

No. 25-947

In the

Supreme Court of the United States

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Petitioner

vs

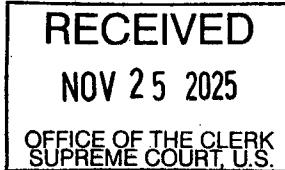
Shawn LaTourette, in his official capacity as
Commissioner, N.J. Department of
Environmental Protection
401 East State Street
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Trenton, NJ 08625-0402
(609) 292-2885

Respondent

On Petition for Writ of *Certiorari*
To the Supreme Court of New Jersey,
C-134, September term, 2025

PETITION for WRIT of CERTIORARI

Robert William Moss, *pro se*



QUESTION PRESENTED

When a state court dismisses a complaint as in conflict with the entire controversy doctrine, on the ground that it raises a question of state law of which the plaintiff *should* have been aware when prosecuting a previous complaint, must the court explain why the plaintiff should have previously been aware?

Three questions are involved:

- the underlying question of state law, the nature of which is immaterial;
- a procedural question of state law, *viz.* whether the state court correctly concluded that the complaint offended the entire controversy doctrine on the ground stated; and
- a federal question, arising upon completion of the state court litigation: whether the plaintiff's 14th Amendment right to Due Process while being heard was abridged.

**PARTIES, CORPORATIONS, PROCEEDINGS
BELOW**

All parties are listed in the caption. (Rule 14.1(b)(i))

A corporate disclosure statement is not required.
(Rule 14.1(b)(ii))

Other than the complaint, appeal, and petition filed below, captioned as is the present petition, no other proceedings were "directly related", as defined in Rule 14.1(b)(iii).

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The number of words in this Petition, is 1275. (Rule 14.1(c), 38.1(d))

CAPTIONS of OPINIONS and ORDERS

Superior Court of New Jersey, Mercer County
MER-L-001328-23, February 6, 2024
Order Granting Defendant's Motion to Dismiss
Complaint in Lieu of Prerogative Writs and
Dismissing Complaint with Prejudice.

Superior Court of New Jersey, Appellate Division
A-1891-23, March 21, 2025
On appeal from the Superior Court of New Jersey,
Law Division, Mercer County, Docket No. L-1328-23,
Affirmed.

Supreme Court of New Jersey
C-134, October 16, 2025 (copy received by petitioner
by U.S. mail, October 25, 2025)

Order Dismissing Petition for Certification.

JURISDICTION

Order to be reviewed entered: March 21, 2025

There was neither a rehearing (Rule 14.1(e)(ii))
nor a cross-petition (iii)

Jurisdiction granted by 28 U.S.C. §1257 (14th
Amendment right to due process of law denied) (Rule
14.1(e)(iv))

No constitutional provisions, treaties, statutes,
ordinances, or regulations, relevant to the question
being raised in this petition, were involved below.
(Rule 14.1(f))

STATEMENT OF THE CASE

The New Jersey Department of Environmental
Protection (“DEP”) is managing wildlife habitat in
Sparta Mountain Wildlife Management Area (“SM-
WMA”) pursuant to a “Forest Stewardship Plan”
 (“the Plan”).

Plaintiff challenged the Plan (“Complaint I”), al-
leging that the land for SMWMA was purchased us-
ing dedicated funds which prohibit the removal of
forest products for commercial sale, an activity con-

ducted pursuant to the Plan. The challenge was dismissed as untimely filed.

Plaintiff then challenged a specific construction of a Plan provision as plainly incorrect ("Complaint II"). This challenge was also dismissed as untimely filed.

Plaintiff then discovered that the Legislature had appropriated dedicated funds to pay for activities pursuant to the implementation of the Plan. He thereupon filed Complaint III, challenging these appropriations on the ground that use of these dedicated funds was restricted to "*acquisition*" and "*development*" of lands for conservation purposes, and that activities pursuant to the Plan were neither, as defined by New Jersey law. This was the underlying question of state law.

The trial court ruled, and the appellate panel affirmed, that Complaint III offended the entire controversy doctrine, because the question of state law raised therein, the validity of the funding of *activities* conducted pursuant to the Plan, should have been raised in the first complaint. This was the procedural question of state law.

Federal Question Timely Raised?

The Federal question is whether Petitioner was denied 14th Amendment procedural Due Process while pursuing his underlying state law claim in state court. This question, by definition, could not be raised while his claim was being adjudicated—only *after*, that is, *after* the state supreme court denied certification.

ARGUMENT

The trial court's conclusion on the procedural question of state law, affirmed by the appellate panel, that the underlying state law question in Complaint III *should* have been raised in a previous complaint, was not supported by anything specific in the record. Complaint III was

seeking to enjoin funding related to the Plan, which would effectively yield the same result as the prior two actions: stopping forest management practices related to the Plan. But there is no reason that Plaintiff could not have asserted this cause of action in his previous two complaints; in-

deed, it should have been raised. Given the “totality of circumstances” and the history related to the instant case, the Court finds that application of the entire controversy doctrine promotes its objectives of “conclusive determinations, party fairness, and judicial economy and efficiency.”

N.J. Superior Court, Mercer County, MER-L-001328-23 (February 6, 2024). Order, at 16–17, underlining added.

While the trial court made a broad appeal to the “totality of circumstances”, most of its words were expended explaining how the three Complaints met the criteria for a single controversy—though that question was not in dispute. For example, its conclusion that stopping funding from a source dedicated to certain uses would stop implementation of the Plan, was a speculative statement of fact in favor of an undisputed conclusion.

Likewise, that the “application of the entire controversy doctrine promotes its objectives of ‘conclusive determinations, party fairness, and judicial economy and efficiency,’” was not disputed.

It’s not difficult to think of reasons why a ques-

tion “should have been” raised. In *Francavilla v. Absolute Resolutions VI, LLC*, 478 N.J. Super. 171, 312 A. 3d 307, (App. Div. 2024), the plaintiff had defaulted on a credit card balance, and the debt had been assigned to the defendant, with whom she had reached a settlement. Now she alleged that defendant did not have “a business license to operate as a consumer lender or sales finance company,” at 176. The trial court found that “it is not at all unusual for defendants in such cases seeking to collect a debt allegedly owed. . .to assert that the [debtor] [¶] does not hold a valid assignment,” at 179–80, and invoked the entire controversy doctrine. That is, the *Francavilla* trial court judge took judicial notice of what happens in courtrooms.

The trial court judge in Complaint III did *not* take judicial notice, for example,

- of a “not at all unusual” pattern of plaintiffs who wished to challenge agency actions researching the source of funding for such activities; nor
- that the budget process that resulted in the challenged appropriation was closely watched by open space advocacy groups; nor
- that the appropriation was blared all over social

media, nor the news media, nor anywhere else on the internet.

Nor did he cite anything in the record. He essentially just said, "Take my word for it."

Clearly, procedural Due Process requires that there be a reason for a conclusion:

...the stile of the judgment is, not that it is decreed or resolved by the court, for then the judgment might appear to be their own; but, "it is considered," *consideratum est per curiam*, that. . .[examples]: which implies that the judgment is none of their own; but the act of law, pronounced and declared by the court, after due deliberation and enquiry.

III Blackstone's *Commentaries*, 9th ed., at 396, spelling *sic*, underlining added.

Where the question was,

whether a State that terminates public assistance payments to a particular recipient without affording him the opportunity for an evidentiary hearing prior to termination denies the recipient procedural due process in violation of the Due Process Clause of

the Fourteenth Amendment,
Goldberg v. Kelly, 397 U.S. 254 (1970), at 255,
the decisionmaker's conclusion as to a recipient's eligibility must rest solely on the legal rules and evidence adduced at the hearing. . . . To demonstrate compliance with this elementary requirement, the decision maker should state the reasons for his determination and indicate the evidence he relied on. . . .

Id., at 271, underlining added.

RELIEF SOUGHT

Plaintiff prays the Court to

- (1) declare that Plaintiff was denied his right to be heard with Due Process on his state law claim (funding source for activities pursuant to the Plan),
- (2) enjoin Defendant from spending Green Acres funds in furtherance of implementation of the Plan until such time as Plaintiff's state law claim may be heard with Due Process in the New Jersey courts, specifically, the reviewing court must support its conclusion(s) with fact(s), and

(3) to remand the cause to the New Jersey state courts for such review.

Robert Moss, *pro se*
Date

[[a] This alteration is incorrect. The trial court judge wrote,

Indeed, it is not at all unusual for defendants in such cases seeking to collect a debt allegedly owed to the plaintiff to assert that the {debtor} plaintiff does not hold a valid assignment, even if such claim is not based on the FCLA, but on other grounds.]

ESX-L-000170-19, Order Granting Defendants' Motion to Dismiss, reasons for dismissal, 4/13/2022, at 13. Erroneous alteration struck through. Also, no brackets around "FCLA".]