United States Court of Appeals

for the Fourth Circuit

1100 East Main Street, Suite 501, Richmond, VA 23219

APPEAL NO. 19-2338
USA v. Hill

EMERGENCY MOTION
TO STAY EXECUTION OF JUDGMENT OF THE DISTRICT COURT PENDING WRIT OF MANDAMUS APPEAL OR IN ALTERNATIVE TO STAY EXECUTION OF IMPRISONMENT PENDING WRIT OF MANDAMUS APPEAL

Writ of Mandamus Appellant Brian David Hill ("Brian", "Hill") files this Emergency Motion to stay execution of judgment of the District Court's decision/order under Document #200. This is in regards to the case no. 1:13-cr-435-1, Middle District of North Carolina, U.S. District Court. This emergency stay motion is for the Writ of Mandamus appeal case. Here are the following good reasons why relief is warranted and should be granted:

1. Appellant had filed a Writ of Mandamus Petition by Express Mail and was successfully delivered to the Clerk's office on November 22, 2019. Petitioner's basis for the Writ of mandamus is that there is proven fraud upon the court, the U.S. Attorney Office has not responded to any allegations of fraud upon the Court in different various Documents. The U.S. Attorney did not oppose Document #199, "*MOTION entitled "Motion for*

Sanctions and to Vacate Judgment in Plaintiff's/Respondent's Favor" "Motion and Brief/Memorandum of Law in Support of Requesting the Honorable Court in this case Vacate Fraudulent Begotten Judgment or Judgments" filed by BRIAN DAVID HILL. Response to Motion due by 10/25/2019. (Attachments: # (1) Supplement 1, # (2) Supplement 2, # (3) Exhibit 1, # (4) Exhibit 2, # (5) Envelope - Front and Back) (Civil Case number: 17CV1036) (Garland, Leah)". The U.S. Attorney did not oppose Document #206, "*MOTION entitled "Petitioner's Second Motion for Sanctions and to Vacate Judgment that was in Plaintiff's/Respondent's Favor; Motion and Brief/Memorandum of Law in support of Requesting the Honorable Court in this case Vacate Fraudulent begotten Judgment or Judgments" filed by BRIAN DAVID HILL. Response to Motion due by 11/5/2019. (Attachments: # (1) Exhibit 1, # (2) Exhibit 2, # (3) Supplement 1, # (4) Supplement 2, # (5) Supplement 3, # (6) Supplement 4, # (7) Envelope - Front and Back) (Garland, Leah)*". The U.S. Attorney Office did not respond to and neither opposed Document #213, "*Objection by BRIAN DAVID HILL re[210] Recommended Ruling - Magistrate Judge re [168] MOTION filed by BRIAN DAVID HILL, [153] MOTION to Appoint Attorney filed by BRIAN DAVID HILL, [141] MOTION to Dismiss Motion to Vacate, Set Aside, or Correct Sen (Attachments: # (1) Envelope - Front and*

Back)(Butler, Carol)". Document #213 also had allegations of fraud upon the court against the party: the United States of America, through its counsel Anand Prakash Ramaswamy. The Dkt. #206 allegations were that the "Petition for Warrant or Summons for Offender Under Supervision" Dkt. #157 was based upon fraud upon the court and asking to vacate the petition and vacate any fraudulent begotten judgments thereafter. When a petition charging Appellant Hill with a Supervised Release Violation is found to be grounded on false information which is fraud upon the court, it possibly voids the Judgment and Commitment Order under Document #200.

2. The U.S. District Court may not have had jurisdiction to have even filed that Judgment and Commitment Order under Document #200. Due process was not given to Appellant Hill as Appellant Hill and the Court was a victim of fraud upon the court. Frauds affect the integrity of the judicial machinery and cause blatant miscarriages of justice. When an order was procured by fraud, that order can be nullified, it was a nullity from the beginning, and it should be a voidable judgment if not already void.
3. The U.S. Attorney did not object or filed an opposition to Motion to vacate fraudulent begotten judgment under Document #206, which is regarding the very petition that even started the Document #157 Supervised Release Violation charge against Appellant Hill. The very foundation for Document

#200 was grounded in fraud, which means the Document #200 was grounded in fraud and was not under a valid jurisdiction. Also the Appellant Hill was given 9 months of imprisonment with Document #122 (first Supervised Release Violation) also being taken into consideration against Appellant Hill in favor of the United States Attorney's recommendation for maximum imprisonment. However the U.S. Attorney also did not file any objection nor opposition to the Document #199 Motion to vacate fraudulent begotten judgment which would be Document #122. With no opposition filing, the allegations in Document #199 were shown as fact, as true, and such facts warrant vacatur of the fraudulent begotten judgment of Document #122. Document #122 the first Supervised Release Violation judgment against Brian David Hill the Appellant was also grounded in fraud. That also gives more weight to the fraudulent begotten judgment under Document #200 and thus Appellant should be entitled to stay, to quick relief, to prevent the wrongful imprisonment of an innocent man who was victim of the frauds upon the court.

4. The District Court issued a Judgment dated October 4, 2019 which was filed on October 7, 2019 ordering the Appellant (Hill) to "surrender to the United States Marshal for the Middle District of North Carolina or to the institution

designated by the Bureau of Prisons by 12:00 p.m. on December 6, 2019." Doc 200 at page 2.

5. Appellant previously had filed a motion for stay in the District Court (See District Court Docket No. 192, 1:13-cr-435 M.D. North Carolina, filed September 18, 2019) and "DECLARATION of BRIAN DAVID HILL re: [192] Motion to Stay for stay of judgment pending appeal and its supporting memorandum of law - emergency motion" (See District Court Docket No. 193, 1:13-cr-435 M.D. North Carolina filed September 18, 2019), but the District Court denied that motion based on the motion having been filed pro se while having appointed counsel. (See District Court Docket No. 198, 1:13-cr-435 M.D. North Carolina filed October 4, 2019).
6. Filing the emergency motion for stay in the District Court is impractical since they have permitted the frauds against party: Brian David Hill, and the Court as well as Brian's District Court counsel Renorda Pryor have not done anything to relieve Brian of his imprisonment despite the fraud allegations in Dkt. #199, Dkt. #213, and Dkt. #206 not being objected to. The District Court should not have hesitated to grant Brian relief or reverse the conviction or remedy the judgment to reflect the proven facts of fraud upon the court perpetuated by the party: United States of America.

7. Brian's appellate counsel E. Ryan Kennedy is effective and had attempted to file an "EMERGENCY MOTION FOR STAY OF IMPRISONMENT PENDING APPEAL" on USCA4 Appeal case no.: 19-4758, Doc. #13, Filed: 11/08/2019. However Anand Prakash Ramaswamy had opposed the motion for stay and also stated one or more lies in his response. Attorney Kennedy was unable to respond before that motion was denied. So U.S. Attorney Assistant Ramaswamy's lies were exposed in Brian's Third Motion for Sanctions in regards to Fraud upon the Court. See Document #222, "MOTION entitled "Petitioner's third Motion for Sanctions, Motion for Default Judgment in 2255 case and to Vacate Judgment that was in Plaintiff/Respondent's favor" filed by BRIAN DAVID HILL.". Ramaswamy's frauds and lies had tainted the "Motion for stay of imprisonment pending appeal" to be doomed for failure in the Court of Appeals. The U.S. District Court is not doing anything to vacate the frauds. They are not holding any hearings to hold Ramaswamy accountable for his frauds upon the court. Again, it seems that Brian is not given any relief in the District Court even when the U.S. Attorney files no opposition pleading to Brian's multiple motions for sanctions for fraud upon the court. Attorney Kennedy may not be able to bring up the frauds because his arguments are limited on appeal to what was on the record prior to the Judgment and

Commitment Order. Document #206 is after the Judgment and Commitment Order. Attorney Kennedy is unable to present the arguments of fraud by the adverse party and lack of jurisdiction for stay of imprisonment as the frauds were documented and given the adverse party an opportunity to respond after the Judgment and Commitment Order (Dkt. #200), though he is effective counsel and should remain in the case. Attorney Kennedy is just unable to attain that relief in that appeal due to the record at the time the Judgment was entered. However the Writ of Mandamus appeal case encompasses all Fraud upon the Court motions. So the Writ of Mandamus appeal is the appropriate vehicle to request stay of judgment or even stay of imprisonment pending Appellant's Writ of Mandamus appeal.

8. Appellant (Hill) is likely to prevail on this appeal as a matter of case law authorities and there is likelihood of irreparable harm to Appellant (Hill) without a stay of the judgment (Doc 200) because of the judgment (Doc 200) possibly interfering with Appellant's state Writ of Habeas Corpus petition that was timely filed and timely appealed to the Court of Appeals of Virginia. Conversely, there is no irreparable harm to Appellee in staying execution of the judgment, as, by its own terms, was already set out into the future for its execution and; if the judgment is proper, can still be executed in full after delaying its execution during the pendency of this appeal.

9. Brian has brittle type 1 Diabetes, Autism Spectrum Disorder, Obsessive Compulsive Disorder, Generalized Anxiety Disorder, and carpel tunnel syndrome. All documented within the records in the District Court. Brian also has a medical caretaker under Consumer Direct paid for by Medicaid. Brian requires around-the-clock medical care and should be at home in the environment of his loving mother and medical caretaker Roberta Hill, not a jail cell. Appellant Hill had already served 6 or 7 months of imprisonment prior to being released on Federal Bond conditions. The imprisonment is unnecessary and would be for a short period of time, but the imprisonment is all of the way at FMC Lexington, Kentucky which is 6-7 hours away from home, away from his loving family. Brian will be having to self-report there during the cold and possibly wintery snow type conditions which is ridiculous. Brian has more than proven frauds upon the Court and deserves a reprieve by the Court of Appeals if not by the U.S. District Court.

WHEREFORE, Appellant requests a stay of execution of the judgment (Doc 200);

WHEREFORE, Appellant requests that the modification of the Bond conditions (supervised release conditions) as ordered from September 12, 2019 and written into Doc 200 be stayed of execution pending appeal;

WHEREFORE, Appellant requests any other relief that the Court deems necessary and proper.

Case law authorities in support thereto of U.S. District Court lacking jurisdiction to order imprisonment when order grounded on fraud:

"Once jurisdiction is challenged, the court cannot proceed when it clearly appears that the court lacks jurisdiction, the court has no authority to reach merits, but, rather, should dismiss the action." Melo v. US, 505 F2d 1026.

A judgment rendered by a court without personal jurisdiction over the defendant is void. It is a nullity. [A judgment shown to be void for lack of personal service on the defendant is a nullity.] Sramek v. Sramek, 17 Kan. App. 2d 573, 576-77, 840 P.2d 553 (1992), rev. denied 252 Kan. 1093 (1993).

"Court must prove on the record, all jurisdiction facts related to the jurisdiction asserted." Latana v. Hopper, 102 F. 2d 188; Chicago v. New York, 37 F Supp. 150.

"The law provides that once State and Federal Jurisdiction has been challenged, it must be proven." Main v. Thiboutot, 100 S. Ct. 2502 (1980).

"Jurisdiction can be challenged at any time." and "Jurisdiction, once challenged, cannot be assumed and must be decided." Basso v. Utah Power & Light Co., 495 F 2d 906, 910.

"Defense of lack of jurisdiction over the subject matter may be raised at any time, even on appeal." Hill Top Developers v. Holiday Pines Service Corp., 478 So. 2d. 368 (Fla 2nd DCA 1985)

"Once challenged, jurisdiction cannot be assumed, it must be proved to exist." Stuck v. Medical Examiners, 94 Ca 2d 751. 211 P2d 389.

"There is no discretion to ignore that lack of jurisdiction." Joyce v. US, 474 F2d 215.

"The burden shifts to the court to prove jurisdiction." Rosemond v. Lambert, 469 F2d 416.

"A universal principle as old as the law is that a proceedings of a court without jurisdiction are a nullity and its judgment therein without effect either on person or property." Norwood v. Renfield, 34 C 329; Ex parte Giambonini, 49 P. 732.

"Thus, where a judicial tribunal has no jurisdiction of the subject matter on which it assumes to act, its proceedings are absolutely void in the fullest sense of the term." Dillon v. Dillon, 187 P 27.

"A departure by a court from those recognized and established requirements of law, however close apparent adherence to mere form in method of procedure, which has the effect of depriving one of a constitutional right, is an excess of jurisdiction." Wuest v. Wuest, 127 P2d 934, 937.

"Where a court failed to observe safeguards, it amounts to denial of due process of law, court is deprived of juris." Merritt v. Hunter, C.A. Kansas 170 F2d 739.

Read US v. Lopez and Hagans v. Levine both void because of lack of jurisdiction. In Lopez the circuit court called it right, and in Hagans it had to go to the Supreme court before it was called right, in both cases, void.

Challenge jurisdiction and motion to dismiss, right off the bat. If you read the Supreme Court cases you will find that jurisdiction can be challenged at any time and in the case of Lopez it was a jury trial which was declared void for want of jurisdiction. If it [jurisdiction] doesn't exist, it can not justify conviction or judgment. …without which power (jurisdiction) the state CANNOT be said to be "sovereign." At best, to proceed would be in "excess" of jurisdiction which is as well fatal to the State's/ USA's cause. Broom v. Douglas, 75 Ala 268, 57 So 860 the same being jurisdictional facts FATAL to the government's cause (e.g. see In re FNB, 152 F 64).

A claim for relief from judgment on basis of "any other reason justifying relief from operation of the judgment" is cognizable where there is evidence of extraordinary circumstances or where there is evidence of extreme hardship or injustice, and, once extraordinary circumstances or hardship is found, this rule is to be liberally applied to accomplish justice. U. S. v. McDonald, N.D.Ill.1980, 86 F.R.D. 204.

Attorney's motion for reconsideration on ground that court lacked jurisdiction to order him to pay court reporter could be entertained under rule governing relief from judgment and was not subject to time constraints of rule governing motion to amend judgment. U.S. v. 789 Cases of Latex Surgeon Gloves, C.A.1 (Puerto Rico) 1993, 13 F.3d 12

Void judgments are those rendered by a court which lacked jurisdiction, either of the subject matter or the parties, *Wahl v. Round Valley Bank* 38 Ariz. 411, 300 P. 955 (1931); *Tube City Mining & Milling Co. v. Otterson,* 16 Ariz. 305, 146 P. 203 (1914); and *Milliken v. Meyer,* 311 U.S. 457, 61 S.Ct. 339, 85 L.Ed. 2d 278 (1940).

A void judgment which includes judgment entered by a court which lacks jurisdiction over the parties or the subject matter, or lacks inherent power to enter the particular judgment, or an order procured by fraud, can be attacked *at any time,* in any court, either directly or collaterally, provided that the party is properly before the court, *Long v. Shorebank Development Corp.,* 182 F.3d 548 (C.A. 7 Ill. 1999).

A void judgment is one which from the beginning was complete nullity and without any legal effect, *Hobbs v. U.S. Office of Personnel Management,* 485 F.Supp. 456 (M.D. Fla. 1980). Void judgment is one that, from its inception, is complete nullity and without legal effect, *Holstein v. City of Chicago,* 803 F.Supp. 205, reconsideration denied 149 F.R.D. 147, affirmed 29 F.3d 1145 (N.D. Ill 1992).

Void judgment is one where court lacked personal or subject matter jurisdiction or entry of order violated due process, U.S.C.A. Const. Amend. 5 – *Triad Energy Corp. v. McNell* 110 F.R.D. 382 (S.D.N.Y. 1986).

Judgment is a void judgment if court that rendered judgment lacked jurisdiction of the subject matter, or of the parties, or acted in a manner inconsistent with due process, Fed. Rules Civ. Proc., *Rule 60(b)(4),* 28 U.S.C.A.; U.S.C.A. Const. Amend. 5 – *Klugh v. U.S.,* 620 F.Supp. 892 (D.S.C. 1985).

A void judgment is one which, from its inception, was, was a complete nullity and without legal effect, *Rubin v. Johns,* 109 F.R.D. 174 (D. Virgin Islands 1985).

A void judgment is one which, from its inception, was a complete nullity and without legal effect, *Lubben v. Selevtive Service System Local Bd. No. 27,* 453 F.2d 645, 14 A.L.R. Fed. 298 (C.A. 1 Mass. 1972).

A void judgment is one which, from its inception, is and forever continues to be absolutely null, without legal efficacy, ineffectual to bind the parties or to support a right, of no legal force and effect whatever, and incapable of enforcement in any manner or to any degree – *Loyd v. Director, Dept. of Public Safety,* 480 So. 2d 577 (Ala. Civ. App. 1985).

A judgment shown by evidence to be invalid for want of jurisdiction is a void judgment or at all events has all attributes of a void judgment, *City of Los Angeles v. Morgan,* 234 P.2d 319 (Cal.App. 2 Dist. 1951). Void judgment which is subject to collateral attack, is simulated judgment devoid of any potency because of jurisdictional defects, *Ward v. Terriere,* 386 P.2d 352 (Colo. 1963).

A void judgment is a simulated judgment devoid of any potency because of jurisdictional defects only, in the court rendering it and defect of jurisdiction may relate to a party or parties, the subject matter, the cause of action, the question to be determined, or relief to be granted, *Davidson Chevrolet, Inc. v. City and County of Denver,* 330 P.2d 1116, certiorari denied 79 S.Ct. 609, 359 U.S. 926, 3 L.Ed. 2d 629 (Colo. 1958).

Void judgment is one entered by court without jurisdiction of parties or subject matter or that lacks inherent power to make or enter particular order involved and such a judgment *may be attacked at any time,* either directly or collaterally,

People v. Wade, 506 N.W.2d 954 (Ill. 1987). Void judgment may be defined as one in which rendering court lacked subject matter jurisdiction, lacked personal jurisdiction or acted in manner inconsistent with due process of law *Eckel v. MacNeal,* 628 N.E. 2d 741 (Ill. App. Dist. 1993).

Void judgment is one entered by court without jurisdiction of parties or subject matter or that lacks inherent power to make or enter particular order involved; *such judgment may be attacked at any time, either directly or collaterally*

People v. Sales, 551 N.E.2d 1359 (Ill.App. 2 Dist. 1990). *Res judicata* consequences will not be applied to a void judgment which is one which,

from its inception, is a complete nullity and without legal effect, *Allcock v. Allcock* 437 N.E. 2d 392 (Ill. App. 3 Dist. 1982).

Void judgment is one which, from its inception is complete nullity and without legal effect *In re Marriage of Parks,* 630 N.E. 2d 509 (Ill.App. 5 Dist. 1994). Void judgment is one entered by court that lacks the inherent power to make or enter the particular order involved, and it may be attacked at any time, either directly or collaterally; such a judgment would be a nullity *People v. Rolland* 581 N.E.2d 907, (Ill.App. 4 Dist. 1991).

Void judgment under federal law is one in which rendering court lacked subject matter jurisdiction over dispute or jurisdiction over parties, or acted in manner inconsistent with due process of law or otherwise acted unconstitutionally in entering judgment, U.S.C.A. Const. Amed. 5, *Hays v. Louisiana Dock Co., 452 n.e.2D* 1383 (Ill. App. 5 Dist. 1983).

A void judgment has no effect whatsoever and is incapable of confirmation or ratification, *Lucas v. Estate of Stavos,* 609 N. E. 2d 1114, rehearing denied, and transfer denied (Ind. App. 1 dist. 1993).

Void judgment is one that from its inception is a complete nullity and without legal effect *Stidham V. Whelchel,* 698 N.E.2d 1152 (Ind. 1998).

Relief from void judgment is available when trial court lacked either personal or subject matter jurisdiction, *Dusenberry v. Dusenberry,* 625 N.E. 2d 458 (Ind.App. 1 Dist. 1993).

Void judgment is one rendered by court which lacked personal or subject matter jurisdiction or acted in manner inconsistent with due process, U.S.C.A. Const. Amends. 5, 14 *Matter of Marriage of Hampshire,* 869 P.2d 58 (Kan. 1997).

Judgment is void if court that rendered it lacked personal or subject matter jurisdiction; void judgment is nullity and may be vacated at any time, *Matter of Marriage of Welliver,* 869 P.2d 653 (Kan. 1994).

A void judgment is one rendered by a court which lacked personal or subject matter jurisdiction or acted in a manner inconsistent with due process *In re Estate of Wells,* 983 P.2d 279, (Kan. App. 1999).

Void judgment is one rendered in absence of jurisdiction over subject matter or parties 310 N.W. 2d 502, (Minn. 1981). A void judgment is one rendered in absence of jurisdiction over subject matter or parties, *Lange v. Johnson,* 204 N.W.2d 205 (Minn. 1973).

A void judgment is one which has merely semblance, without some essential element, as when court purporting to render is has no jurisdiction, *Mills v. Richardson,* 81 S.E. 2d 409, (N.C. 1954).

A void judgment is one which has a mere semblance, but is lacking in some of the essential elements which would authorize the court to proceed to judgment, *Henderson v. Henderson,* 59 S.E. 2d 227, (N.C. 1950).

Void judgment is one entered by court without jurisdiction to enter such judgment, *State v. Blankenship* 675 N.E. 2d 1303, (Ohio App. 9 Dist. 1996).

Void judgment, such as may be *vacated at any time* is one whose invalidity appears on face of judgment roll, *Graff v. Kelly,* 814 P.2d 489 (Okl. 1991). A void judgment is one that is void on face of judgment roll, *Capital Federal Savings Bank v. Bewley,* 795 P.2d 1051 (Okl. 1990).

Where condition of bail bond was that defendant would appear at present term of court, judgment forfeiting bond for defendant's bail to appear at subsequent term was a void judgment within rule that *laches does not run against a void judgment Com. V. Miller,* 150 A.2d 585 (Pa. Super. 1959).

A void judgment is one which shows upon face of record a want of jurisdiction in court assuming to render the judgment, *Underwood v. Brown,* 244 S.W. 2d 168 (Tenn. 1951).

A Void judgment is one which shows upon face of record want of jurisdiction in court assuming to render judgment, and want of jurisdiction may be either of person, subject matter generally, particular question to be decided or relief assumed to be given, *State ex rel. Dawson v. Bomar,* 354 S.W. 2d 763, certiorari denied, (Tenn. 1962).

A void judgment is one in which the judgment is facially invalid because the court lacked jurisdiction or authority to render the judgment, *State v. Richie,* 20 S.W.3d 624 (Tenn. 2000).

Void judgment is one which has no legal force or effect whatever, it is an absolute nullity, its invalidity may be asserted by any person whose rights are affected at any time and at any place and it need not be attacked directly but may be attacked collaterally whenever and wherever it is interposed, *City of Lufkin v. McVicker,* 510 S.W. 2d 141 (Tex. Civ. App. – Beaumont 1973).

A void judgment, insofar as it purports to be pronouncement of court, is an absolute nullity, *Thompson v. Thompson,* 238 S.W.2d 218 (Tex.Civ.App. – Waco 1951).

A void judgment is one that has been procured by extrinsic or collateral fraud or entered by a court that did not have jurisdiction over the subject matter or the parties." Rook v. Rook, 233 Va. 92, 95, 353 S.E.2d 756, 758 (1987)

A void judgment is a judgment, decree, or order entered by a court which lacks jurisdiction of the parties or of the subject matter, or which lacks the inherent power to make or enter the particular order involved, *State ex rel. Turner v. Briggs*, 971 P.2d 581 (Wash. App. Div. 1999).

A void judgment or order is one that is entered by a court lacking jurisdiction over the parties or the subject matter, or lacking the inherent power to enter the particular order or judgment, or where the order was procured by fraud, *In re Adoption of E.L.,* 733 N.E.2d 846, (Ill.App. 1 Dist. 2000). Void judgments are those rendered by court which lacked jurisdiction, either of subject matter or parties, *Cockerham v. Zikratch,* 619 P.2d 739 (Ariz. 1980).

Void judgments generally fall into two classifications, that is, judgments where there is want of jurisdiction of person or subject matter, and judgments procured through fraud, and such judgments may be attacked directly or collaterally, *Irving v. Rodriquez,* 169 N.E.2d 145, (Ill.app. 2 Dist. 1960). Invalidity need to appear on face of judgment alone that judgment or order may be said to be intrinsically void or void on its face, if lack of jurisdiction appears from the record, *Crockett Oil Co. v. Effie,* 374 S.W.2d 154 (Mo.App. 1964).

Decision is void on the face of the judgment roll when from four corners of that roll, it may be determined that at least one of three elements of jurisdiction was absent: (1) jurisdiction over parties, (2) jurisdiction over subject matter, or (3) jurisdictional power to pronounce particular judgment that was rendered, *B & C Investments, Inc. v. F & M Nat. Bank & Trust,* 903 P.2d 339 (Okla. App. Div. 3, 1995). Void order may be attacked, either directly or collaterally, *at any time*, *In re Estate of Steinfield*, 630 N.E.2d 801, certiorari denied, See also *Steinfeld v. Hoddick*, 513 U.S. 809, (Ill. 1994).

Void order which is one entered by court which lacks jurisdiction over parties or subject matter, or lacks inherent power to enter judgment, or order procured by fraud, can be attacked at any time, in any court, either directly or collaterally, provided that party is properly before court, *People ex rel. Brzica v. Village of Lake Barrington,* 644 N.E.2d 66 (Ill.App. 2 Dist. 1994).

While voidable orders are readily appealable and must be attacked directly, void order may be circumvented by collateral attack or remedied by mandamus, *Sanchez v. Hester,* 911 S.W.2d 173, (Tex.App. – Corpus Christi 1995). Arizona courts give great weight to federal courts' interpretations of Federal Rule of Civil Procedure governing motion for relief from judgment in interpreting identical text of Arizona Rule of Civil Procedure, *Estate of Page v. Litzenburg,* 852 P.2d 128, review denied (Ariz.App. Div. 1, 1998).

When rule providing for relief from void judgments is applicable, relief is not discretionary matter, but is mandatory, *Orner v. Shalala,* 30 F.3d 1307, (Colo. 1994).

Judgments entered where court lacked either subject matter or personal jurisdiction, or that were otherwise entered in violation of due process of law, must be set aside, *Jaffe and Asher v. Van Brunt,* S.D.N.Y.1994. 158 F.R.D. 278.

A "void" judgment as we all know, grounds no rights, forms no defense to actions taken thereunder, and is vulnerable to any manner of collateral attack (thus here, by).

No statute of limitations or repose runs on its holdings, the matters thought to be settled thereby are not res judicata, and years later, when the memories may have

grown dim and rights long been regarded as vested, any disgruntled litigant may reopen the old wound and once more probe its depths. And it is then as though trial and adjudication had never been. 10/13/58 *FRITTS v. KRUGH*. SUPREME COURT OF MICHIGAN, 92 N.W.2d 604, 354 Mich. 97.

On certiorari this Court may not review questions of fact. *Brown v. Blanchard*, 39 Mich 790. It is not at liberty to determine disputed facts (*Hyde v. Nelson*, 11 Mich 353), nor to review the weight of the evidence. *Linn v. Roberts*, 15 Mich 443; *Lynch v. People*, 16 Mich 472. *Certiorari is an appropriate remedy to get rid of [({a void judgment one which there is no evidence to sustain.})] Lake Shore & Michigan Southern Railway Co. v. Hunt*, 39 Mich 469.

In *Stoesel v. American Home,* 362 Sel. 350, and 199 N.E. 798 (1935), the court ruled and determined that, "Under Illinois Law and Federal Law, when any officer of the Court has committed "fraud on the Court", the order and judgment of that court are void and of no legal force and effect." In *Sparks v. Duval County Ranch,* 604 F.2d 976 (1979), the court ruled and determined that, "No immunity exists for co-conspirators of judge. There is no derivative immunity for extra-judicial actions of fraud, deceit and collusion." In E*dwards v. Wiley,* 374 P.2d 284, the court ruled and determined that, "Judicial officers are not liable for erroneous exercise of judicial powers vested in them, but they are not immune from liability when they act wholly in excess of jurisdiction." See also, *Vickery v. Dunnivan,* 279 P.2d 853, (1955). In *Beall v. Reidy,* 457 P.2d 376, the court ruled and determined, "Except by consent of all parties a judge is disqualified to sit in trial of a case if he comes within any of the grounds of disqualification named in the Constitution. In *Taylor v. O'Grady,* 888 F.2d 1189, 7th Cir. (1989), the circuit ruled, "Further, the judge has a legal duty to disqualify, even if there is no motion asking for his disqualification." Also, when a lower court has no jurisdiction to enter judgment, the question of jurisdiction may be raised for the first time on appeal. See *DeBaca v. Wilcox,* 68 P. 922. The right to a tribunal free from bias and prejudice is based on the Due Process Clause. Should a judge issue any order after he has been disqualified by law, and if the party has been denied of any of his/her property, then the judge has engaged in the crime of interference with interstate commerce; the judge has acted in his/her personal capacity and not in the judge's judicial capacity. See *U.S. v. Scinto,* 521 F.2d 842 at page 845, 7th circuit, 1996. Party can attack subject matter jurisdiction at anytime in the proceeding,

even raising jurisdiction for the first time on appeal, *State v. Begay,* 734 P.2d 278. "A prejudiced, biased judge who tries a case deprives a party adversely affected of due process." See *Nelson v. Cox,* 66 N.M. 397.

Document #200 attached as exhibit.

Respectfully submitted, this the 25th day of November, 2019.

Respectfully submitted,

Brian D. Hill
signed

Signed
Brian D. Hill (Pro Se)
310 Forest Street, Apartment 1
Martinsville, Virginia 24112
Phone #: (276) 790-3505

U.S.W.G.O.

Former U.S.W.G.O. Alternative News reporter
I stand with QANON/Donald-Trump – Drain the Swamp
I ask Qanon and Donald John Trump for Help (S.O.S.)
Make America Great Again
Stan's blog: JusticeForUSWGO.wordpress.com

UNITED STATES COURT OF APPEALS FOR THE FOURTH CIRCUIT
Effective 12/01/2016

No. 19-2338 **Caption:** In re: Brian Hill

CERTIFICATE OF COMPLIANCE WITH TYPE-VOLUME LIMIT

Type-Volume Limit, Typeface Requirements, and Type-Style Requirements

Type-Volume Limit for Briefs: Appellant's Opening Brief, Appellee's Response Brief, and Appellant's Response/Reply Brief may not exceed 13,000 words or 1,300 lines. Appellee's Opening/Response Brief may not exceed 15,300 words or 1,500 lines. A Reply or Amicus Brief may not exceed 6,500 words or 650 lines. Amicus Brief in support of an Opening/Response Brief may not exceed 7,650 words. Amicus Brief filed during consideration of petition for rehearing may not exceed 2,600 words. Counsel may rely on the word or line count of the word processing program used to prepare the document. The word-processing program must be set to include headings, footnotes, and quotes in the count. Line count is used only with monospaced type. See Fed. R. App. P. 28.1(e), 29(a)(5), 32(a)(7)(B) & 32(f).

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(s) Brian D. Hill signed

Party Name Brian David Hill

Dated: 11/25/2019

For: EMERGENCY MOTION TO STAY EXECUTION OF JUDGMENT OF THE DISTRICT COURT PENDING WRIT OF MANDAMUS APPEAL OR IN ALTERNATIVE TO STAY EXECUTION OF IMPRISONMENT PENDING WRIT OF MANDAMUS APPEAL

CERTIFICATE OF SERVICE

Appellant hereby certifies that on November 25, 2019, service was made by mailing the original of the foregoing:

"EMERGENCY MOTION TO STAY EXECUTION OF JUDGMENT OF THE DISTRICT COURT PENDING WRIT OF MANDAMUS APPEAL OR IN ALTERNATIVE TO STAY EXECUTION OF IMPRISONMENT PENDING WRIT OF MANDAMUS APPEAL"

by deposit in the United States Post Office, in an envelope (Priority Mail Express), Postage prepaid, on November 25, 2019 addressed to the Clerk of the Court in the United States Court of Appeals for the Fourth Circuit, 1100 East Main Street, Suite 501, Richmond, VA 23219.

Then pursuant to 28 U.S.C. §1915(d), Appellant requests that the Clerk of the Court move to electronically file the foregoing using the CM/ECF system which will send notification of such filing to the following parties to be served in this action:

Anand Prakash Ramaswamy U.S. Attorney Office 101 South Edgeworth Street, 4th Floor, Greensboro, NC 27401 Anand.Ramaswamy@usdoj.gov	Angela Hewlett Miller U.S. Attorney Office 101 South Edgeworth Street, 4th Floor, Greensboro, NC 27401 angela.miller@usdoj.gov
JOHN M. ALSUP U.S. Attorney Office 101 South Edgeworth Street, 4th Floor, Greensboro, NC 27401 john.alsup@usdoj.gov	

This is pursuant to Petitioner's "In forma Pauperis" ("IFP") status, 28 U.S.C. §1915(d) that "The officers of the court shall issue and serve all process, and perform all duties in such cases ... "the Clerk shall serve process via CM/ECF to serve process with all parties.

Date of signing:	Respectfully submitted,
November 25, 2019	Brian D. Hill Signed Signed Brian D. Hill (Pro Se) 310 Forest Street, Apartment 1 Martinsville, Virginia 24112 Phone #: (276) 790-3505 U.S.W.G.O. I stand with QANON/Donald-Trump – Drain the Swamp I ask Qanon and Donald John Trump for Assistance (S.O.S.) Make America Great Again JusticeForUSWGO.wordpress.com

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