No. 25-822



IN THE
SUPREME COURT OF THE UNITED STATES

THOMAS DE COLA,
Petitioner,
v.
STATE OF INDIANA,
Respondent.

On Petition for a Writ of Certiorari
to the Indiana Court of Appeals

# PETITION FOR A WRIT OF CERTIORARI

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## Questions on Review

Whether 42 U.S.C. § 1983 is the congressional consent for asserting individual God-granted rights that are acknowledged within the *U.S. Bill of Rights* and *Fourteenth Amendment* therewith in suits against the State?

Whether the State's committance of legal estoppel is a cause of action for damages thereof under federal constitutional claims processes for relief of grievance thereon?

## Respondent

1. State of Indiana

## List of all Related Proceedings

1. Porter Superior Court 2, 64D02-2308-CT-7657, *Thomas DeCola v. State of Indiana*, Date of Entry of Judgment: July 10, 2024.

2. Ind. Court of Appeals, 24A-CT-2211, *Thomas DeCola v. State of Indiana*, trans. denied, Date of Entry of Judgment(s): June 25, 2025; October 9, 2025.

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## Jurisdictional Statement

This *Petition for a Writ of Certiorari* seeks review of ("the Court of Last Resort"), the Ind. Court of Appeals' opinion and Ind. Supreme Court's denial of transfer thereon, which were respectively entered on June 25 & October 9, 2025 within case 24A-CT-2211 and Court of First Instance's orders of denial therebefore that were entered on July 11 & August 15, 2024 within case 64D02-2308-CT-7657. See App. pp. 1a – 16a.

U.S. Const. art(s). III § 1 & 2, & VI § 2, and 28 U.S.C. §§ 1254(1) & 1257(a) confer jurisdiction to the Supreme Court for reviewing the brought federal question issue herein, which arose from the aforesaid proceedings of the

Court of First Instance, the Porter Superior Court 2, ("the Trial Court"), from *pro se* Petitioner, Thomas DeCola's, ("DeCola") suit against the Respondent, State of Indiana, ("the State"), represented by counsel. DeCola asserts that the State clearly violated his U.S. Const. amend(s). II, V, & XIV § 1 and 42 U.S.C. § 1983 – prohibition against deprivation of property right, otherwise respectively known as the *Right to Bear Arms Clause* in association with the *Privileges and Immunity, Due Process,* and *Equal Protection Clauses* of the same therewith under the constitutional acknowledgment made fashionable by § 5 thereof. See App. Verbatims of Law pp. 129a – 131a. The Trial Court's order(s) and the Court of Last Resort's aforesaid opinion and order thereon, under review within this *Petition for a Writ of Certiorari*, stand in conflict with the above stated laws of the United States of America. See App. pp. 1a – 16a.

## Statement of Case

DeCola hereby brings this *Petition for a Writ of Certiorari* to the Ind. Court of Appeals to reverse a comity of Indiana judicial action which was adverse to U.S. Const. amend(s). II, V, & XIV §§ 1 & 5 thereon pursuant to 42 U.S.C. § 1983 thereby. See App. pp. 1a – 16a and Verbatims of Law pp. 130a – 131a. The State, Trial Court, and Court of Last Resort entered respective arguments, order(s), and an opinion thereon that violated the *Supremacy Clause* of the U.S. Const. art. VI § 2 in association with U.S. Const. amend(s). II, V, & XIV §§ 1 & 5 thereon pursuant to 42 U.S.C. § 1983 therewith by denying legal estoppel as DeCola's asserted cause of action in suing the State for relief against the same. See App. pp. 1a – 16a and Verbatim of Law pp. 130a – 131a.

On January 2, 2017, DeCola was arrested by municipal police agents operating in privity with the State in the town of Kouts, Porter County, Indiana for carrying a handgun without a license as mandated by the State under Ind. Code § 35-47-2-1 (2017). See App. Verbatims of Law pp. 110a – 112a. DeCola was arrested, prosecuted, convicted, and sentenced under the jurisdiction of the Porter Superior Court 4 within case 64D04-1701-CM-15 (expunged), and affirmed by appeal thereon by the Ind. Court of Appeals within case 64A03-1711-CR-2556 *trans. denied* (under seal). See App. pp. 17a – 25a. DeCola was stopped by the above stated agents for a vehicle taillight outage when he was driving through the town of Kouts; one of the flashlight wielding agents sighted DeCola's pistol on the cab seat from outside the passenger window while approaching DeCola's stopped vehicle. See App. pp. 17a – 25a.

On July 1, 2022, the State repealed the criminal provision of I. C. § 35-47-2-1 (2022) by amendment thereon, thus legal estoppel factually occurred. See App. Verbatims of Law pp. 112a – 115a. The State published a *memorandum* in association with a *Gun Owner's Bill of Rights* for public dissemination, which was found by DeCola on the State's website. See App. pp. 22a – 25a. The State's two (2) aforesaid recitals clearly provide that the repeal of the criminal provision of I. C. § 35-47-2-1 (2017) by amendment thereon is a constitutional concern and issue. See App. pp. 22a – 25a and Verbatims of Law pp. 110a – 112a.

On August 22, 2023, DeCola filed a six (6) count cause of action against the State for violating his U.S. Const. amend. II right within a legal estoppel context and associated damages therefrom. See App. pp. 17a – 25a and Verbatims of Law p. 130a. The State counterargued on November 29, 2023 by a motion to dismiss which asserted that DeCola's complaint was untimely under the two-year statute of limitation pursuant to Ind. Code § 34-11-2-4(a),

that the State is not a person under 42 U.S.C. § 1983 as provided within *Will v. Michigan*, 491 US 58 (1989), and the doctrine of *res judicata*[1] bars DeCola from obtaining relief; DeCola counterargued to the same on May 23, 2024, and the State rebutted on May 30, 2024. See App. pp. 26a – 60a and Verbatims of Law pp. 109a – 110a, 130a, 128a.

The Trial Court issued their July 10, 2024 order that found that DeCola's causes of false arrest / false imprisonment, malicious prosecution, and 42 U.S.C. § 1983 claims to be dismissed for statutory untimeliness and the causes legal estoppel, outrage, and sham proceeding to be dismissed without prejudice. See App. pp. 11a – 15a and Verbatims of Law p. 130a. In response thereto on August 9, 2024, DeCola filed a motion to open the judgment and or request for interlocutory appeal thereon to be construed as a motion to correct error for timely appealing the Trial Court's July 10, 2024 order. See App. pp. 61a – 66a. The Trial Court issued their second order on appeal on August 15, 2024 by dismissing the case with prejudice, stating that DeCola, "failed to file an amended Notice of Claim within the timeline specified under the Indiana Rules of Trial Procedure". See App. p. 16a. DeCola believes the Trial Court operated in sham by the bizarre claim.[2]

On September 16, 2024, DeCola timely appealed the Trial Court's order(s) entered on July 10 & August 15, 2024.

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[1] DeCola omitted counterarguing the State's *res judicata* defense based upon the total inapplicability of its assertion in view of the brought argument in this *Petition for Writ of Certiorari* and directed likewise by the Trial Court and Court of Last Resort as shown within their respective order(s) and opinion thereon. See App. pp. 1a – 16a.

[2] DeCola did not amend the complaint pursuant to the pertinent provision of Ind. Trial Rule 12(B) based upon the necessity of 42 U.S.C. § 1983 being found applicable for the statutory and timely assertion thereon for the cause of legal estoppel to be adjudicated favorably and therefore initiated a timely appeal to avoid the Trial Court's trap. See App. Verbatims of Law pp. 116a, 130a.

See App. 11a – 16a. DeCola filed his *Appellant's Brief* on October 16, 2024, the State filed their response brief thereto on November 15, 2024, which was rebutted on December 2, 2024. See App. pp. 67a – 93a. Thereafter, the Court of Last Resort issued their respective negative opinion before DeCola filed his *Petition to Transfer* therein, which was denied by order upholding the Trial Court's order(s). See App. pp. 2a – 10a, 94a – 103a, 1a.

**Jurisdictional Statement of Court of First Instance**

The court of first instance, the Trial Court's original jurisdiction over DeCola's 42 U.S.C. § 1983 cause of action for relief against legal estoppel and constitutional claim thereon for determining relief from damages under the two-year statute of limitation thereof is provided under Ind. Const. art(s). 1 § 12 & 7 § 8, Ind. Code §§ 33-29-1.5-2(1) & 34-11-2-4(a), and U.S. Const. art. VI § 2. See App. Verbatims of Law pp. 130a, 115a – 166a, 109a – 110a, 132a.

DeCola raised the federal question presented over the premise of this petition herein within his complaint and subsequent counterargument pleading by asserting his right of action under 42 U.S.C. § 1983 in association with his constitutional *Second*, *Fifth*, & *Fourteenth Amendment* rights and equitable standing thereon or asserted injury thereby which is derived from him being committed to the prosecutorial and adjudicative process of the State's criminal jurisdiction under the aforesaid expunged and sealed criminal case and appeal thereof in view of the State committing legal estoppel in relation thereto from the repeal of the criminal provision by amendment thereby, see I.C. § 35-47-2-1 (2017) & (2022). See App. pp. 17a – 25a, 42a – 49a and Verbatims of Law pp. 130a – 131a, 110a – 115a.

## Argument

DeCola clearly shows herein that the State, the Trial Court, the Ind. Court of Appeals, and the Ind. Supreme Court, the respective courts of first instance and last resort, failed to enforce the philosophical supreme law of the United States of America, the *U.S. Bill of Rights*, specifically applicable herein U.S. Const. amend(s). II, V, & XIV §§ 1 & 5 thereon pursuant to 42 U.S.C. § 1983 thereby, DeCola's asserted cause of action against the State. See App. pp. 1a – 103a and Verbatims of Law pp. 132a, 130a – 131a.

DeCola argues that legal estoppel is a cause of action against the State which activates the two-year statute of limitation under I. C. § 34-11-2-4(a) for injury on the day legal estoppel occurred. See App. pp. 18a, 42a – 43a, 61a – 66a, 67a – 73a, and Verbatims of Law p. 109a – 110a. Occurrence of legal estoppel retro-activates the former untimeliness cause(s) for action over whatever injury sustained by claimant(s). See App. pp. 17a – 25a, 42a – 49a, 61a – 66a, 67a – 73a, 85a – 103a. In this case, DeCola was injured by the State reversing their statutory mandate for a person to possess a pink-colored license for properly exercising their U.S. Const. amend. II right to bear a handgun or a criminal act if discovered to be without. See App. pp. 17a – 25a and Verbatims of Law p. 130a. DeCola was arrested, prosecuted, convicted, and sentenced for exercising his U.S. Const. amend. II right, which the State committed legal estoppel upon by repealing I. C. § 34-11-2-4 (2017) by the adoption of I. C. § 34-11-2-4 (2022). See App. pp. 3a, 7a, 11a, 76a, 78a, 96a and Verbatims of Law pp. 130a, 109a – 115a. The resulting damages therefrom were argued by DeCola within the Trial Court to be atrocious. See App. pp. 7a, 39a, 45a, 48a, 70a – 71a.

The State's argumentative reliance upon the precedential misconstruing of the doctrine of estoppel, as

well as their abusing of the Nation's foundational philosophy, that persons forthwith possess unalienable rights,[3] shows that the State is actioning the Court of Last Resort's bad law. See App. pp. 26a – 41a, 50a – 60a, 74a – 84a, 2a – 16a. This is respectively found specifically in part within *Lockett v. Planned Parenthood of Indiana*, 42 NE3d 119, 135 – (Ind. Ct. App. 2015), in part within *Severson v. Purdue University*, 777 NE2D 1181, 1190 (Ind. Ct. App. 2002), *Cantrall v. Morris*, 849 NE2d 488, 507 fn. 26 – (Ind. Sup. Ct. 2006), and intrinsically in *obiter dictum* within *Chang v. Purdue*, 985 NE2d 35, 48 – 51 – (Ind. Ct. App. 2013), by the negative inclusion of statutorily preempting 42 U.S.C. § 1983 claims by way of the *Tort Claims Act*[4], which are all premised upon applying the Majority Jurists' casuistical designation of "the State" to be not inclusive within the definition of "person" held liable under 42 U.S.C. § 1983, as shown within *Monroe v. Pape*, 365 US 167, 190 – 1 (1961), *Will v. Michigan*, 491 US 58, 64 (1989), and in subsequent precedential likeness thereof within *Ngiraingas v. Sanchez*, 495 US 182, 183 – 192 (1990). See App. pp. 42a – 49a, 86a and Verbatims of Law pp. 108a – 109a, 106a – 108a, 130a, 125a – 126a, 128a.

Thus, the State is actuating the doctrine of *rex non potest pecarre*[5], also known as the *Divine Right of Kings* or

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[3] See, *The U.S. Declaration of Independence*, Second Continental Congress, 1776, ¶2. See App. Verbatims of Law pp. 116a – 119a.

[4] See *Irwin v. Marion County*, 816 N.E. 2d 439, 447 – (Ind. Ct. App. 2004), as provided in pertinent part thereof, "the ITCA's notice requirements are inapplicable to Irwin's § 1983 claims.". See App. Verbatims of Law p. 108a.

[5] The genesis of *rex non potest pecarre* in federal case law is found within the foundational precedents of *Monroe v. Pape*, 365 US 167 (1961) on p. 191 fn. 50 therein under *Charlton v. City of Hialeah*, 188 F. 2d 421, 422 – 3 5th Cir. (1951) citing *Kennedy v. City of Daytona Beach*, 132 Fla. 675, 182 So. 228 – 9 (1939) *et al.* as provided therein and proofed thereby within *White v. City of Waldo*, 659 So. 2d 707, 709 – 10 Fla. Dist. Ct. App.

absolute governmental sovereign immunity by breaching the foundational philosophy of the Nation and committing to the regal evils that were affirmatively rebuked by the doctrinal antithesis, *The U.S. Declaration of Independence* (1776)[6] and positively acknowledged within *Langford v. US*, 101 US 341, 342 – 344 (1879 & 1880) to be (*rex non potest pecarre*) legally null. See App. Verbatims of Law pp. 116a – 119a, 121a – 124a.

The premise of the Majority Justices' opinions in holding to the casuistical argument that "person" for purposes of 42 U.S.C. § 1983 was not intended by legislative intent nor the Founders therebefore by the philosophical disposition of its incarnation is atrociously vexing. Justice Douglas provided his discretion in *Monroe*, 365 US 167 at 190 – 1, as provided in pertinent part,

> "Much reliance is placed on the Act of February 25, 1871, 16 Stat. 431, entitled "An Act prescribing the Form of the enacting and resolving Clauses of Acts and Resolutions of Congress, and Rules for the Construction thereof." Section 2 of this Act provides that "the word `person' may extend and be applied to bodies politic and corporate."[47] It should be noted,

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(1995), "Under the common law, law enforcement officers were considered arms of the King and while an officer might be held liable for his wrongful acts the Government or that branch of the Government for which he acted, could not be held liable on the theory that `The King can do no Wrong', or the theory of Governmental or sovereign immunity.". See App. Verbatims of Law pp. 125a, 120a – 121a, 105a – 106a. As well as planked within *Snowden v. Hughes*, 321 US 1, 6 – 8 (1944). See App. Verbatims of Law pp. 127a – 128a.

[6] See, *The U.S. Declaration of Independence*, Second Continental Congress, 1776, ¶2 and the regal evils thereof found under ¶¶3, 10, 13 thru 15, pertinent part within 17 "mock Trial" thereof, 20, in substantive likened effect and by result thereof 22 thru 25, 27 thru 28, & 30 thru 31. See App. Verbatims of Law pp. 116a – 119a.

> however, that this definition is merely an allowable, not a mandatory, one.". See App. Verbatims of Law pp. 130a, 125a.

The above dictum was heavily influenced by Justice Frankfurter as shown from fn. 47 therein as provided in *toto*,

> "This Act has been described as an instance where "Congress supplies its own dictionary." Frankfurter, Some Reflections on the Reading of Statutes, 47 Col. L. Rev. 527, 536. The present code provision defining "person" (1 U. S. C. § 1) does not in terms apply to bodies politic. See Reviser's Note, Vol. I, Rev. U. S. Stats. 1872, p. 19". See App. Verbatims of Law pp. 125a.

The two (2) named Justices provided an unrestrained redefining by use of semantical casuistry to purposely restrict the application of 42 U.S.C. § 1983 for protecting the State under a non "person" designation therein from the plenary enforcement thereof pursuant to U.S. Const. amend. XIV § 5 for making § 1 thereof actionable against the State. See App. Verbatims of Law pp. 130 – 131a.

The Minority Jurists, however, since *Quern v. Jordan*, 440 US 332 (1979), have shown their heavy distress by counterarguing the Majority's casuistical semantics shown within *Id.* at 349 – 50 fn. 1 & 3 therein, in relevant parts thereof,

> "[1] . . . the States surrendered that immunity in Hamilton's words, `in the plan of the Convention,' that formed the Union, at least insofar as the States granted Congress specifically enumerated powers. . . .

> It is deeply distressing, however, that the Court should engage in today's gratuitous departure from customary judicial practice and reach out to decide an issue unnecessary to its holdings. The Court today correctly rules that the explanatory notice approved by the Court of Appeals below is "properly viewed as ancillary to . . . prospective relief." *Ante,* at 349. This is sufficient to sustain the Court's holding that such notice is not barred by the Eleventh Amendment. But the Court goes on to conclude, in what is patently dicta, that a State is not a "person" for purposes of 42 U. S. C. § 1983, Rev. Stat. § 1979.[2]
>
> . . . [3] There is no question but that § 1983 was enacted by Congress under § 5 of the Fourteenth Amendment. Section 1983 was originally the first section of an Act entitled "An Act to enforce the Provisions of the Fourteenth Amendment to the Constitution of the United States . . . ." 17 Stat. 13.". See App. Verbatims of Law pp. 126a – 127a.

The Minority Justices' dissents within *Will*, 491 US 58 at 87 – 94 and *Ngiraingas*, 495 US 182 at 193 – 206 clearly provide the continuation of their "deep distress" caused by counterarguing against the Majority Justice Douglas' *magnum opus* of *fabian* monarchial revivalism via Majority Justices Rehnquist, White, and Blackmun, which sprouted within *Monroe*, 365 US 167 at 191 – 92, providing therein immunity to governmental corporations against 42 U.S.C. § 1983 claims by Congress' reputed support without plenarily showing. See App. Verbatims of Law pp. 128a, 125a – 126a, 125a, 130a. This vexing discourse for determining the meaning of common and candid terms such as, "person, bodies politic, & corporation", and the action forthwith to

assert exclusive American philosophy wherever has superfluously reviewed Founders and legislative intent under elementary self-evident truths, only to discover the Majority's directed despotic politicism. See App. 20a ¶6.

1 U.S.C. § 1, provides that "person(s)" means corporation(s) and *Black's Law Dictionary* defines the State as an "artificial person" meeting the definition therein under "corporation" which is a "body or bodies politic" so defined therein, meeting the aforesaid same definitions thereof. See App. Verbatims of Law pp. 129a, 104a – 105a. *Marbury v. Madison*, 5 US 137, 154 (1803), *Wolf v. Colorado*, 338 US 25, 40 (1949), and *Loving v. Virginia*, 388 US 1 – 2 (1967) concerning the applicability of the *Fourteenth Amendment's* analogous application to individual rights acknowledged by the *U.S. Bill of Rights* throughout, albeit in retrospect thereof, should have unequivocably settled any potentiality of forthcoming controversy upon the § 5 enforcement regime thereof, pursuant 42 U.S.C. § 1983, as well as, whether the corporate artificial person, the body politic, acting as sovereign government could be sued successfully thereby. See App. Verbatims of Law pp. 124a, 128a, 131a – 132a, 130a.

Thus, 42 U.S.C. § 1983 via § 5 of the *Fourteenth Amendment*, when properly invoked against the State preempts their *Eleventh Amendment* Majority acknowledged immunity protection from constitutional civil rights claims against citizen(s) of another state, which is inapplicable to the issue herein, as DeCola is a citizen of the State to this suit. See App. Verbatims of Law pp. 130a – 131a. The *Ind. Constitution* lacks a defensive immunity clause for the State to assert and thus is condemned by Hamilton's prescription, which is acknowledged under U.S. Const. art. VI § 2, the

*Supremacy Clause* thereof as shown in *Quern v. Jordan*, 440 US 332, 349 fn. 1 (1979) and *Federalist Paper 81* ¶14 therein. See App. Verbatims of Law pp. 132a, 126a, 120a.

Hamilton's guidance is aligned with Madison's *Federalist Paper No. 45* ¶1 for reviewing the issue herein, as provided in relevancy thereof,

> "We have heard of the impious doctrine in the Old World, that the people were made for kings, not kings for the people. Is the same doctrine to be revived in the New, in another shape that the solid happiness of the people is to be sacrificed to the views of political institutions of a different form?". See App. Verbatims of Law pp. 119a.

DeCola avers that the *British-American Rapprochement Military Regime*, consisting of, without limitation, the above stated Justices, whom sacrificed the constitutional government, in significant part, by judicial and legislative sham as can be shown in the *Petition to Transfer* and within DeCola's unaccepted, but published, *Petition for a Writ of Certiorari*, bearing ISBN: 979-8-218-76315-2[7], which contains the issue over dual military-civilian officeholders. These dual officeholders and their protégés, in large part, caused this vexing controversy under review herein for proliferating their Majority philosophy, *rex non potest peccare*. See App. pp. 94a – 103a.

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[7] Commissioned military officers of the U.S. President under federal and State designations are openly violating the *Virginian Incompatibility* and *Montesquieuan Separation of Powers* doctrines by holding judicial offices, concurrently either by the State or federal government. See Verbatims of Law p. 105a.

## Conclusion

Wherefore, DeCola asks this Supreme Court to acknowledge 42 U.S.C. § 1983 as the congressional consent for asserting God-granted individual rights acknowledged under the *U.S. Bill of Rights* and *Fourteenth Amendment* therewith, made constitutionally fashionable therein by § 5 thereof for making suits actionable against the State. To further acknowledge the State's commission of legal estoppel upon the criminal and constitutional issue of handgun licensure under the statutory two-year statute of limitation cause of action from the day of grievance thereby or July 1, 2022 for DeCola's above shown injury by the State's criminal enforcement over his constitutional right to carry a handgun without the State's license requirement before the time the State repealed the criminal statutory provision thereof – all by the issuance of a positive writ to the Ind. Court of Appeals. *Sic Semper Tyrannis*!

## Verification Statement

I, the undersigned, certify under the penalty of perjury that the foregoing representations are true.

Submitted thereby,
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