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SUPREME COURT, U.S.

No. 25-6838

In the

Supreme Court of the United States

RUSTIN PEROT WRIGHT,
Petitioner,

v.

ASHLEY BROOKE WOMACK,
Respondent.

On Petition for Writ of Certiorari to
the Sixth Court of Appeals of Texas

PETITION FOR WRIT OF CERTIORARI

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To the Honorable Chief Justice and Associate Justices of the U.S. Supreme Court:

QUESTIONS PRESENTED

The State of Texas long ago implemented an electronic court filing system, and mandates its use in all cases, even by *pro se* litigants. Hence, all parties must rely upon that system – and faithful comport of due process by the given state court with that same electronic court filing system – including when that same system clearly reports a filing and/or service error. This petition presents recurring questions about constitutional minimums of notice, jurisdiction, and access to a judicial forum when a State mandates exclusive electronic systems for service and filing.

The State of Texas has 457 *numbered* district courts. Similarly, Alabama, Florida, South Carolina, South Dakota, Tennessee and other States have variously *numbered* judicial circuits and/or district courts. This petition presents the issue of the *numeric court designation* as a "clerical error" under the scope of *nunc pro tunc*.

1. Whether the Due Process Clause permits a court to grant dispositive relief when the State mandates exclusive electronic service, the State's own service record affirmatively reflects failed delivery ("ERROR") of the motion paper, the judge-signed hearing notice appears without proof of service, and without requiring additional steps reasonably calculated to provide notice before proceeding.
2. Whether the Due Process Clause permits a state court to use a *nunc pro tunc* order to retroactively substitute the court of rendition by changing the identity of the rendering court—treating that change as "clerical" because it "does not change the terms of the judgment as rendered"—thereby rewriting jurisdictional provenance and rehabilitating a judgment that would otherwise be void.
3. Whether due process is violated when, absent a written judicial order, clerks accept and file-stamp jurisdictional motions challenging a judgment as void but refuse to process them for hearing or ruling, leaving no merits ruling to review.

LIST OF PARTIES

Both parties appear within the caption, including Petitioner Rustin Perot Wright, and Respondent Ashley Brooke Womack.

RELATED PROCEEDINGS

62nd Judicial District Court, Lamar County, Texas (Cause No. 73540, In the Interest of A.G.F.W., a Child): Order Granting Judgment Nunc Pro Tunc (Oct. 10, 2024) (App. 29a–30a).

Court of Appeals of Texas, Sixth District (No. 06-24-00082-CV, In the Interest of A.G.F.W., a Child): Unpublished Memorandum Opinion (May 13, 2025) (App. 4a–13a).

Court of Appeals of Texas, Sixth District (No. 06-24-00082-CV, In the Interest of A.G.F.W., a Child): Judgment (May 13, 2025) (App. 15a).

Court of Appeals of Texas, Sixth District (No. 06-24-00082-CV, In the Interest of A.G.F.W., a Child): Order Denying Rehearing (May 28, 2025) (App. 17a).

Supreme Court of Texas (No. 25-0613, In the Interest of A.G.F.W., a Child): Order Denying Petition for Review (Sept. 26, 2025) (App. 19a–22a).

Supreme Court of Texas (No. 25-0613, In the Interest of A.G.F.W., a Child): Order Denying Rehearing (Nov. 14, 2025) (App. 24a–27a).

TABLE OF CONTENTS

TABLE OF AUTHORITIES

Cases

Constitutional Provisions

Statutes

Rules

OPINIONS BELOW

The Court of Appeals of Texas, Sixth District, issued an unpublished memorandum opinion on May 13, 2025, affirming the trial court's October 10, 2024 judgment *nunc pro tunc*. The opinion is reproduced in the Appendix. (App. 4a–13a)

The judgment of the Court of Appeals is reproduced in the Appendix. (App. 15a) The Court of Appeals denied rehearing on May 28, 2025. The judgment is reproduced in the Appendix. (App. 17a)

The Supreme Court of Texas denied the petition for review on September 26, 2025, and denied rehearing on November 14, 2025. Those orders are reproduced in the Appendix. (App. 19a–27a)

JURISDICTION

The judgment of the Court of Appeals of Texas, Sixth District, was entered on May 13, 2025. (App. 15a) The Court of Appeals denied rehearing on May 28, 2025. (App. 17a) The Supreme Court of Texas denied the petition for review on September 26, 2025, and denied a timely filed motion for rehearing on November 14, 2025. (App. 19a–27a) This Court has jurisdiction to review the final judgment under 28 U.S.C. § 1257(a).

This petition is timely under Supreme Court Rule 13 because it was filed within 90 days of the Supreme Court of Texas' order denying rehearing on November 14, 2025. (App. 24a–27a) The order denying review is reproduced at App. 19a–22a.

CONSTITUTIONAL AND STATUTORY PROVISIONS INVOLVED

U.S. Const. amend. XIV, § 1 provides, in relevant part:

"Nor shall any State deprive any person of life, liberty, or property, without due process of law."

28 U.S.C. § 1257(a) provides, in relevant part:

"Final judgments or decrees rendered by the highest court of a State in which a decision could be had, may be reviewed by the Supreme Court by writ of certiorari ... where any title, right, privilege, or immunity is specially set up or claimed under the Constitution ... of the United States."

In addition, Texas Rule of Civil Procedure 21a and Texas Rule of Civil Procedure 316 are reproduced in the Appendix. (App. 63a–66a)

STATEMENT OF THE CASE

This case arises from three undisputed, State-generated, documentary events: (1) the trial court granted dispositive relief after the State mandated exclusive electronic service and the State's own service record affirmatively reflected failed delivery ("ERROR"), with no proof of successful service of the operative hearing notice through the mandated system; (2) the courts below upheld a *nunc pro tunc* order that retroactively altered the identity of the rendering court by treating that change as a clerical correction; and (3) state clerks—absent any written judicial order—accepted and file-stamped jurisdictional motions challenging the judgment

as void but refused to process those motions for hearing or ruling, leaving no merits ruling to review.

A. Notice failure under mandatory electronic service (QP1)

Respondent initiated post-judgment *nunc pro tunc* proceedings (App. 32a–34a) asserting a purely clerical or stylistic error in the identity of the rendering court, and filed the Motion for Judgment *Nunc Pro Tunc* through the State's mandatory e-service platform. The State's e-service confirmation for that motion reflects failed delivery ("ERROR"). (App. 35a) The State's e-service confirmation likewise reflects failed delivery ("ERROR") for Respondent's Proposed Order. (App. 37a) Separately and further, the judge-signed Notice of Hearing appears in the record without any certificate or proof of e-service through the mandated system. (App. 38a)

At the October 10, 2024 hearing, Petitioner timely objected that he had not been served and that service through the State's mandatory electronic system had failed, sought to submit proof addressing nonservice, and was overruled. (App. 40a-43a) The trial court nevertheless proceeded to grant dispositive *nunc pro tunc* relief. (App. 29a–30a) No additional steps reasonably calculated to provide notice appear in the record before the court proceeded to adjudicate and grant dispositive relief. (App. 29a–30a, 35a, 37a–38a, 40a-43a)

This case thus squarely presents whether due process permits a court to proceed to dispositive adjudication when the State mandates exclusive electronic service, the State's own service record affirmatively reflects non-delivery, and the record

contains no proof that constitutionally adequate notice was provided before the hearing and ruling. (App. 29a–30a, 35a, 37a–38a, 40a-43a)

B. *Nunc pro tunc* relabeling and retroactive rehabilitation (QP2)

Texas authorizes *nunc pro tunc* relief by rule as a narrow corrective device. (T.R.Cv.P. 316, *see* App. 66a) The trial court signed an order granting judgment *nunc pro tunc* on October 10, 2024. (App. 29a–30a) More than six years after the original judgment—and long after plenary power had expired—Respondent sought *nunc pro tunc* relief to substitute a different rendering court. (*cf.* App. 30a to App. 74a – as identical to the default judgment of June 21, 2018, ***except for which court***)

Respondent supported the *nunc pro tunc* motion with an attached reporter's transcript from a 2018 hearing, invoking it as *post hoc* support for retroactively re-identifying the rendering court. Although the transcript bears a caption, the colloquy begins *without* any on-the-record statement by the presiding judge identifying himself or the court, and it does *not* reflect an oral rendition establishing the jurisdictional provenance later supplied by *nunc pro tunc.* (App. 79a–82a) On appeal, the Court of Appeals affirmed, treating the *nunc pro tunc* order as a clerical correction. (App. 4a–13a) In doing so, the court applied the premise that an error is "clerical" if correcting it "does not change the terms of the judgment as rendered," and upheld the *nunc pro tunc* order on the ground that changing the "originating" tribunal from the 6th District Court to the 62nd District Court did not change the judgment's terms. (App. 10a) The Court of Appeals denied rehearing. (App. 17a)

Procedural posture. The court of appeals affirmed the judgment *nunc pro tunc* and held that changing the identity of the rendering court was a clerical correction. (App. 4a–13a, App. 10a) Petitioner sought rehearing, which was denied. (App. 17a) Petitioner then sought review and rehearing in the Supreme Court of Texas; review and rehearing were denied. (App. 19a–27a)

Appendix S reproduces representative record excerpts confirming that the June 2018 default judgment was not an isolated clerical misrecital, but part of a broader pattern of post-divestiture orders issued by the 6th District Court after the case had been transferred and jurisdiction reassigned to the 62nd District Court. (App. 74a, App. 161a–215a) Those State-generated excerpts reflect the transfer and reassignment history and multiple subsequent orders and coercive instruments (including hearing-setting orders, TROs and writs), as well as federal-removal filings and post-removal state-court action—underscoring that the "rendering court" dispute concerns jurisdictional provenance, not mere single occurrence styling. *Id.*

C. Clerk gatekeeping and denial of any forum to adjudicate voidness (QP3)

In addition to the *nunc pro tunc* proceedings, Petitioner filed jurisdictional motions challenging the judgment as void. The motions themselves were accepted and file-stamped. However, when Petitioner submitted proposed orders setting those motions for hearing, the clerk returned the proposed orders with handwritten notations stating, "CASE HAS BEEN TRANSFERRED—PER JUDGE BIARD" and "CASE HAS BEEN TRANSFERRED TO PARKER COUNTY—PER JUDGE BIARD." (App. 53a–56a)

This practice persisted over time. The record reflects returned proposed orders setting hearings in September and October 2018. (App. 53a–56a) In 2024, the same obstruction occurred through the State's mandatory e-filing platform, where a proposed order setting hearing was returned with the clerk's comment, "THIS SUIT HAS BEEN TRANSFERRED TO PARKER COUNTY," and was not docketed for judicial consideration. (App. 58a)

As a result, although Petitioner's jurisdictional motions were file-stamped, no court conducted a hearing or issued any merits ruling on them. The clerk's refusal to process orders setting hearings—unsupported by any written judicial order—prevented adjudication of the jurisdictional challenge and left no ruling to review. (App. 53a–58a)

When Petitioner sought to present corroborating proof regarding this practice—through witness testimony and a proffered video—the trial court refused to admit that evidence. (App. 60a–61a)

SUMMARY OF THE ARGUMENT

This petition presents a recurring due process problem created by modern court administration: when a State mandates exclusive electronic systems for service and filing, constitutional protections cannot turn upon system failure, retroactive relabeling, or administrative gatekeeping. As courts nationwide increasingly mandate e-filing and e-service as the exclusive means of participation, failures in those systems—and *post hoc* characterizations of substantive defects as "clerical"—

risk allowing due process to exist or vanish by administrative happenstance. This case presents a modern *Peralta* problem: the State required a single notice mechanism, the State's own record shows that mechanism failed, and the court nonetheless proceeded to adjudicate.

First, the State required service through an exclusive electronic platform. The State's own e-service confirmations reflect failed delivery ("ERROR") for both the Motion for Judgment *Nunc Pro Tunc* and the Proposed Order, and the judge-signed Notice of Hearing appears without any certificate or proof of e-service through the mandated system. (App. 35a, 37a–38a) Nonetheless, the trial court granted dispositive relief without any showing of notice constitutionally adequate to apprise Petitioner or permit a response. (App. 40a–43a, 29a–30a) Due process does not tolerate adjudication when the State's chosen—and exclusive—method of notice is documented to have failed. *Peralta v. Heights Med. Ctr., Inc.*, 485 U.S. 80 (1988).

Second, the courts below did not remedy the notice failure. Instead, the court of appeals affirmed by treating the challenged *nunc pro tunc* order as a "clerical" correction. (App. 4a–13a) That approach allowed *nunc pro tunc* to operate as retroactive jurisdictional rehabilitation—altering the identity of the rendering court and validating adjudicative authority after the fact—rather than correcting a ministerial misprision. *Nunc pro tunc* cannot be used to "make the record what it is not" or to supply jurisdictional facts absent from the contemporaneous record. *Roman Catholic Archdiocese of San Juan v. Acevedo Feliciano*, 140 S. Ct. 696, 701 (2020) (per curiam). The underlying default judgment identifies the 6th District

Court as the rendering court on its face, yet *nunc pro tunc* was used years later to substitute a different tribunal as the court of rendition. (*cf.* App. 30a to App. 74a – as identical to the default judgment of June 21, 2018, ***except for which court***)

Third, when Petitioner sought a ruling on the judgment's voidness, state clerks—without any written judicial order—accepted and file-stamped the jurisdictional motions but refused to process them for hearing or ruling by returning proposed orders setting hearings. (App. 53a–58a) That administrative refusal prevented any adjudication of the jurisdictional defect and insulated the judgment from meaningful judicial review. Due process guarantees a forum to be heard on jurisdictional nullity; it does not permit ministerial obstruction to function as the final word. *Logan v. Zimmerman Brush Co.*, 455 U.S. 422, 429–30 (1982).

The constitutional questions presented are clean, purely legal, and supported by a documentary record. This Court's guidance is needed to ensure that, in an era of mandatory electronic courts, due process remains enforceable: notice must be effective, jurisdiction cannot be retroactively rehabilitated, and access to a ruling cannot be denied by ministerial fiat.

Throughout the trial, appellate, and state supreme court proceedings—including in a motion for rehearing expressly invoking controlling federal precedent—Petitioner consistently argued that the challenged judgment was void for lack of jurisdiction and that jurisdictional defects must be adjudicated before any further proceedings. The courts below rejected that premise by permitting retroactive *nunc*

pro tunc rehabilitation and allowing adjudication to continue despite the State's documented service failures and administrative refusal to permit a hearing. (App. 4a–13a, 35a, 37a–38a, 40a–43a, 53a–58a, 60a–61a)

REASONS FOR GRANTING THE PETITION

This petition presents recurring questions about the constitutional minimums of notice, jurisdiction, and access to a judicial forum when a State mandates exclusive electronic systems for service and filing. The questions arise on a documentary, State-generated record and were preserved through the final state proceedings. They warrant review under Rule 10 because the decision below permits adjudication despite documented notice failure (QP1), permits *nunc pro tunc* to improperly operate as retroactive jurisdictional rehabilitation (QP2), and permits administrative gatekeeping that forecloses any judicial ruling on voidness (QP3).

I. This Court should clarify the due process minimum for notice when a State mandates exclusive electronic service and the system record reflects failed delivery.

Due process requires notice "reasonably calculated, under all the circumstances," to apprise a party and afford an opportunity to object. *Mullane v. Central Hanover Bank & Trust Co.*, 339 U.S. 306, 314 (1950). When a State mandates an exclusive notice mechanism and the State's own record affirmatively reflects non-delivery, due process requires additional steps reasonably calculated to provide notice before a court may proceed. *Jones v. Flowers*, 547 U.S. 220 (2006); *Greene v. Lindsey*, 456 U.S. 444 (1982).

That problem is presented on an objective record here. The State's automated e-service confirmations reflect failed delivery ("ERROR") for the Motion for Judgment *Nunc Pro Tunc* and Respondent's Proposed Order, and the judge-signed Notice of Hearing appears in the record without any certificate or proof of e-service through the mandated system. (App. 35a, 37a–38a) Because the State's mandated notice mechanism is exclusive and the State's own record reflected non-delivery, the court could not constitutionally proceed to adjudicate dispositive relief without additional steps reasonably calculated to provide notice.

Petitioner timely objected that he had not been served, sought to submit proof addressing nonservice, but was overruled while the court proceeded and granted dispositive relief. (App. 40a–43a, 29a–30a) The court of appeals affirmed without adjudicating Petitioner's preserved federal notice-and-opportunity-to-be-heard objection. (App. 35a, 37a–38a, 40a–43a)

This question is important and recurring. As courts increasingly mandate exclusive electronic service, constitutional protections cannot become contingent on system failure where the State's own record documents non-delivery. This Court's review is warranted to enforce a uniform constitutional minimum where the State's mandated notice mechanism fails and adjudication nonetheless proceeds. *Peralta v. Heights Med. Ctr., Inc.*, 485 U.S. 80 (1988).

II. This Court should clarify that due process forbids using *nunc pro tunc* to retroactively rehabilitate jurisdictional provenance and validate a judgment that would otherwise be void.

The second question is independently cert-worthy because it concerns the constitutional limits of retroactivity in judicial action. The court of appeals affirmed by treating the challenged *nunc pro tunc* order as a clerical correction. (App. 4a–13a) Its reasoning rested on the premise that an error is "clerical" if correcting it "does not change the terms of the judgment as rendered." (App. 10a) Because the *nunc pro tunc* change altered only the identity of the "originating" tribunal—from the 6th District Court to the 62nd District Court—yet "did not change any of the terms," the court declared the change clerical and upheld it. *Id.*

Appendix S reproduces representative record excerpts showing why this "clerical" framing is not routine housekeeping. Those State-generated excerpts reflect the case transfer and reassignment history and a continuing pattern of post-divestiture orders and coercive instruments issued from the 6th District Court (including TROs and writs), as well as federal-removal filings and post-removal state-court action. (App. 161a–215a) That documentary pattern confirms that the "rendering court" dispute concerns jurisdictional provenance—who exercised judicial power and whether that power existed—not a single stylistic misrecital. *Id.*

That approach collapses the constitutional distinction between ministerial record-correction and retroactive validation of adjudicative authority. The identity of the rendering tribunal is jurisdictional provenance—who exercised the State's

judicial power and whether that power existed. Treating provenance as "clerical" whenever operative directives remain unchanged allows *nunc pro tunc* to operate as a *post hoc* jurisdictional cure. Respondent attempted to supply *post hoc* support for this retroactive relabeling by attaching a reporter's transcript from a 2018 hearing. (App. 79a–82a) Although the transcript bears a caption, the colloquy begins *without* any on-the-record identification by the presiding judge of himself or the court, and it does *not* reflect an oral rendition establishing the jurisdictional provenance later rewritten into the judgment. *Id.* Nor did Respondent identify any contemporaneous record memorialization sufficient to support any retroactive substitution of the rendering tribunal—such as an oral rendition, docket entry, or other record evidence establishing that the substituted court rendered the June 2018 judgment. *Id.*, and *cf.* App. 30a to App. 74a as identical *except for which court.*

Due process does not permit a State to validate foundational defects by rewriting jurisdictional provenance after the fact. *Nunc pro tunc* may correct clerical mistakes; it may not be used to make the record say what it did not say when judgment was rendered, or to supply jurisdictional facts missing from the contemporaneous record. *Roman Catholic Archdiocese of San Juan v. Acevedo Feliciano*, 140 S. Ct. 696, 701 (2020) (per curiam). The order's effect here was to retroactively alter the identity of the rendering court and thereby rehabilitate a judgment that would otherwise be void. (App. 29a–30a) The underlying default judgment Respondent seeks to "rehabilitate" is the June 21, 2018 default judgment, file-stamped June 21, 2018. (App. 74a) On its face, that June 21, 2018 default

judgment identifies the 6th District Court as the rendering court; *nunc pro tunc* was used years later to substitute a different tribunal as the court of rendition (again, *cf.* App. 30a to App. 74a). Jurisdiction cannot be manufactured after the fact.

The issue is federal and structural, not routine housekeeping. If a State may retroactively "correct" which court rendered judgment to validate adjudicative authority that would otherwise be lacking—especially where notice is disputed—jurisdictional limits and due-process protections cease to function as constitutional constraints. This case is a clean vehicle: the *nunc pro tunc* order and the affirmance are in the record, and the question presented is pure legal. (App. 29a–30a, 4a–13a)

III. This Court should clarify that due process prohibits administrative gatekeeping that blocks any hearing or ruling on jurisdictional filings and thereby denies a judicial forum.

The third question is independently cert-worthy because it concerns a structural barrier to judicial review. When state clerks—absent any written judicial order—accept and file-stamp jurisdictional motions but refuse to process them for hearing or ruling, no judicial decision is entered and the litigant is left without any forum to obtain adjudication of voidness. Due process does not permit the State to foreclose adjudication of a jurisdictional challenge through ministerial gatekeeping that prevents a hearing or ruling from ever occurring. *Mathews v. Eldridge*, 424 U.S. 319, 333 (1976); *Logan v. Zimmerman Brush Co.*, 455 U.S. 422, 433–34 (1982).

The documentary record reflects that practice over time. Clerk-stamped record excerpts show that Petitioner's jurisdictional motions were filed, but proposed

orders setting those motions for hearing were returned with handwritten transfer notations, including "CASE HAS BEEN TRANSFERRED—PER JUDGE BIARD" and "CASE HAS BEEN TRANSFERRED TO PARKER COUNTY—PER JUDGE BIARD." (App. 53a–56a) Years later, the same obstruction occurred through the State's mandatory e-filing platform, where a motion to recuse was returned with the clerk's comment, "THIS SUIT HAS BEEN TRANSFERRED TO PARKER COUNTY," and was not processed for judicial consideration. (App. 58a)

Because the matter was never set or heard, no court issued any merits ruling on Petitioner's jurisdictional challenges—leaving no decision to review and no path to adjudication. (App. 53a–58a) And when Petitioner sought to corroborate the clerk practices—by calling a witness and offering a video—the trial court refused to admit that evidence. (App. 60a–61a) The sequence—file-stamped motions, returned hearing-setting orders and a returned motion to recuse, and absence of any ruling—demonstrates denial of a judicial forum, not a dispute about the correctness of a judicial ruling.

IV. This petition is a clean vehicle, and the usual cert objections do not apply.

Respondent will likely try to mischaracterize this Petition as fact-bound, state-law specific, or an attempt at routine error correction. It is not.

• **Decision-below recasting, not fact disputes.** The decision below avoided the federal questions by treating jurisdictional provenance and documented notice failure as a "clerical" correction under state law, rather than adjudicating whether

due process permits retroactive jurisdictional rehabilitation or proceedings without constitutionally adequate notice. (App. 4a–13a, 17a)

• **Documentary, State-generated record.** Each question turns on objective record artifacts: the State's e-service "ERROR" record and lack of proof of successful service (App. 35a–38a); the *nunc pro tunc* order and the affirmance treating it as clerical (App. 29a–30a, 4a–13a, 15a, 74a), and the documented return of proposed orders setting jurisdictional motions for hearing thereby preventing any hearing or ruling (App. 53a–58a), coupled with the court's refusal to admit corroborating evidence (App. 60a–61a).

• **Legal questions, not credibility disputes.** This Petition asks what due process requires when the State mandates exclusive electronic service and filing, not what any witness "really meant."

• **Voidness theory preserved.** Petitioner argued that the challenged judgment was void for lack of jurisdiction and that jurisdiction must be resolved before any further proceedings; the courts below rejected that premise by permitting retroactive *nunc pro tunc* rehabilitation and by proceeding despite the State's documented notice failure.

• **Preserved through final state proceedings.** Petitioner expressly presented the federal due-process questions of notice, retroactive *nunc pro tunc* rehabilitation, and denial of any forum to adjudicate voidness in the court of appeals and again in the Supreme Court of Texas, including on rehearing, but was not heard. (App. 17a–27a)

• **Antecedent federal questions.** Labels cannot defeat federal constitutional minima; the federal questions are antecedent and dispositive.

This Court's review is warranted to ensure that due process remains enforceable when the State mandates electronic notice and filing: notice must be effective, jurisdiction cannot be retroactively rehabilitated through *nunc pro tunc* revision, and access to a ruling cannot be denied by ministerial fiat.

This petition presents antecedent federal questions concerning constitutionally adequate notice, the constitutional limits of *nunc pro tunc* retroactivity, and access to a judicial forum—questions that apply regardless of case type.

Petitioner challenges state-court action that presently continues to carry legal consequences, and the record shows that he was prevented from obtaining any merits ruling on jurisdictional voidness through documented gatekeeping that blocked any hearing or ruling. Those continuing consequences include ongoing monetary enforcement, including child-support arrearages, and potential restitution or reimbursement of overpayments, all of which turn on the validity of the judgment whose jurisdictional provenance and notice are challenged here. Those federal due-process objections were expressly pressed through the final state-court proceedings, including in Petitioner's petition for review and motion for rehearing in the Supreme Court of Texas, which declined review without addressing the federal questions. (App. 19a–27a) Because the courts below did not reject the federal claims on any independent state ground, this Court's review is not foreclosed.

CONCLUSION

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

Respectfully submitted,

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