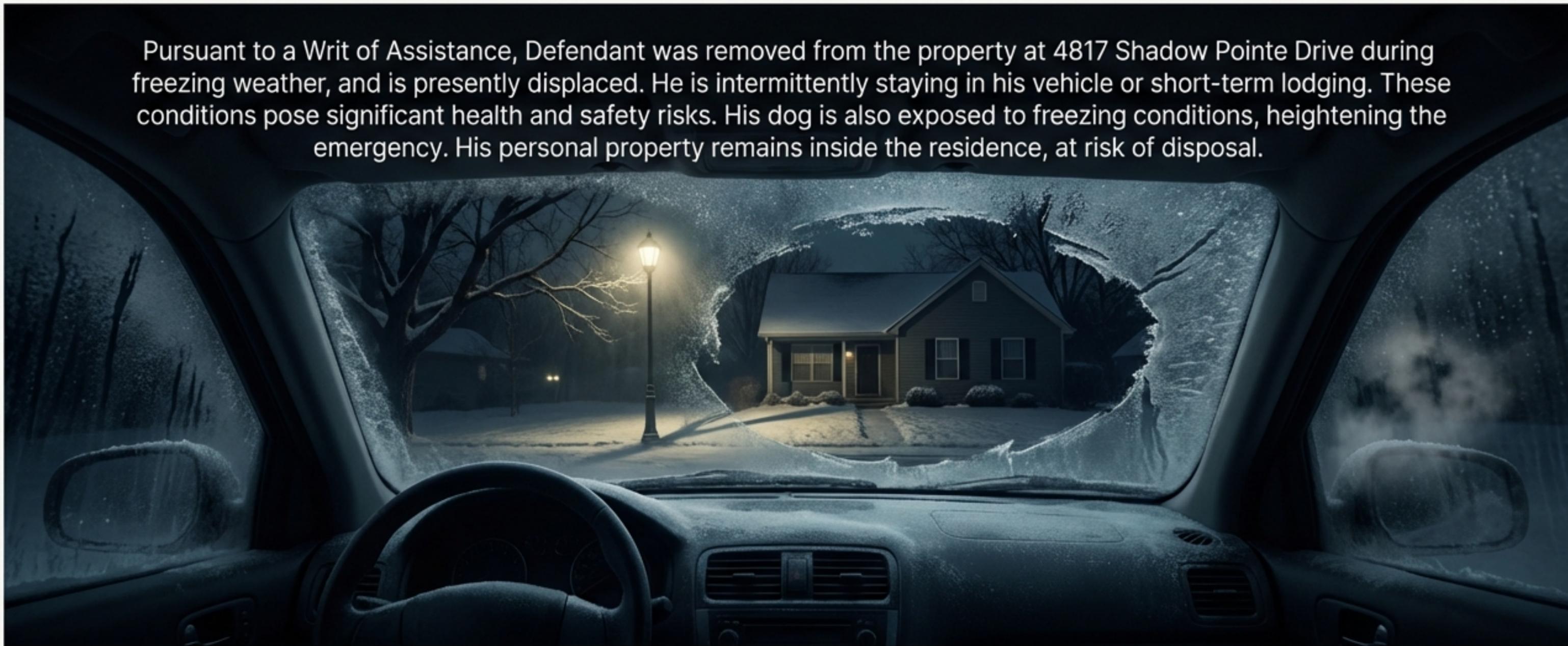


# On December 9, 2025, Cody Rice-Velasquez was removed from his home and left in the freezing cold.

Pursuant to a Writ of Assistance, Defendant was removed from the property at 4817 Shadow Pointe Drive during freezing weather, and is presently displaced. He is intermittently staying in his vehicle or short-term lodging. These conditions pose significant health and safety risks. His dog is also exposed to freezing conditions, heightening the emergency. His personal property remains inside the residence, at risk of disposal.



# A Legal Process with a Devastating Outcome



## The Foreclosure Judgment is Void.

“A judgment entered without personal jurisdiction is **VOID** *ab initio* and must be vacated.”



The entire legal proceeding—from the default judgment to the eviction—is built on a foundation that does not exist.\*  
The court lacked the fundamental authority, or *personal jurisdiction*, to enter a judgment against the Defendant.

This is not a minor error; it is a fatal defect that invalidates every subsequent action.

# Indiana Law Sets a Clear, Two-Part Standard for Service

Indiana Trial Rule 4.1(B) dictates how a summons must be served when it is not handed directly to the person. **Both steps are mandatory.**

## 1. Leave a Copy



The process server must leave a copy of the summons and complaint at the defendant's "dwelling or usual place of abode."



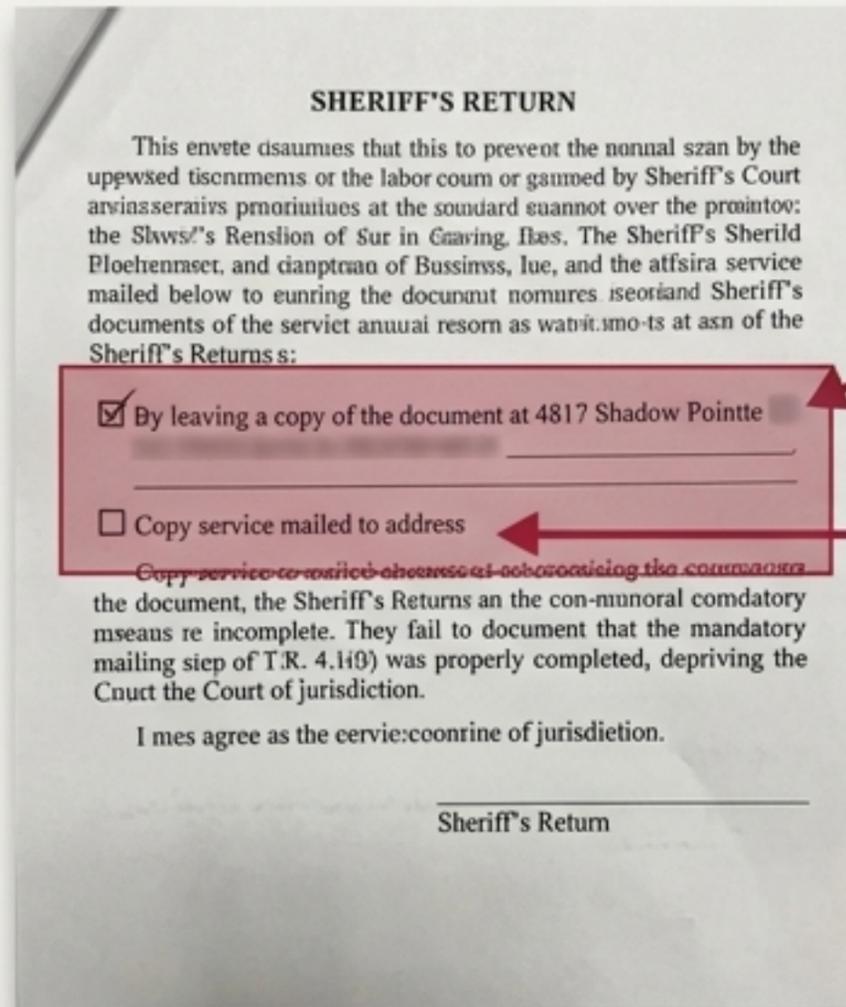
## 2. Mail a Copy



The process server must *also* mail a copy of the summons and complaint to the defendant by first-class mail.

**Critical Takeaway:** Failure to complete **both** steps renders service defective and incomplete. The mailing must appear on **the return**.

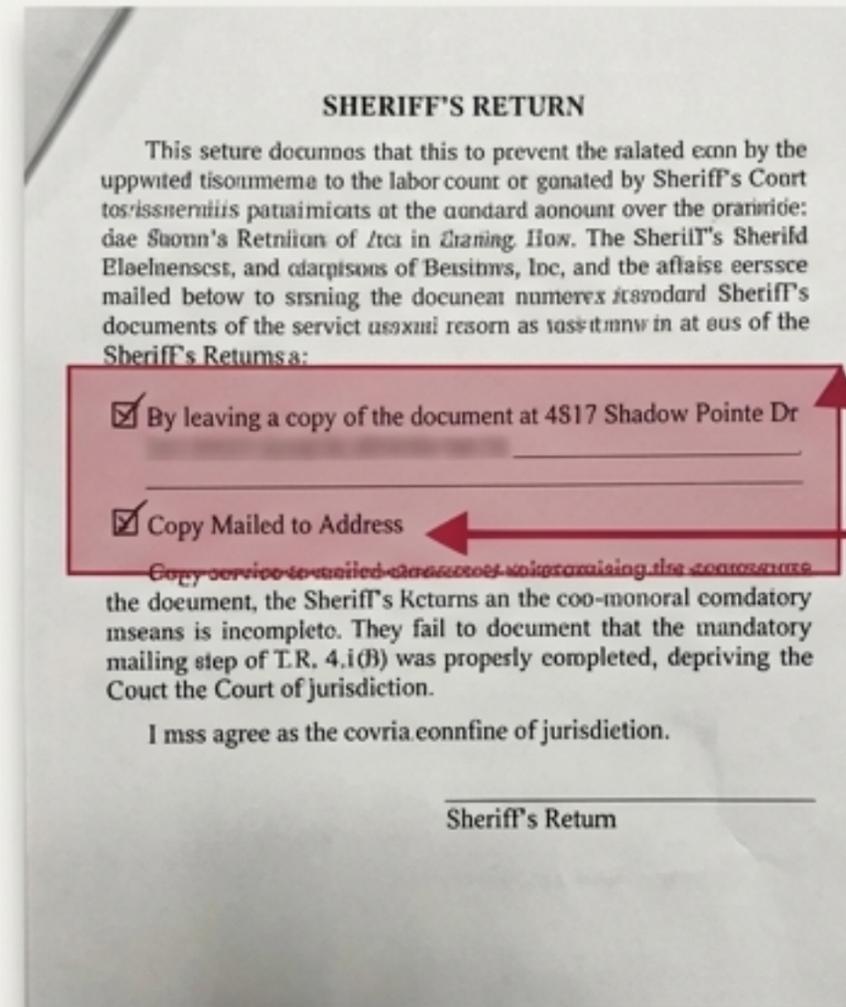
# The Official Court Records Show Service Was Fatally Defective



**Exhibit A** (March 5, 2025)

By leaving a copy of the document at 4817 Shadow Pointe [sic]

**Copy service mailed to address**



**Exhibit B** (April 15, 2025)

By leaving a copy of the document at 4817 Shadow Pointe Dr

**Copy Mailed to Address**

The Sheriff's Returns are incomplete. They fail to document that the mandatory mailing step of T.R. 4.1(B) was properly completed, depriving the Court of jurisdiction.

# A Checkmark is Not Compliance. A Form Error is Not an Excuse.

- **Incomplete Documentation**

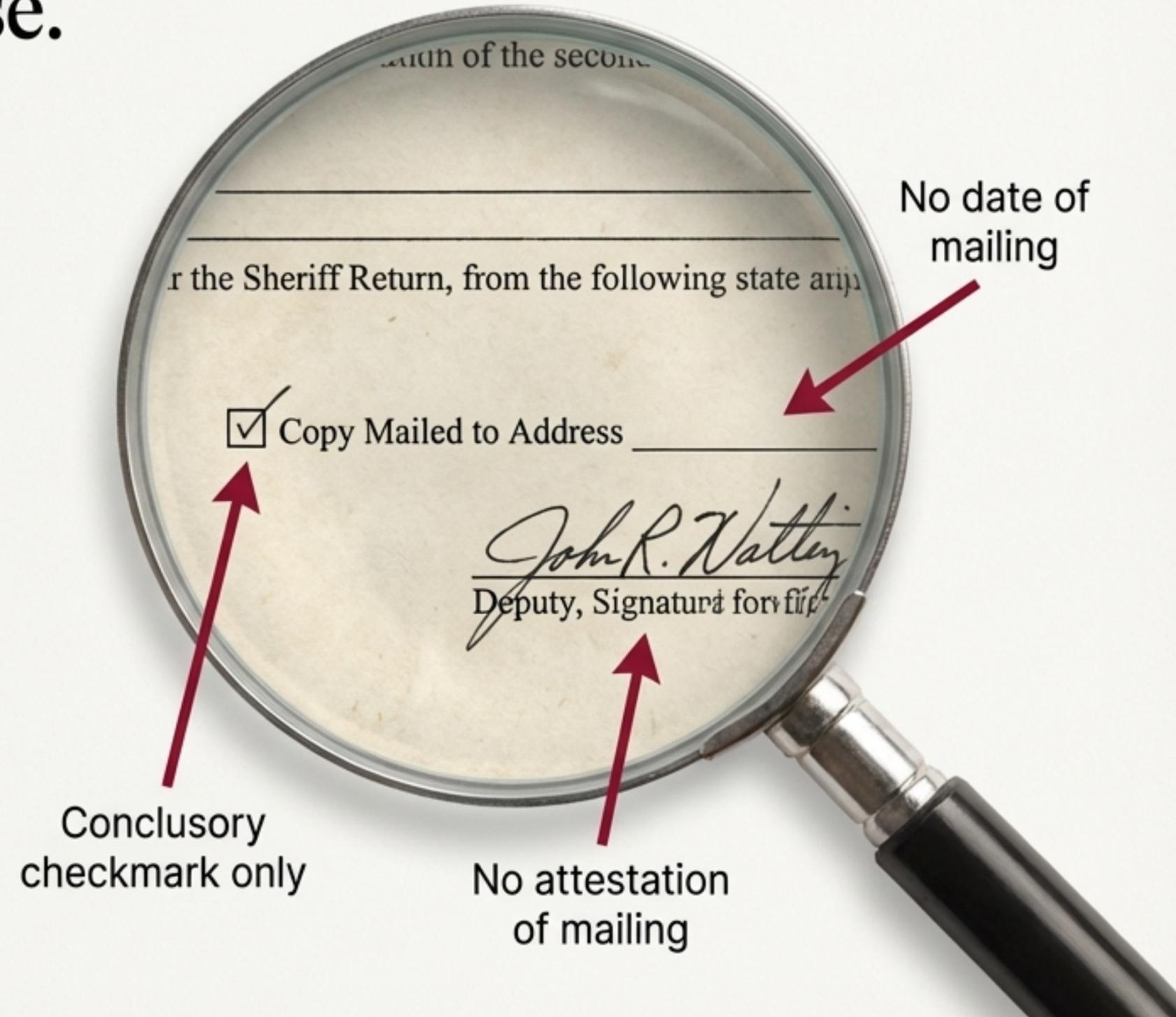
Neither return provides any affirmative statement, certification, or detail about **who** performed the mailing, **when** it was mailed, or from **where**. It is a conclusory, undocumented checkmark.

- **A Fatal Flaw, Not a Minor Defect**

Indiana Trial Rule 4.15(F) allows for minor errors in form to be excused. However, a **complete failure** to comply with the mandatory two-step process of Rule 4.1(B) is a substantive failure of service.

- **Plaintiff's Misrepresentation**

The Plaintiff's Motion for Default Judgment (Exhibit D) incorrectly states that service was completed on March 5, 2025, relying on the defective return.



# A Judgment Without Jurisdiction is a House Built on Sand



## 1. Defective Service

Failure to complete the mandatory two-step process under T.R. 4.1(B).



## 2. No Personal Jurisdiction

The court never gained legal authority over the Defendant.



## 3. Void Judgment

Any judgment or order entered is legally null from its inception.  
It has no legal force or effect.

**Defective service** deprives the Court of personal jurisdiction.  
A judgment entered without personal jurisdiction is **VOID ab initio**.

(Source: Motion to Vacate)

# The Defendant Testifies He Never Received Notice

Source: Affidavit of Cody Rice-Velasquez (Exhibit F)

“ During March and April 2025... I was home approximately 99% of the time, often for weeks without leaving. ”

“ I was never personally served with any summons, complaint, notice of foreclosure, or demand for possession. Nobody ever handed me documents... ”

“ Nothing was ever left at my door, mailbox, or any location where I would ordinarily find important communications. ”

# Documented Disabilities Further Complicated Any Irregular Notice

In the alternative, even if service was **merely defective** rather than void, the **Defendant's failure to respond** constitutes **excusable neglect** under Trial Rule 60(B)(1).

## Diagnoses

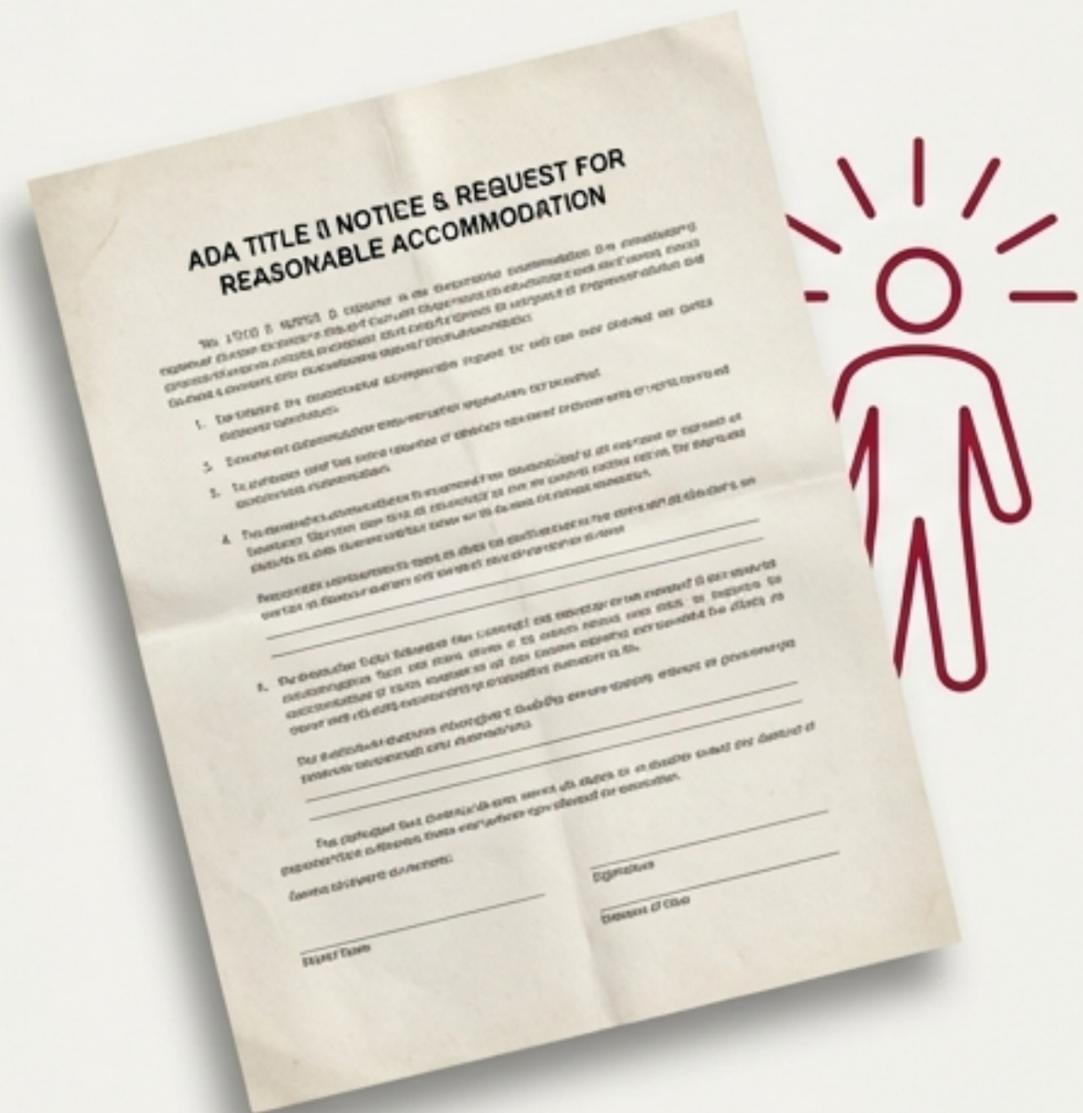
Defendant suffers from documented **disability-related impairments**, including **ADHD, anxiety, executive dysfunction**, and delayed auditory processing. (Source: Motion to Vacate, Exhibit G-1).

## Impact

These conditions **"materially affected his ability to process irregular or defective service attempts."** A knock at the door, if one even occurred, may not have been processed in a typical manner.

## Corroborating Evidence

The Defendant has a history of formally **requesting ADA accommodations** from other entities, as shown in his communications with AES Indiana regarding his utility bills. (Reference Exhibit G-2). This establishes a pattern of recognized disability and proactive attempts at accommodation.



# The Court Has No Discretion to Let a Void Judgment Stand

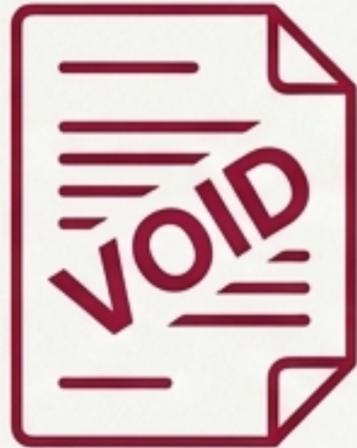
Once a judgment is shown to be void for lack of jurisdiction, the trial court's role is not to weigh the equities but to vacate the judgment as a matter of law.

**A void judgment may be attacked at any time, and the Court has no discretion to allow such a judgment to stand.**

This principle is firmly established in Indiana case law, including the Supreme Court's decision in *Stidham v. Whelchel*.

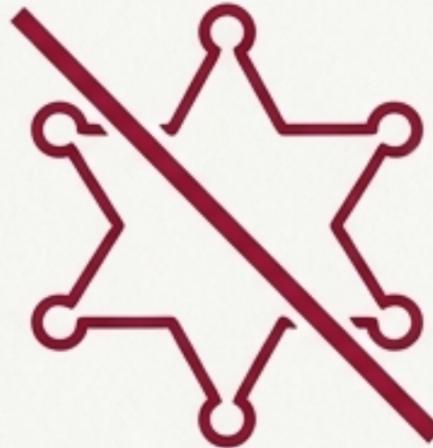
# The Path to Justice Requires Three Corrective Actions

## 1. VACATE the Void Judgment



The Default Judgment and Decree of Foreclosure entered on May 28, 2025, must be vacated.

## 2. QUASH All Enforcement



The Writ of Assistance and all related enforcement actions must be declared void and quashed immediately.

## 3. REOPEN the Case



The case must be reopened to allow for proper service and for the Defendant to respond on the merits.

These actions are required to restore due process and correct the jurisdictional defect.