ...were subsequently stricken... All of the allegations of Miss Stone’s Complaint are taken as true.” [App. Z, Pg. 46]**

And in his Final Judgment:

**“[Minix] has failed to come before this Court” and awarded her client, Stone, Forty Thousand Dollars (\$40,000.00) plus costs and interest for “emotional distress damages”. [App. Z, Pg. 50].**

Judge Caudill’s finding that Minix “failed to come before the Court” is preposterous. Judge Caudill denied Minix his right to an opportunity to be heard in defense of Stone’s complaint against him and in prosecution of his Counterclaim against them.

“A judgment rendered in violation of due process is void in the rendering State and is not entitled to full faith and credit elsewhere”. *World-Wide Volkswagen Corp v. Woodson*, 444 U.S. 286, 291 (1980). Minix requests this Honorable Court to rule Judge Caudill’s rulings are void ab initio and to reinstate his Counterclaim.

### **ARGUMENT 3**

**3. Did Respondent attorneys perpetrate fraud on the court to obtain rulings that were void under *H. K. Porter Co. v. Goodyear Tire & Rubber Co.*?**

The Court in H.K. Porter Co. v. Goodyear Tire & Rubber Co., 536 F.2d 1115 (6th Cir. 1976) ruled:

**“Where an attorney neglects his duty of honesty toward the court and obtains a judgment based on conduct that actively defaults the court, such judgment may be attacked, and subsequently overturned, as fraud on the court.” Id. at 1119.**

There are numerous frauds on the court here.

Goff also perpetrated the fraud that “pursuant to Rule of the Kentucky Rules of Civil Procedure [Stone] is entitled to a Default Judgment”. Kentucky Civil Rule (CR) 55.01 states in pertinent part:

**“When a party against whom a judgment for affirmative relief is sought has failed to plead or otherwise defend as provided by these rules, the party entitled to a judgment by default shall apply to the court therefor. ... The motion for judgment against a party in default for failure to appear shall be accompanied by a certificate of the attorney that no papers have been served on him by the party in default.”**

Rule 55.01 - Judgment, Ky. R. Civ. P. 55.01.

Goff in his Motion for Default Judgment certified to Judge Caudill that:

**“no papers have been served on him [Goff] since Defendant’s [Minix’s] Answer, Defense, and Counterclaim on or about February 18, 2010. Therefore, pursuant to Rule of the Kentucky Rules of Civil Procedure [Stone] is entitled to a Default Judgment”.**

Goff perpetrated a fraud on the court by alleging Minix was in default under “Kentucky Rules of Civil Procedure” because Goff in recognizing Minix filed an “Answer, Defense, and Counterclaim”, was an admission that Minix did “plead” and “defend” and thus was not in default under CR 55.01.

Stone and attorney Joseph Goff conspired to perpetrate the fraud on the court that Minix’s Appearance had been stricken as grounds to obtain Default Judgment and Order Dismissing Counterclaims from Judge Caudill. The Kentucky Court of Appeals on September 20, 2019 in No. 2017-CA-001154-MR at page 3 found Minix’s Appearance had not been stricken. [App. H, Pg. 3]. There is no order striking in the state court case history shown in this Court at [App. Z, Pg. 1].

Goff also perpetrated fraud on the court that he had served Minix notice of his motions by sending copies to the defective Lexington address. Goff had admitted knowing this address was defective in his Motion to Strike and Show Cause: “all mailings [to Minix] have been returned with indications of no mailing receptacle or unable to forward marked by the USPS”.

Stone and law clerk Patricia Thacker perpetrated two frauds on the court to obtain Final Judgment. [App. Z, Pg. 35]. First, they made the finding in their tendered Final Judgment

that Minix “has failed to come before this Court” to award Stone \$40,000 plus interest. Minix’s filed his Appearance on February 17, 2010 [App. Z, Pg. 21] and had not “failed to come before this Court”.

Second they made the finding that Minix was “a practicing optometrist”. The affidavit of Connie F. Calvert, Executive Director of the Kentucky Board of Optometric Examiners and Minix’s licensure as an ophthalmic dispenser both appended to his CR 60.02 motion proves Minix is not an optometrist.

All of the false certificates of service to Minix were frauds on the court. Judge Caudill’s signature on the tendered Final Judgment verbatim was a fraud on the court because it was not a product of the court.

Smith perpetrated the fraud on both the FCCC in response to Minix’s CR 60.02 and the Kentucky Court of Appeals in pre-hearing statement by arguing “The court...reflects that the ‘Motion to Strike Pleadings’ was sustained; however, no formal order was entered at that time”. Additionally, they also argued that “once [Minix] Appearance was stricken, it was if no answer at all had been filed and default judgment was properly entered”. [App Z, pg. 86]. Minix alleged in Argument 2 by striking his Appearance, he was in essence excluded from court’s jurisdiction.



Clerk Hall perpetrated fraud on the Kentucky Court of Appeals in his first certification of the state court record by removing Goff's false certificate. But it appears here at [App.Z. at Pg. 43].

In short, upon leaving the FCCC and over a period of nine years, Stone with seven other attorneys continued to perpetrate this strike order fraud on nine more courts over ten years to maintain Judge Caudill' rulings. Stone and her attorneys also perpetrated the fraud on the nine courts that Minix had been heard by Judge Caudill although never citing where, when, and how Minix was heard.

Minix in Claim VII alleged Stone's attorneys failed to Constitutionally intervene which denied him Due Process. They attorneys received his claims of Due Process deprivations, had the power to correct them, stood in front of a judge, but failed to do so. Such attorney's failure to intervene has never been held to violate due process. But Kentucky attorneys swear to support both Constitutions under Kentucky Constitution Section 228. They have failed to do so. It has been a tragic deprivation of Minix's right to Due Process, a shameless disrespect of the entire judicial system, and an abundant loss of judicial time. Minix asks the Court to consider such Constitutional intervention.

Note that co-conspirators with an immune judge have liability. *Dennis v. Sparks*, 440 U. S. 24 (1985).

Minix requests this Court to find Charity Stone and her opposing counsel have conspired to deprive him of Due Process by the perpetration of fraud on all of the courts involving him.

#### **ARGUMENT 4**

**4. Were the rulings obtained by Respondent Stone against Petitioner Minix obtained in an ex parte judicial process and thus void?**

“An elementary and fundamental requirement of due process in any judicial proceeding which is to be accorded finality is notice reasonably calculated, under all the circumstances, to apprise interested parties of the pendency of the action and afford them an opportunity to present their objections.” *Mullane v. Central Hanover Bank & Trust Co.*, 339 U.S. 306, 314 (1950).

In this case, Minix got no notice or opportunity to challenge the factual information, defend himself, or be heard on three motions, three hearings, three orders, and Final Judgment. This ex parte judicial process is the antithesis of Due Process showing extreme bias and prejudice. The respondents, at the helm of Judge Caudill, intentionally took advantage of Minix.

The Kentucky Court of Appeals in No. 2017-CA-001154-MR on September 20, 2019 cited *Kearns v. Ayer*: “If a default

judgment is entered without proper notice, it is void.” *Kearns v. Ayer*, 746 S.W.2d 94, 95-96 (Ky. App. 1988). The *Kearns* Court cited CR 55.01<sup>6</sup>: “Clearly, it is settled in Kentucky that failure of the plaintiff to give any notice of the application for default where the defendant has appeared raises questions of due process, rendering the judgment void within the meaning of CR 60.02(e)”.

### JUDGE CAUDILL

Judge Caudill, having been on this bench for twenty-two (22) years, was aware *ex parte* communication undermines the fairness of a judicial proceedings. Judge Caudill conspired *ex parte* against Minix by accepting three written motions, a written letter from Thacker, and verbally at three hearings and writing three rulings and notice of damage hearing.

Their *ex part* communication and verbatim adoption of *ex parte* tendered judgment denied Minix “[S]ome form of hearing [that] is required before an individual is finally deprived of a property [or liberty] interest.” *Mathews v. Eldridge*, 424 U.S. 319, 333 (1976). “Parties whose rights are to be affected are entitled to

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<sup>6</sup> CR 55.01 states in pertinent part:

If the party against whom judgment by default is sought has appeared in the action, he, or if appearing by representative, his representative shall be served with written notice of the application for judgment at least three days prior to the hearing on such application.

be heard.” Baldwin v. Hale, 68 U.S. (1 Wall.) 223, 233 (1863); Fuentes v. Shevin, 407 U.S. 67, 80–81 (1972)(arbitrary encroachment of property).

The failure of the FCCC Respondents to serve Minix notice over the entire seven-year long “judicial” proceeding in both Division I and II must be considered one of the greatest notice deprivations in the history of the Judiciary in the United States.

In Jones v. Flowers, 547 U.S. 220 (2006), the Arkansas Commissioner state sent two certified letters to Jones’ address which contained notice that it would put his house up for sale if Jones continued to withhold payment of taxes. Both notices were returned unopened to the state as undelivered because they required a signature. The state was aware that they were not delivered. However, the state eventually put the house up for sale, shortly after publishing a notice. This Court ruled that the knowledge that the State gained when the mail was returned unclaimed obligated it to take “additional reasonable steps”.

In the present case, Kentucky Clerk Hall sent two certified notices to Minix by USPS mail at two addresses which were returned pre-addressed to him (the state) unopened with USPS return receipts showing both addresses did not exist. Hall and Porter, becoming aware the two initial notice failed, took no

"additional reasonable steps" to serve Minix notice. It would have been reasonable for them to serve Minix notice at his office where Stone had visited, and Clerk Hall and Goff had Minix served the initial and amended complaints and summonses. They just wanted to keep him defenseless.

Hall and Porter upon learning and placing notice in the record that the two addresses were non-existent, did not remove them as Minix's service address from the clerk's computer. Instead they left them to be wrongfully accessed by the deputy clerks for the next four years as a false address for Minix.

The last two acts of Clerk Hall reveal his intent to deprive Minix of Due Process. First he personally stamped "FILED" on the one-paragraph Order Overruling Minix's CR 60.02, signed it, but failed to certify notice method of service on either party at any address.

Second upon certifying the state court record for Minix's appeal, Clerk Hall left out page number three (3) of Goff's Motion for Default Judgment containing Goff's certificate of service. Evidence of false certificate of service is necessary to reverse the default judgment:

**"If a default judgment is entered without proper notice, it is void." Kearns v. Ayer, 746 S.W.2d 94, 95-96 (Ky.App. 1988).**

Wrongful intent is shown by Court Supervisor Porter allowing use of the non-existent mailing addresses to obtain \$40,000 plus interest judgment against Minix, and then to use Minix's home address in Lexington, Kentucky and publicly known three valid business addresses to serve him notice of collection. Minix requests the Court to rule Hall and Porter deprived him of Due Process.

### **REASONS FOR GRANTING THIS PETITION**

This case makes clear the ruling in Stump v. Sparkman that a judge's adjudication of a claim presented to him which he is prohibited to consider by state case law is not a judicial action and is taken without judicial immunity. In this case, the Court must remind Constitutional duties in state court judicial proceeding to the judiciary to voluntarily disqualify and to the clerks and counsel to serve notice to the parties of the actions take.

The People are not safe in a state court judicial system where the Judge fails to voluntarily disqualify and can retaliate against a party, and where notice is known defective.

Minix is a civil rights victim. The actions or inactions of respondent's acting in conspiracy under color of law resulted in

initiation and maintenance of the "State" of Kentucky  
"deprive[ing]" Minix of "life, liberty, or property, without due  
process of law". Fourteenth Amendment, United States  
Constitution.

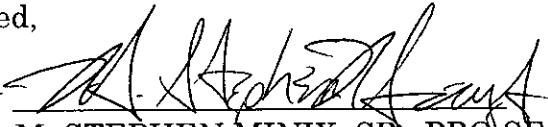
### CONCLUSION

Wherefore the Court should grant this petition for a writ of  
certiorari to find Judge John David Caudill's rulings are void ab  
initio and taken without judicial immunity under Stump;  
Respondents deprived Minix of Due Process under color of law;  
and to reinstate Minix's Counterclaim.

Respectfully submitted,

July 25, 2022

by



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### CERTIFICATE OF COMPLIANCE

The Petitioner hereby states that the number of words  
contained within the sections "Statement of the Case" and  
"Reasons for Granting the Writ" are under 9,000 words.