

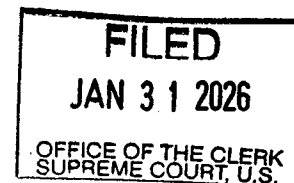
25-7079

No. 26-

ORIGINAL

In The Supreme Court of The United States

Nicholas Casavelli,
Nicolina Castelli,
Petitioners,



v.

Respondents.

Donna J. Johanson,
Estate of Gary T. Johanson,

On Petition for a Writ of Certiorari to
the Arizona Supreme Court of Appeals

PETITION FOR A WRIT OF CERTIORARI

Nick Casavelli and Nicolina Castelli
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QUESTIONS PRESENTED

Whether a state court violates the Fourteenth Amendment's Due Process Clause by conducting a civil jury trial in the absence of *pro se* defendants, while one defendant is hospitalized with a documented life-threatening medical emergency (TIA/stroke and DKA), and despite the jury expressly questioning the fairness of proceeding in the defendants' absence.

1. Whether a state court judgment violates Due Process and judicial integrity under *Hazel-Atlas Glass Co. v. Hartford-Empire Co.* when it rests on a verdict form that was filed before deliberations concluded, lacked the foreperson's signature ("SIGNATURE UNAVAILABLE"), was declared "absent" from the record, and was subsequently replaced *nunc pro tunc* with a duplicate bearing conflicting timestamps.
2. Whether a state court's imposition of "vexatious litigant" pre-filing restrictions—which prevented the submission of evidence regarding fraud upon the court, attorney conflicts, or jurisdictional defects—violates the Fourteenth Amendment right of meaningful access to the courts by effectively insulating a constitutionally defective judgment from review.

LIST OF PARTIES

The Petitioners are Nick Casavelli and Nicolina Castelli, who were Defendants/Appellants in the court below.

The Respondents are Donna J. Johanson, individually and as Personal Representative for the Estate of Gary T. Johanson, who were Plaintiffs/Appellees in the court below.

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TABLE OF AUTHORITIES

Cases

Armstrong v. Manzo, 380 U.S. 545 (1965)

Bounds v. Smith, 430 U.S. 817 (1977)

Christopher v. Harbury, 536 U.S. 403 (2002)

Hazel-Atlas Glass Co. v. Hartford-Empire Co., 322 U.S. 238 (1944)

Lewis v. Casey, 518 U.S. 343 (1996)

Mathews v. Eldridge, 424 U.S. 319 (1976)

Statutes and Rules

28 U.S.C. § 1257(a)

U.S. Const. amend. XIV, § 1

Ariz. R. Sup. Ct. 96(b)

Sup. Ct. R. 10

OPINIONS BELOW

The memorandum decision of the Arizona Court of Appeals, Division One (No. 1 CA-CV 24-0320), is unpublished and reproduced at Appendix A.

The order of the Arizona Supreme Court denying discretionary review is reproduced at Appendix B.

The final judgment of the Superior Court of Arizona, Maricopa County (Mar. 28, 2024), is reproduced at Appendix C.

JURISDICTION

The Arizona Supreme Court denied discretionary review on November 6, 2025. This Court has jurisdiction under 28 U.S.C. § 1257(a). The petition is timely filed within 90 days under Sup. Ct. R. 13.1.

CONSTITUTIONAL AND STATUTORY PROVISIONS INVOLVED

U.S. Const. amend. XIV, § 1: “No State shall . . . deprive any person of . . . property, without due process of law”

Ariz. R. Sup. Ct. 96(b): Restrictions on Powers; Ex Parte Orders; Criminal Proceedings; Contempts. Notwithstanding anything to the contrary herein set forth, a court commissioner shall not:

1. Except on default of the party or parties adversely affected thereby, make an ex parte order which would deprive any person or persons of custody of their child or children, or which would effect a change of counsel of any party, or which would deprive any person or entity of liberty or property or the use thereof, or which would grant injunctive relief.
2. Adjudicate any person in contempt of court or impose any fine or punishment therefor, except as provided in Rule 96(a)(10) and (16).

STATEMENT OF THE CASE

Petitioners Nick Casavelli and Nicolina Castelli, disabled *pro se* defendants, held vested title to their Sun City home via a 2017 notarized Quit Claim Deed (App. E, page 29) and a 2019 signed judicial ruling barring respondents' equitable mortgage claims under the Statute of Frauds (App. F, page 35).

In 2024, respondents—represented by Bryan Eastin, an attorney previously retained by Petitioners for LLC/rental operations involving the same property—obtained a \$1.227 million judgment for fraud, consumer fraud, and quiet title (App. C, page 16). This judgment resulted in Petitioners' eviction and homelessness.

The proceedings below were characterized by fundamental defects that stripped Petitioners of due process:

1. Medical Emergency and Trial in Absentia

During the jury trial conducted January 22-30, 2024, Petitioner Nick Casavelli suffered a life-threatening transient ischemic attack (TIA/stroke) and diabetic ketoacidosis (DKA) (App. I, page 44). Despite being notified of this emergency, the trial court demanded immediate documentation and offered only an infeasible remote appearance option. The court proceeded with the trial in the Petitioners' absence. The jury itself recognized the irregularity, submitting a written question: "*How does the case continue without the Defendants not being present?*" (App. J, page 46).

2. Procedural and Jurisdictional Irregularities

The case was abruptly reassigned to Commissioner Mulleneaux without the required stipulation or consent under Ariz. R. Sup. Ct. 96(b). While Respondents argue that Petitioners waived their right to a change of judge under Ariz. R. Civ. P. 42.1(c)(4), the record demonstrates a procedural impossibility that denied Petitioners due process.

According to the record, the final Status Conference—the proceeding that triggered the "three-day" deadline to object—was not even scheduled at the time of the Commissioner's appointment. It was first scheduled on January 12, 2024, and not docketed until January 16, 2024 (IR 882). Because Ariz. R. Civ. P. 42.1(c)(4) makes a notice of change ineffective if filed within 3 days of a scheduled proceeding, the court's last-minute scheduling of the January 19 conference effectively "timed out" the Petitioners' right to object before they could realistically exercise it. (App. M, page 66). This strategic scheduling, combined with restrictive pre-filing orders, ensured the jurisdictional defect was insulated from challenge.

3. The Fabricated Verdict

The judgment rests on a verdict form that evidences extrinsic fraud. The form was filed pre-deliberation (11:48 a.m.), was unsigned ("SIGNATURE UNAVAILABLE"), and was declared "absent" from the record. It was later

replaced *nunc pro tunc* with a duplicate bearing conflicting timestamps (App. L, page 52). Judgment was subsequently entered via TurboCourt by opposing counsel (App. C, page 16).

4. Blocked Evidence

A "vexatious litigant" designation was utilized to prevent Petitioners from filing proof of these forgeries, conflicts, and medical emergencies (App. K, page 49). The Arizona Court of Appeals affirmed the judgment, and the Arizona Supreme Court denied review.

REASONS FOR GRANTING THE PETITION

Review is warranted under Sup. Ct. R. 10 because the state court has decided an important federal question in a way that conflicts with relevant decisions of this Court.

I. FUNDAMENTAL UNFAIRNESS DURING LIFE-THREATENING EMERGENCY

Due process requires fundamentally fair procedures before property deprivation (*Mathews v. Eldridge*). Proceeding with a civil jury trial while a *pro se* defendant is hospitalized with a life-threatening condition, especially when the jury explicitly flags the unfairness, denies the defendant any meaningful opportunity to be heard. Such proceedings "shock the conscience" and violate the core guarantees of the Fourteenth Amendment (*Armstrong v. Manzo*).

II. FRAUD UPON THE COURT VIA MANUFACTURED VERDICT

The irregularities surrounding the verdict—specifically the pre-deliberation filing, the missing signature, and the *nunc pro tunc* replacement—evidence extrinsic fraud upon the court (*Hazel-Atlas Glass Co. v. Hartford-Empire Co.*). This raises a substantial federal question: whether state courts may enforce verdicts that lack basic indicia of authenticity and judicial integrity without violating the Due Process Clause.

III. DENIAL OF COURT ACCESS THROUGH RESTRICTIVE ORDERS

The state court's use of "vexatious litigant" restrictions to block evidence of fraud, attorney conflict, and jurisdictional defects violates the right of meaningful access to the courts (*Bounds v. Smith; Lewis v. Casey*). When a state uses procedural bars to insulate a constitutionally defective judgment from review, it effectively abrogates the Fourteenth Amendment (*Christopher v. Harbury*).

REASON IV: THE STATE COURT CREATED A PROCEDURAL TRAP THAT RENDERED DUE PROCESS PROTECTIONS ILLUSORY

Review is warranted because the Arizona courts applied state procedural rules—specifically **Ariz. R. Civ. P. 42.1(c)(4)**—in a manner that made it mathematically impossible for Petitioners to challenge a jurisdictional defect.

1. **The Trap:** The Respondents acknowledge that the final Status Conference on January 19, 2024, was not scheduled at the time of Commissioner Mulleneaux's appointment. (App. M, page 66)
2. **The Timeline:** The conference was first scheduled on January 12 and not docketed until January 16.
3. **The Impossibility:** Under Rule 42.1(c)(4), a notice of change of judge is ineffective if filed within three days of a scheduled proceeding. Because the court docketed the January 19 hearing on January 16, Petitioners were already within the "three-day" prohibited window the moment the hearing appeared on the docket.

This Court has long held that "the opportunity to be heard must be at a meaningful time and in a meaningful manner" (*Mathews v. Eldridge*). When a state court schedules proceedings in a way that simultaneously triggers and expires a litigant's right to object, the "opportunity to be heard" is a legal fiction. This "procedural trap" effectively insulated the reassignment of the case from any constitutional or jurisdictional challenge.

CONCLUSION

The petition for a writ of certiorari should be granted.

Respectfully submitted, March 17, 2026

Nick Casavelli

Petitioner *Pro Se*

Nicholas Casavelli

Nicolina Castelli

Petitioner *Pro Se*

Nicolina Castelli

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