ORIGINAL

No. 26-250

IN THE SUPREME COURT OF THE UNITED STATES

Philip S Liddiard, PETITIONER

v.

Bank of America N.A., RESPONDENT.

ON PETITION FOR A WRIT OF CERTIORARI
TO The Utah Court of Appeals

PETITION FOR A WRIT OF CERTIORARI

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QUESTIONS PRESENTED

1) Whether the Due Process Clause permits a state court to rely on constructive notice from pre-judgment filings as notice of a final judgment, where state procedural rules require notice of a judgment once entered.

2) Whether the Due Process Clause permits a state court to deny relief as untimely under Rule 60(c) from a judgment alleged to be void for lack of constitutionally sufficient notice, where the absence of notice caused the delay in seeking relief.

3) Whether the Due Process Clause permits an appellate court to affirm a judgment without addressing a claim that the judgment is void for lack of Due Process.

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Philip Liddiard respectfully petitions for a writ of certiorari to review the judgment of the Utah Court of Appeals entered on Dec 16th, 2025. This order summarily affirmed the denial of a Rule 60b(4) motion to set aside a 2019 judgment as void for lack of Due Process.

LIST OF PARTIES TO THE PROCEEDING

Petitioner: Philip S. Liddiard, Defendant below, appearing pro se.

Respondent: Bank of America, N.A., a subsidiary of Bank of America Corporation (NYSE: BAC), Plaintiff below.

OPINION BELOW

The decision of the Utah Court of Appeals is unpublished but is reproduced at Appendix A.

JURISDICTION

In the Utah Trial Court, Provo 4th District, the court denied a motion to set aside a judgment as void for lack of Due Process. (Appendix D) The Utah Court of Appeals affirmed summarily (Appendix A) and denied rehearing. (Appendix B) The Utah Supreme Court denied Certiorari without comment on 3/12/2026 (Appendix C) therefore, this Court has jurisdiction under 28 U.S.C. § 1257(a)

CONSTITUTIONAL PROVISIONS

Section 1 of the Fourteenth Amendment of the United States Constitution states:

All persons born or naturalized in the United States, and subject to the jurisdiction thereof, are citizens of the United States and of the State wherein they reside. No State shall make or enforce any law which shall abridge the privileges or immunities of citizens of the United States; nor shall any State 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

The constitution demands, and this Supreme Court has long held- that notice, reasonably calculated, in all circumstances- to notify a party of the pendency of an action, is a prerequisite for the exercise of judicial power.

In a 2019 debt collection case, a Utah trial court entered judgment against the pro-se Petitioner without providing notice that a dispositive ruling was imminent. Weeks prior to the judgment, and after months of delay, the court set the case for its first pretrial conference, signaling that the case remained in its early stages. Yet without warning, and without any intervening hearing or indication that judgment would be considered, the court signed and entered judgment against the petitioner for a debt which had not been substantiated with account level evidence.

The purported notice of this action—a proposed order and notice to submit —was alleged to be mailed from out of state just two days before the judgment was entered.(See Appendix K and E) As a matter of ordinary course, that notice could not be received before the ruling occurred, depriving the Petitioner the right to be heard at a critical stage of the case. No further notice of the judgment was provided, and the Petitioner was notified by the court only that the pre-trial conference was canceled. Critically, the Respondent never served the signed judgment, despite Utah rules requiring prompt service once signed. As a result, petitioner had no knowledge that judgment had been entered and no opportunity to challenge it within the time allowed by law.

Due to the lack of notice the pro se petitioner reasonably assumed the case was dismissed due to lack of notice of further action, (and the lack of evidence provided) and after years of silence from both the court and the Respondent, (as established by the record- see Appendix G) the petitioner discovered the judgment independently- while searching for another case in the State's filing system- and promptly sought relief with a motion to set aside the judgment as void for lack of due process.

The trial court denied the motion as untimely—not because petitioner had actual notice of the judgment, but because it concluded that earlier filings in the case imposed a "duty to monitor the case". In the court's view, the failure to receive notice of a pending action or of the judgment itself was irrelevant, and the court imposed a retroactive duty to monitor in lieu of Utah rules which require that a signed judgment be promptly served on the losing party- Citing Utah Rule 60(c) to state that the delay in filing the motion was not reasonable. (See Appendix F)

The Petitioner protested that "There is no time limit on attacking a judgment as void" which Utah Law clearly supported at the time of the hearing. The court nevertheless denied.

Proceedings in the Court of Appeals:

Petitioner then appealed on the basis that the judgment was void for lack of due process, that the lower court erred in not setting the judgment aside when the record clearly indicated a lack of notice of the action, and circumvention of court rules in multiple instances.

The appellate court issued notice to dispose summarily based on "insufficient questions for appellate review", and asked the parties, in lieu of a brief, to state why or why not the case should be dismissed summarily. (See Appendix I) Only the petitioner responded, stating that due process issues are not appropriate for summary disposition and that the appellate court must correct the errors of the district court- granting full briefing of the voidness issue. (See Appendix H) The court then affirmed summarily based on the appellant "identifies issues but does not reach the necessary argument or legal analysis required for appellate review". (See Appendix A) Petitioner then petitioned for rehearing, stating that the court had misapprehended the response and the gravity of the issue. That voidness and therefore lack of jurisdiction was not a matter appropriate to dismiss procedurally. Rehearing was denied without comment. (See Appendix B)

Proceedings in the Utah Supreme Court:

Petitioner petitioned the Utah Supreme Court to determine whether it was appropriate for an appellate court to affirm summarily without deciding a preserved jurisdictional question: Whether a judgment was void for lack of due process, And asked the case be remanded to the appellate court for proper consideration of its merits. The Utah Supreme Court denied Certiorari without comment. (See Appendix C) The Utah Court of Appeals declined to reach the due process question. The state courts' final judgment therefore rests on the rule applied by the trial court, which this petition now challenges.

This case contains constitutionally concerning elements of how notice is applied to pro se defendants, and how State Courts apply the Due Process Clause where notice is concerned.

REASON FOR GRANTING THE PETITION

Question 1: Whether the Due Process Clause permits a state court to rely on constructive notice from pre-judgment filings as notice of a final judgment, where state procedural rules require notice of a judgment once entered.

Due process under the constitution does not allow a state court to publish a court rule requiring notice and proof of notice of a judgment, and then punish a pro se individual for relying on that rule.

Utah's Rule 58A. Entry of judgment:

(g) Notice of judgment. The party preparing the judgment shall promptly serve a copy of the signed judgment on the other parties in the manner provided in Rule 5 and promptly file proof of service with the court. Except as provided in Rule of Appellate Procedure 4(g), the time for filing a notice of appeal is not affected by this requirement.

Utah Rule 5 requires that ALL filings be served on the other party in a case. And rule 58a(g) imposes an additional "requirement" once a judgment is entered.

While pro se individuals may serve and be served by standard mail, attorneys are required to register in the state's electronic filing system. They are notified of all filings electronically. This was the circumstance at all relevant times in this case.

When a state establishes procedures designed to provide notice and an opportunity to be heard, and then deprives a person of property without following those procedures, due process may be violated.

Certiorari should be granted to answer this underlying question: Can a pro se individual who is not automatically (electronically) notified rely on rules requiring notice, or does the "duty to monitor" supersede any court rule? In this case the trial court stated "you had a duty to monitor the case just like an attorney", but did not account for the disadvantages a pro se individual has in the legal arena. Namely that a pro se individual is not required to register in Utah's electronic filing system, and does not enjoy the legal recourse afforded a represented party- If a parties attorney fails to 'check the docket', the party may sue their attorney to recoup damages caused by the negligence. A pro se party has no similar recourse, therefore in Utah courts, where notice is concerned, a represented party and a pro se party may not be considered equal, and therefore the court's reasoning may be in error- particularly in this case where the attorney was required to provide notice of the judgment, but failed, and it was the opposing pro se party who was punished for that failure. See Armstrong v. Manzo, 380 U.S. 545 (1965)

It should be noted that this Supreme Court has held pro se individuals to less stringent standards than legal professionals. Haines v. Kerner, 404 U.S. 519, 520 (1972)

Beyond this case these circumstances have the potential to create a situation in which an Attorney with nefarious motive has an undue advantage over a pro se individual: They may simply certify that service of a particular filing or judgment occurred, rather than actually serving them-Relying on the pro se individuals ignorance of the filing and certificate to spoil their deadlines in responding- creating a procedural trap to which the pro se individual cannot escape. The pro se individual is left with no recourse- "I did not receive it" will be met with "we sent it", with it being virtually impossible to prove otherwise in either instance. (where the certificate of service simply indicates it was "mailed") (See Appendix K)

Therefore the importance of court safeguards such as Utah's rule 58a(g) which "requires" that a judgment be "promptly" served on the losing party, and "proof" of service filed with the court, is paramount, and compatible with the 14th amendment. In this instance the Utah courts failed to enforce those rules, depriving the Petitioner of due process.

Question 2: Whether the Due Process Clause permits a state court to deny relief as untimely under Rule 60(c) from a judgment alleged to be void for lack of constitutionally sufficient notice, where the absence of notice caused the delay in seeking relief.

This court recently held in Coney Island vs Burton that a void judgment claim must be made within a reasonable time.

Petitioner's claim was within a reasonable time because it was filed within days of Petitioner learning that a judgment existed for the first time.

This court may consider whether the defendant should have known that a judgment existed earlier, and therefore agree with the trial court that "5 years later is not a reasonable time", but the trial court did not consider when Petitioner learned of the judgment as stated in his motion and in the hearing, nor did it consider the fact that the record contained nothing to suggest that Petitioner was notified. Therefore by the standard set in Coney Island, it is reasonable for a party to seek relief for a void judgment even years later if that party was not notified of the judgment. Due process requires notice "reasonably calculated under the circumstances to inform interested parties of a pending action and give them an opportunity to respond" Mullane v. Central Hanover Bank & Trust Co., 339 U.S. 306 (1950)

In Griffin V Griffin this court found that initial service of summons is not always adequate notice of an action: "the 1938 judgment was entered without actual notice to or appearance by petitioner, and without any form of service of process calculated to give him notice of the proceedings," concluding that the omission resulted in "a want of judicial due process , and hence want of that jurisdiction over the person... prerequisite to the rendition of a judgment in personam." Griffin v. Griffin, 327 U.S. 220, 228 (1946).

The parties in Griffin had been engaged in contested divorce and alimony proceedings for over a decade. The petitioner had appeared and actively litigated. Nevertheless, in 1938 a judgment was docketed against him and execution ordered — all ex parte and without any notice to him — reducing years of ongoing disputes to a final monetary judgment.

In this case the court entered judgment 2 days after notice (proposed order and notice to submit) of the pending action was mailed from state to state. If this court relies on this filing as notice of the action, it cannot rely on it as notice of "pendency" of the action because the notice could only possibly occur AFTER the action is complete, depriving Petitioner of the right to be heard at a critical stage of the case.

The court could therefore rely on only the motion to be sufficient for notice of the pending action: But actual notice of the motion is contested, and the court would have to determine whether notice of a motion alone is sufficient where the Respondent delayed 6 months before providing only an affidavit in response to Petitioner's request for accounting- this compounded by the fact that the court signaled that a pre-trial conference would be held in response to the motion for judgment. This gave notice to the Petitioner that 'this case is in its early stages, the court wants to know where the parties stand before trial'.

But instead of holding that hearing, the court entered judgment in a way that deprived Petitioner of notice and a right to be heard.

Utah rules require that a defendant has 7 days to object to the form of a proposed order. See Utah rule 58A(c)(3)(4) Therefore, even by Utah Rules, entering judgment after 2 days instead of 7 would be a circumvention of due process. (No order or notice was given that the time would be shortened)

Utah rules aside, this court should determine if it was even possible or likely for Petitioner to receive actual notice that the posture of the case was changing from "we are just getting started" to "the court may enter judgment any moment." The court should also consider that if the Petitioner had sufficient notice of the proposed order, their response would not have dramatically altered the outcome in the case.

Utah's Rule 60c is patterned after the same federal rule, and mirrors its language. Utah Supreme Court rulings have affirmed that "there is no time limit on attacking a judgment as void". Migliore v. Livingston Fin. LLC, 2015 UT 9, ¶ 24

Review is warranted to clarify whether the due process principle recognized in Coney Island Auto Parts Unlimited, Inc. v. Burton is limited to default judgments, or whether the absence of notice of a final dispositive judgment may likewise render delay reasonable where a litigant appeared in the action but was never served with notice of the judgment and received no notice through enforcement proceedings,

and delays in the case and unclear communication from the court create a circumstance where additional notice is constitutionally mandatory, and whether state rules requiring notice of entry of a judgment must be followed.
In short, is it the duty of a pro se defendant to monitor a case indefinitely? And how frequent is reasonable in a situation that they are not notified electronically or automatically?
And where the court and/or opposing party delay?

If a plaintiff fails to prosecute a case, and later attempts to gain judgment without notice to the party, is the resulting judgment void for lack of notice similar to Griffin?

Question 3. Whether the Due Process Clause permits an appellate court to affirm a judgment without addressing a claim that the judgment is void for lack of Due Process.

In this case the appellate court stated there might be "insufficient questions for appellate review" and signaled it would dispose summarily based on its theory. The court requested a response "in lieu of a brief" as to why or why not it should decide summarily. (See Appendix I)

After the Petitioner's response stating why void judgment issues should not be disposed of summarily, the court summarily affirmed, stating: "appellant identifies questions but does not reach necessary legal argument or analysis for appellate review". (See Appendix H, and A)

In short, the appellate court asked if there was a question for review, denied merits briefing, and then faulted the Petitioner for not fully briefing. This placed the Petitioner in a position where they were unaware of the courts requirements, and therefore created an impossible legal scenario.

The underlying merits issue was therefore never reached: Was the 2019 judgment void for lack of Due Process? And did the trial court err in not setting it aside?

Both the lack of service of the signed judgment and the fact that judgment was entered in a shortened timeline (2 days vs 7) were presented to the appellate court. (See Appendix H) This double circumvention of rules in applying judgment should have been sufficient to garner review, but review was denied procedurally without reaching the question of Due Process. (See Appendix A) The question here is: May a court deny a void judgment challenge procedurally, or must it confront the issue on its merits? Where voidness implicates the court's jurisdiction as it is a "legal nullity" which the court has no power to enforce- its only available action being to vacate it. In Griffin a lack of notice robbed the court of Jurisdiction. Therefore the question of voidness implicates the court's jurisdiction.

This court has long held that Jurisdictional questions must be addressed as a threshold matter before a judgment may be permitted to stand. see Steel Co. v. Citizens for a Better Environment , 523 U.S. 83, 94–95 (1998)

If the 2019 judgment is void for lack of Due Process, then the trial court lacked jurisdiction to uphold it, and the appellate court lacked jurisdiction in not addressing the claim.

What is missing in this case? Any court stating: "the 2019 judgment is not void". Therefore the jurisdiction of any lower court in this case remains unaddressed.

Therefore the Utah Appellate court violated Due Process in not addressing the Petitioner's void judgment concern, and instead disposed of the case procedurally.

CONCLUSION

Petitioner has only requested that he have an opportunity to be heard concerning the merits of this case. The trial court denied that opportunity when it circumvented its own rules, and entered judgment prematurely and without notice, and the Respondent invalidated that judgment when it denied the Petitioner notice of its entry. The appellate court denied the opportunity to be heard on appeal without reaching the merits of the case, and the Utah Supreme Court refused to review.

Petitioner therefore respectfully requests that the protections of the 14th amendment be implemented, that the Utah Courts be required to follow Due Process when entering a judgment that deprives an individual of property and attendant liberty interest. That this court grant certiorari, vacate the judgment below, and remand for further proceedings.

The writ of Certiorari should be granted.

Respectfully submitted this 8th day of June, 2026. Philip S Liddiard, Petitioner- Pro se

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