Syllabus

NOTE: Where it is feasible, a syllabus (headnote) will be released, as is being done in connection with this case, at the time the opinion is issued. The syllabus constitutes no part of the opinion of the Court but has been prepared by the Reporter of Decisions for the convenience of the reader. See *United States* v. *Detroit Timber & Lumber Co.*, 200 U. S. 321, 337.

APPELLATE DIVISION OF THE BROADVIEW COUNTY COURT

Syllabus

IN RE OBAGMNA

ON WRIT OF QUO WARRANTO

No. 23-07. Decided July 16, 2023

On May 20, 2023 Respondent obagmna was appointed by Chief Judge NorthernEnforced of the Trial Division to serve a four-month term as a magistrate judge of the Broadview County Court. On June 14, 2023, the State of Florida, by and through the State Attorney for the Sixteenth Judicial District, submitted a petition for a writ of quo warranto to this court. The State challenges Respondent's right to hold his office under Code 304.3 of the Broadview County Code of Ordinances. This ordinance reads that: "The judges of each court shall appoint magistrate judges in such numbers as may be prescribed by that court's local rules. Each appointment shall extend to no more than four months and, whether original appointment or reappointment, shall be by the concurrence of a majority of all the judges of such court and, where there exists no such concurrence, then by the chief judge." Broadview County Code of Ordinances, 304.3.

On June 14, we agreed to hear the petition.

Held: Code 304.3 is unconstitutional under the Broadview County Charter and, therefore, Respondent obagmna unlawfully holds office. Pp. 2-6.

(a) Before turning to the merits, we must assure ourselves of our jurisdiction. See *Summers* v. *Earth Island Institute,* 555 U. S. 488, 499. This court has the power to "issue any writs, warrants, and orders to carry out their powers." County Charter § 402. Put in other words, this Court has the power to issue writs in aid of its appellate jurisdiction. This language mirrors the federal All Writs Act, 28 U.S.C. § 1651(a). Thus, Given the parallels between both provisions, we can turn to federal case law to guide our interpretation of relative issues. "While the All Writs

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Act authorizes employment of extraordinary writs, it confines the authority to the issuance of process 'in aid of' the issuing court's jurisdiction.... [T]he Act does not enlarge that jurisdiction." *Clinton* v. *Goldsmith*, 526 U.S. 529, 534–35. Our ability to issue writs "extends to the potential jurisdiction of the appellate court where an appeal is not then pending but may be later perfected." *F.T.C.* v. *Dean Foods Co.,* 384 U. S. 597, 603.

A parallel may be drawn between quo warranto and mandamus on this question of jurisdiction. "The traditional use of the writ [of mandamus] in aid of appellate jurisdiction both at common law and in the federal courts has been to confine [the court against which mandamus is sought] to a lawful exercise of its prescribed jurisdiction." *Cheney* v. *United States Dist. Court for D. C.*, 542 U. S. 367, 380. In *McClean* v. *Carland*, the Supreme Court held "we think it the true rule that where a case is within the appellate jurisdiction of the higher court, a writ of mandamus may issue in aid of the appellate jurisdiction which might otherwise be defeated by the unauthorized action of the court below." *McClean* v. *Carland*, 217 U. S. 268, 280.

Petitioner's claim is necessary to protect and aid our appellate jurisdiction.We have jurisdiction to hear Petitioner's petition in order to "confine the [Trial Division] to a lawful exercise of its prescribed jurisdiction" and to "protect [the Appellate Division's] future jurisdiction." *Cheney, supra,* id; *Telecommunications Research and Action Center* v. *F.C.C.,* 750 F.2d 70. Pp. 2-4.

(b) The arguments of the parties regarding the validity of Respondent's appointment under County Code 304.3 must yield to a more fundamental question: is County Code 304.3 even constitutional under the Broadview County Charter? We find the answer to be a resounding no. Therefore, Respondent, having been appointed under this code, does not lawfully hold office. Pp. 4-6.

(1) Neither party presented this question to this Court and, as a general rule, the party presentation principle discourages us from considering legal issues that were not raised by the parties themselves. There are however some exceptions to this rule where "the proper resolution is beyond any doubt" or "injustice might otherwise result," see *Singleton* v. *Wulff*, 428 U. S. 106, as well as a situation in which a court considers an issue "antecedent to ... and ultimately dispositive of' the dispute before it, even an issue the parties fail to identify and brief." See *United States Nat. Bank of Ore.* v. *Independent Ins. Agents of America, Inc.,* 508 U. S. 439, 447. The constitutionality of Broadview County Code 304.3 under the Broadview County Charter is a dispositive issue in the case before us. Thus, this Court is permitted to probe the question. Pp. 4-5.

(2) In the vast topography of our legal system, where laws and regulations form the sparling landscapes of governance, the County Charter stands as the majestic mountain range that towers above all. It is the

Syllabus

bedrock upon which all other laws find their purpose and limitation. Just as a mighty river carves its course, the County Charter delineates the boundaries within which all our laws must flow. No statute, no matter its origin, significance, or good intentions, may rise above the supreme edicts and limitations set forth within this hallowed document.

County Code 304.3 conflicts with the County Charter, which states that "The judiciary and its power shall be divested among its judges and magistrates, who shall be appointed by the County Executive, with consent and ratification of the County Commission." County Charter § 401.

In the face of this conflict between the statutory provision and the supreme authority of our County Charter, this Court is required to declare County Code 304.3 unconstitutional, affirming that appointments made under its purview are invalid. Pp. 5-6.

(c) We have no doubt that all involved in this matter acted in good-faith and we thank obagmna for his service to the Broadview County judiciary. Nonetheless, with an unwavering commitment to upholding the supremacy of our County Charter and the rule of law, this Court grants the petition, declaring County Code 304.3 unconstitutional and rendering the appointments made under its authority invalid. P. 6.

The petition for a writ of quo warranto is granted and Respondent obagmna's office is to be vacated effective immediately.

TOTORO987123, J., delivered the opinion for a unanimous court.

APPELLATE DIVISION OF THE BROADVIEW COUNTY COURT

No. 23-07

IN RE OBAGMNA

ON WRIT OF QUO WARRANTO

[July 16, 2023]

JUDGE TOTORO987123 delivered the opinion of the Court.

In this case, we consider whether Magistrate Judge obagmna lawfully holds his office under the County Code of Ordinances and Broadview County Charter.

I

On May 20, 2023 Respondent obagmna was appointed by Chief Judge NorthernEnforced of the Trial Division to serve a four-month term as a magistrate judge in the Trial Division of the Broadview County Court. Respondent was permitted, pursuant to his appointment, to hear civil matters as well as issues under the records division. Since then, Respondent has overseen a variety of judicial proceedings brought before the county court and has executed his duties as a magistrate in good-faith.

On June 14, 2023, the State of Florida, by and through the State Attorney for the Sixteenth Judicial District, submitted a petition for a writ of quo warranto to this court. The State challenges Respondent's right to hold his office under Code 304.3 of the Broadview County Code of Ordinances. This ordinance reads that: "The judges of each court shall appoint magistrate judges in such numbers as may be

prescribed by that court's local rules. Each appointment shall extend to no more than four months and, whether original appointment or reappointment, shall be by the concurrence of a majority of all the judges of such court and, where there exists no such concurrence, then by the chief judge." Broadview County Code of Ordinances, 304.3.

It is an uncontested fact that the judges of the Trial Division never voted, let alone reached a concurrence, on the appointment of Respondent as a magistrate. Petitioner argues this alone violates code 304.3 of the Broadview County Code of Ordinances and should disqualify Respondent from holding office. Respondent, however, argues that such a concurrence is not needed for his appointment to be valid. Under Respondent's reading of the statute, the Chief Judge is permitted to appoint magistrates without a vote of Trial Division judges.

We agreed to hear the petition. 1 16AD ___ (2023).

II

Before turning to the merits, we must assure ourselves of our jurisdiction. See *Summers* v. *Earth Island Institute,* 555 U. S. 488, 499 (2009). Under the Constitution of the State of Florida, the Florida Supreme Court "[m]ay issue writs of mandamus and quo warranto to state officers and state agencies." Art. V. § 3(b)(8), Fla. Const. Petitioner argues that in the absence of a state supreme court, the power vested in the Florida Supreme Court ought to fall to this Court. We disagree.

Whether or not the Florida Supreme Court is an accessible venue of legal recourse to Petitioner is not and can not be relevant to the jurisdiction of this Court. Instead, we must turn to the Broadview County Charter. As a creature of the County Charter, our powers are wholly rooted in that sacrosanct document, so long as they do not conflict with any higher authority. Section 402 of the County Charter reads: "The courts, in line with the rules of law and general

law, shall hold the power to issue any writs, warrants, and orders to carry out their powers." County Charter § 402. The "powers" of the Appellate Division are delineated in § 405 of the charter, which states that "[t]he Appellate Division shall have appellate jurisdiction in all cases appealed from the lower court, and shall have the power to review the decisions of such courts." County Charter § 402.

Therefore, in order for this Court to have the jurisdiction to issue any writs, those writs must be in aid of this court's appellate jurisdiction. We caution future petitioners that our ability to issue extraordinary writs, including writs of quo warranto, is extremely limited.

Nonetheless, Petitioner's claim is in aid of this court's appellate jurisdiction. This court's ability to "issue any writs, warrants, and orders to carry out [its] powers" mirrors in spirit the federal All Writs Act, which states federal courts may "may issue all writs necessary or appropriate in aid of their respective jurisdictions and agreeable to the usages and principles of law." 28 U.S.C. § 1651(a). Given the parallels between both provisions, we can turn to federal case law to guide our interpretation of relative issues. "While the All Writs Act authorizes employment of extraordinary writs, it confines the authority to the issuance of process 'in aid of' the issuing court's jurisdiction.... [T]he Act does not enlarge that jurisdiction." *Clinton* v. *Goldsmith*, 526 U.S. 529, 534–35, (1999). However, a case need not be before this court for a writ to be in aid of our appellate jurisdiction. Our ability to issue writs "extends to the potential jurisdiction of the appellate court where an appeal is not then pending but may be later perfected." *F.T.C.* v. *Dean Foods Co.,* 384 U. S. 597, 603 (1966).

A further parallel may be drawn between quo warranto and mandamus on this question of jurisdiction. "The traditional use of the writ [of mandamus] in aid of appellate jurisdiction both at common law and in the federal courts has been to confine [the court against which mandamus is

sought] to a lawful exercise of its prescribed jurisdiction." *Cheney* v. *United States Dist. Court for D. C.*, 542 U. S. 367, 380 (2004). With importance consequence to the present case, in *McClean* v. *Carland*, the Supreme Court held "we think it the true rule that where a case is within the appellate jurisdiction of the higher court, a writ of mandamus may issue in aid of the appellate jurisdiction which might otherwise be defeated by the unauthorized action of the court below." *McClean* v. *Carland*, 217 U. S. 268, 280 (1910).

Petitioner's claim is necessary to protect and aid our appellate jurisdiction. If Petitioner's claim proves meritorious, our jurisdiction risks being defeated. We cannot entertain cases in which judgement has been entered by a magistrate who holds office illegally, should that be the case. We have jurisdiction to hear Petitioner's petition in order to "confine the [Trial Division] to a lawful exercise of its prescribed jurisdiction" and to "protect [the Appellate Division's] future jurisdiction." *Cheney, supra,* id; *Telecommunications Research and Action Center* v. *F.C.C.,* 750 F.2d 70 (1984).

III

Having assuaged any concerns over our jurisdiction, we now must turn to the merits of the case before us. The parties present competing legal theories as to the validity of Respondent's appointment under code 304.3 of the Broadview County Code of Ordinances. These arguments, however, must yield to a more fundamental question: is County Code 304.3 even constitutional under the Broadview County Charter?

A

Neither party presented this question to this Court and, as a general rule, the party presentation principle discourages us from considering legal issues that were not raised by the parties themselves. There are however some exceptions to this rule where "the proper resolution is beyond any doubt" or "injustice might otherwise result," see *Singleton*

v. *Wulff*, 428 U. S. 106 (1976), as well as a situation in which a court considers an issue "antecedent to ... and ultimately dispositive of" the dispute before it, even an issue the parties fail to identify and brief." See *United States Nat. Bank of Ore.* v. *Independent Ins. Agents of America, Inc.,* 508 U. S. 439, 447 (1993). The constitutionality of Broadview County Code 304.3 under the Broadview County Charter is a dispositive issue in the case before us. Should the statute be unconstitutional, our inquiry would end there. Since the issue is dispositive, and injustice might otherwise result without consideration of the issue, this Court is permitted to probe the question.

B

In the vast topography of our legal system, where laws and regulations form the sparling landscapes of governance, the County Charter stands as the majestic mountain range that towers above all. It is the bedrock upon which all other laws find their purpose and limitation. Just as a mighty river carves its course, the County Charter delineates the boundaries within which all our laws must flow. No statute, no matter its origin, significance, or good intentions, may rise above the supreme edicts and limitations set forth within this hallowed document.

Chapter IV of the County Charter begins with the following command: "The judiciary and its power shall be divested among its judges and magistrates, who shall be appointed by the County Executive, with consent and ratification of the County Commission." County Charter § 401. Broadview County Code 304.3, which states that "The judges of each court shall appoint magistrate judges in such numbers as may be prescribed by that court's local rules. Each appointment shall extend to no more than four months and, whether original appointment or reappointment, shall be by the concurrence of a majority of all the judges of such court and, where there exists no such concurrence, then by the

chief judge." Broadview County Code of Ordinances, 304.3. This statute directly contravenes the Charter's requirement that magistrates be appointed by the County Executive and confirmed by the County Commission.

When a statutory provision conflicts with our County's Charter, "it is emphatically the province and duty of the judicial department to say what the law is." *Marbury* v. *Madison,* 1 Cranch 137, 177 (1803). Our Charter is not a mere parchment gathering dust; rather, it our authoritative and supreme legal document of our county. All laws must comport with its boundaries. When a statute stands at odds with the demands of our Charter, the statute must yield. In the face of this conflict between the statutory provision and the supreme authority of our County Charter, this Court is required to declare County Code 304.3 unconstitutional, affirming that appointments made under its purview are invalid.

IV

We are a government of laws, not men. We have no doubt that all involved in this matter acted in good-faith and we thank obagmna for his service to the Broadview County judiciary. Nonetheless, with an unwavering commitment to upholding the supremacy of our County Charter and the rule of law, this Court grants the petition, declaring County Code 304.3 unconstitutional and rendering the appointments made under its authority invalid.

The petition for quo warranto is granted and Respondent obagmna's office is to be vacated effective immediately.

It is so ordered.