DOCKET NUMBER: _____

IN THE UNITED STATES SUPREME COURT

TIMOTHY M. BARRETT,

PETITIONER,

V.

VALERIE JILL RHUDY MINOR,

RESPONDENT.

ON PETITION FOR A WRIT OF *CERTIORARI* TO THE SUPREME COURT OF VIRGINIA

PETITION FOR A WRIT OF *CERTIORARI*

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STATEMENT OF QUESTIONS PRESENTED

I. Are Virginia's Child Custody Statutes Facially Unconstitutional?

II. Are the Parties' 2006, 2010 and 2012 Child Custody Orders Unconstitutional as Applied?

III. May a Trial Court Arbitrarily Deny an Aggrieved Parent his Day in Court in Violation of State Law without Violating the 1st and 14th Amendments?

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CITATIONS TO THE ORDERS BELOW

The relevant opinions of the Virginia Supreme Court and Bristol Circuit Court are unreported but are reproduced in Appendix Pages 1-9 (A1-9).

BASIS OF THE COURT'S JURISDICTION

This Court has jurisdiction pursuant to 28 U.S.C § 1257 as this case comes on appeal from the 02/08/2018 final judgment of the Virginia Supreme Court and draws into question the validity of state statutes on the ground that they are repugnant to the Constitution and where the Petitioner's rights are claimed under the Constitution.

Pursuant to Rule 29.4(c), 28 U.S.C. § 2403(b) may apply and that the Honorable Mark Herring, Attorney General for the Commonwealth of Virginia, has been served a copy of this Petition.

REPLICATIONS TO THE RELEVANT LAW

Pertinent constitutional and statutory provisions are set forth in A196-220.

STATEMENT OF THE FACTS

The parties' 11-year marriage ended when the Mother/Respondent abandoned the marriage without moral cause[1] and absconded with their six children[2]

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1. The Respondent sued Petitioner for divorce, obtaining it on "no fault" grounds in August, 2002.

without the Father's/Petitioner's knowledge or consent, beginning one of the most contentious custody battles in Virginia history (A163).

Doing everything in her power to keep your Petitioner from his children, the Respondent has knowingly engaged in a non-stop, negligent and intentional course of conduct with the intent to destroy the Petitioner's relationship with his children, including denying him his custodial rights. A164-169.

Such conduct was done with the intent to "punish" your Petitioner by inflicting maximum emotional pain and other harm because the Respondent fared poorly in the divorce and knowing that such conduct would devastate him due to his religious convictions regarding family and his love for his children. A170-171.

The Respondent's conduct was despite knowing it would also harm the children, being indifferent to their pain because of her own poor mental health and her disinterest in their custody because they interfered with her life. A171.

The Respondent has refused to cooperate or even communicate with your Petitioner and has even physically attacked him to stop him from exercising his parental rights, with her actions being done consciously in disregard of those rights and the

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2. Jonathan - DOB 3/21/92, Alexander - DOB 8/25/93, Erin - DOB 5/8/95, Emily - DOB 4/5/97, William - DOB 2/17/99, and Katarina - DOB 2/12/01.

consequences, making her conduct willful and wanton. A171-172 & 185-186.

Virginia Courts have refused to help. Instead, they have aided her, stripping your Petitioner of his Constitutional parental rights because he parents his children in ways in which they did not approve, regardless of what is best for them, resulting in custody orders in 2006, 2010 and 2012 that denied him substantially equal rights on utterly insufficient grounds and by unconstitutional means. A172-175.

- Judge Campbell's 2006 custody order/opinion letter (A9) ignored the vast majority of the evidence introduced over eleven days and, instead, expressly relied upon the letter of his GAL, despite its baseless suppositions, bias and bigotry (A122-151).

- Judge Geisler's 2010 custody order also ignored the vast majority of the evidence, including that the Respondent was a convicted child abuser; had already abandoned two of her children; the tremendous maturity Alexander experienced being in your Petitioner's custody; and the testimonies of multiple expert witnesses concerning your Petitioner being the superior parent who should have custody with the Respondent demonstrating serious psychological problems that negatively impacted her parental abilities

and the children. Instead, Geisler relied on a Campbell "finding" he never made, ignoring the evidence to the contrary, and punished your Petitioner for having brought the litigation, stripping him of custody of one of his children, while contradictorily giving him slightly increased visitation with the others. A81-121.

- Judge Powell's 2012 custody orders came after a one-day trial, during which she unlawfully excluded evidence; refused to allow the Petitioner to call his minor children to testify while allowing the Respondent to do so; and reviewed and relied upon the hearsay letters of her GAL, and the opinions of Campbell and Geisler.[3] A10-80.

- All told, this custody saga has been heard by 11 different judges, all of whom reached different conclusions inferred from what was essentially the same evidence based on Virginia's unconstitutional child custody scheme.

Notwithstanding the unconstitutional nature of these orders and the non-existent or limited

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3. Because Powell had found a material change of circumstance and because the opinions were based on past "facts", the opinions should have been irrelevant under Virginia law and Judge Powell's own ruling that no such facts would be admitted. Indeed, neither party put them into evidence, which is to say Judge Powell did her own independent investigation into the case to find them, which also violates Virginia law.

visitation time they provided to your Petitioner, the Respondent has refused to obey them, being repeatedly held in contempt for their violation with slaps on the wrist, resulting in your Petitioner going *years* without seeing his children. A175-185. Indeed, one Judge Gibb told your Petitioner that custody orders were not worth the paper they are written on.

Given these facts, your Petitioner filed a civil lawsuit against the Respondent in the Bristol Circuit Court (BCC) alleging the following Counts:

- Count 1 is an independent cause of action under Va. Code §8.01-428(D), collaterally attacking the prior custody orders as violating your Petitioner's Constitutional rights, rendering them void *ab initio.* A160-162.

- Count 1 also sought declaratory and injunctive relief from those orders on the same grounds under Va. Code §8.01-184 *et seq.*

- Count 2 alleges the Respondent was negligent *per se* in violating Va. Code §18.2-49.1 in withholding William contrary to the custody orders pertaining to his in-person visitation. A186-187.

- Counts 3 and 4, respectively, allege the Respondent was negligent *per se* in violating Va. Code §18.2-456(5) in withholding William and Katarina contrary to the parties' custody orders pertaining to telephone visitation. A187-190.

- Counts 5 and 6, respectively, allege that the Respondent had tortuously interfered with your Petitioner's parental rights in withholding William and Katarina contrary to the common law. A190-194.

- Counts 7 and 8, respectively, allege that the Respondent had intentionally inflicted emotional distress on your Petitioner by withholding William and Katarina contrary to the common law. A195-200.

- Counts 9 and 10, respectively, allege that the Respondent had negligently interfered with your Petitioner's parental rights by withholding William and Katarina contrary to the common law. A17200-202.

In response to these allegations, the Respondent filed a Motion to Dismiss, Demurrer and Motion for Sanctions. The BCC granted said motion on 04/14/2016 with no explanation whatsoever (A2), ending the case under Virginia law. Or did it? While said order purports to be final, the BCC set the matter for future consideration of sanctioning your Petitioner.

Your Petitioner appealed the dismissal of his Complaint to the Virginia Supreme Court (VSC) before the BCC ruled on sanctions. Unfortunately, the VSC, despite having failed to provide your Petitioner notice and a reasonable opportunity to be heard, did not just reject the appeal, but ruled on the merits that the BCC committed no reversible error (A4).

In the meantime, the BCC, despite no longer having jurisdiction over the case, added insult to injustice by sanctioning your Petitioner. Your Petitioner again appealed to the VSC, raising not only the legitimacy of the sanction, but all the same issues as before. The VSC granted the appeal, but only as to the issue of sanctions (A5-6).

During the pendency of that appeal, your Petitioner filed with the VSC a Motion to Declare Virginia's Child Custody Statutes Facially Unconstitutional and the Parties' 2006, 2010 and 2012 Custody Orders Notwithstanding Due to Constitutional Infirmity, raising the same constitutional issues as raised in this Petition, but that Motion was denied (A7).

Finally, on 02/08/2018, the VSC reversed the sanction, but left the rest of the BCC's orders in effect (A8-9). It is from the denial of your Petitioner's Motion and the unconstitutional ruling of the BCC as to the Complaint that your Petitioner appeals to this Honorable Court.

REASONS TO ALLOW THE PETITION

INTRODUCTION

U.S. Const. art. VI, § 2 makes itself the supreme law of the land and makes any law or judicial decree entered in violation of the rights guaranteed by it "notwithstanding". *Marbury v. Madison*, 1 Cranch 137 (1803); and *Pennoyer v. Neff*, 95 U.S. 714 (1878). This is because "States cannot, in the exercise of control over local laws and

practices vest state courts with power to violate the supreme law of the land" and "where rights secured by the Constitution are involved, there can be no 'rule making' or legislation which would abrogate them." *Kalb v. Feuerstein*, 308 U.S. 433 (1940) and *Miranda v. Arizona*, 384 U.S. 426 (1966).

Indeed, "an unconstitutional act is not law... it is in legal contemplation, as inoperative as though it had never been passed." *Norton v. Shelby County*, 118 U.S. 425 (1886). Furthermore, violation of Constitutional rights, and that violation alone, makes any judicial decree void for lack of jurisdiction. *E.g., Earle v. McVeigh*, 91 U.S. 503 (1875); *Johnson v. Zerbest*, 304 U.S. 458 (1938); *Townsend v. Burke*, 334 U.S. 736 (1948) and *U.S. v. Walker*, 109 US 258 (1883).

These principles apply even when dealing with the custody of children. *Troxel v. Granville*, 530 U.S. 57 (2000).

In Part 1, your Petitioner will demonstrate that Virginia's child custody statutes (VCCS), which consist of Virginia Code (VAC) §§20-124.1-20-124.3 & 20-124.6, are facially unconstitutional, violating numerous fundamental rights, demanding this Court strike them down enjoin their enforcement.

Of course, if the statutes upon which the at-issue custody orders are based are unconstitutional, it is axiomatic that those orders are likewise void. Nevertheless, in Part 2, your Petitioner will demonstrate that each order *as applied* also violates

your Petitioner's Constitutional rights, demanding this Court declare them void.

Finally, in Part 3, your Petitioner will demonstrate that both the BCC and the VSC violated the rights to petition, due process and equal protection by arbitrarily ignoring Virginia law to deny your Petitioner his day in Court for the Respondent's repeated failure to honor his visitation rights.

I. ARE VCCS FACIALLY UNCONSTITUTIONAL?

Yes, because VCCS violate your Petitioner's 14th Amendment rights.

VCCS Violates Parental Rights

A parent has the *fundamental* right to the care, custody and control of his children that states are constitutionally forbidden to circumscribe, save to advance a compelling interest by the least restrictive means via a statute that is narrowly drawn to further *only* that interest. *Troxel v. Granville*, 530 U.S. 57 (2000); *Santosky v. Kramer*, 455 U.S. 745 (1982) and *Reno v. Flores*, 507 U.S. 292 (1993). Concerning parental rights, this Court has recognized the necessary to prevent harm to a child's health or safety as the only such compelling interests. *Wisconsin v. Yoder*, 406 U.S. 205 (1972). VCCS exist by their very nature and purpose to affect that right. However, nothing in VCCS requires a trial court (TC) to find that any type of harm to a child's health or safety before negatively

impacting or even entirely stripping away that right. *Williams v. Williams*, 256 Va. 19, 31 (1998) (Justice Hassell, dissenting). Therefore, VCCS do not further a compelling state interest. Nor do they evidence narrowness in drafting or operate as the least restrictive means. Given this, they violate your Petitioner's substantive due process rights.

VCCS Violates Children's Rights

Just like parents have the Constitutional right to the custody of their children, so children have the reciprocal right in the integrity of the family, from not being dislocated from the "emotional attachments that derive from the intimacy of daily association," with both parents. *Duchesne v. Sugarman*, 566 F.2d 817, 825 (2nd Cir 1977). VCCS also negates or abolishes this right without the necessary strict scrutiny analysis.

VCCS are Unreasonable, Arbitrary and Capricious

Even if a state could survive a strict scrutiny analysis with a best interests-like standard, the chosen standard could not be unreasonable, arbitrary or capricious per *Nebbia v. New York*, 291 US 502 (1934). Yet, VCCS are exactly that, showing no evidence that the chosen factors advance what is actually, rationally and objectively best for children, either in and of themselves or as opposed to other, rejected factors (*e.g.*, education, financial wherewithal, installation of character and self-esteem, spiritual growth, etc.). Indeed, VCCS shows no evidence of being influenced by the wealth of social scientific data accumulated from children

living under these schemes since the divorce culture became dominate, rejecting the fact that intact families are actually best for children and what best allows them to turn into successful, intelligent, wise and emotionally mature adults. Indeed, the scheme is designed to foster the rejection of such expertise in favor of the arbitrary and capricious will of an unaccountable judge who utterly lacks the basic skills necessary to make such a multi-generation affecting decision. *Street v. Street*, 25 Va. App. 380, 387 (1997) (*en banc*). Therefore, VCCS are unconstitutionally unreasonable, arbitrary and capricious.

VCCS Violate the Right to Privacy

Per *Griswald v. Connecticut*, 381 U.S. 479 (1965), and its progeny, this Court recognized a fundamental right to privacy. This right protects a parent's autonomy to make decisions regarding his family without governmental interference. *E.g., Carey v. Population Services International*, 431 U.S. 678 (1977). Yet, VCCS expressly allows a state to invade that right and even make custody determinations based on decisions a parent has or may make of which a TC does not approve, again without the necessary strict scrutiny analysis, rendering them unconstitutional.

VCCS are Unconstitutionally Vague

A statute will be unconstitutionally vague, violating the Due Process Clause, on either of two grounds. First, it fails to provide people of ordinary intelligence a reasonable opportunity to understand

the law or because the terms used are ill defined, parties are forced to guess as to its meaning and may differ as to its application. *Hill v. Colorado*, 530 U.S. 703 (2000); *U.S. v. Williams*, 553 U.S. 285 (2008); *Gonzales v. Carhart*, 550 U.S. 124 (2007); and *U.S. v. Lanier*, 520 U.S. 259 (1997). Second, it is so standardless that it authorizes arbitrary and discriminatory enforcement such that a TC's authority is so extensive that it may "pursue [its] personal predilections" and make *ad hoc* decisions on subjective bases. *Hill, Id; Kolender v. Lawson*, 461 U.S. 352 (1983) and *Grayned v. City of Rockford*, 408 US 104 (1972).

As to the first ground, to determine what custody arrangement is "best", VCCS requires a TC to consider nine specific factors and one intentionally vague "catch-all" factor. The "catch-all" factor allows TC to base its custody decision on ***any*** criteria it "deems necessary and proper" with imagination being its only limitation. But the other nine factors are equally vacuous, with most using terms that have no definitions under Virginia law, allowing a TC to define them *ad hoc* with no advanced notice to how they will be interpreted and applied.

Because these terms are undefined, they are susceptible to an infinite number of applications that can be independent of the facts of the case and vary depending on the philosophical predilections of the TC, with VCCS providing the parents involved no help in knowing which application will apply.

Even apart from this, VCCS gives no hint as how these factors are to be related to what is

supposedly in the child's best interests. For example, VCCS does not tell us the import the age and physical and mental condition of a parent should have on the custody determination and how that import is to be determined. This problem is compounded by the fact that under VCCS TCs are not required to assign any particular weight to any of the factors, which is to say they can assign whatever import they want to any of the factors, including the catch-all factor, in rendering its custody decision. *E.g.*, *O'Rourke v. Vuturo*, 49 Va. App. 139 (2006). This allows a TC to reason that 9 of the 10 factors overwhelmingly favor one parent, but this 10th factor swings the pendulum the other way and to grant custody to the other parent based on an *a priori* desired outcome. Given this, it is impossible for parents of even extraordinary intelligence to understand what the law means or how it will be applied, forcing them to guess and causing them to approach the case with wildly differing expectations. Thus, VCCS is unconstitutionally vague.

As to the second ground, VCCS's grant of authority to a TC to negatively impact parental rights is so extensive that it allows a TC to do whatever it wants with little to no appellate oversight, including imposing on the parent its own subjective views of proper parenting via the catch-all factor, which necessarily vary from judge to judge, as well as utterly stripping a parent of their rights if they do not comply. This illegitimately intrudes on the parent's right to nurture and direct their children's destiny without governmental interference per *Troxel*, 530 U.S. *Id.* at 59-60. Indeed, a TC is simply "vested with broad discretion to make the

decisions necessary to safeguard and promote the child's best interests" with Virginia's appellate courts being without authority to re-determine facts and being stuck with a presumption that the trial court correctly applied the facts to the law. *E.g., Farley v. Farley*, 9 Va. App. 326 (1990), and *Bottoms v. Bottoms*, 249 Va. 410, 414 (1995). Because of this, arbitrary and discriminatory enforcement will necessarily be the rule, not the exception, making VCCS unconstitutionally vague.[4]

VCCS are Unconstitutionally Overbroad

A statute will be unconstitutionally overbroad if, while legitimately exercising a state's police power, it brings within its reach constitutionally protected activity or conduct due to imprecise wording. *Grayned v. City of Rockford*, 408 U.S. 104, (1972). Virginia's appellate courts have made it expressly clear that, under VCCS, a TC may subordinate ***any and every*** right a parent has to its will provided the TC finds it in a child's best interests that it does so. *Mullen v. Mullen*, 188 Va. 259, 269 (1948) and *Bottoms Id.*, at 413-414 (1995). Indeed, TCs are expressly authorized to punish a parent for exercising their rights in a way some random judge finds offensive to his subjective notions of what is best, *contra U.S. v. Goodwin*, 457 U.S. 368 (1982). For example, in *Roberts v. Roberts*, 41 Va. App. 513 (2003), a parent was denied custody of his children because of his religious speech and because

4. This explains why 11 different judges have come up with 11 different custody determinations, with Judge Geisler having to author three different, contradictory opinions to reach his *a priori* desired outcome.

he employed moderate corporal punishment, despite his parental rights, his freedom of speech/religion and *Carpenter v. Commonwealth*, 186 Va. 851 (1947), respectively.

In addition to VCCS being expressly interpreted as contrary to the Supremacy Clause, VCCS pits a parent's natural desire to maintain his relationship with his children at all costs against his rights, having a chilling effect on a parent's exercise of those rights, lest he suffer his children being kidnapped. This essentially makes a parent who desires to maintain his relationship with the child a slave to the arbitrary and subjective will of some random judge, for the judge can exercise any control he wants over the life of the parent with rebellion being met with that parent losing his involvement in his children's lives. Having children should not result in the forfeiture of rights and enslavement to the state. Because it does, VCCS are unconstitutionally overbroad.

VCCS Allow a State to Abolish Parental Rights Without Showing of Clear and Convincing Evidence

In *Santosky*, 455 U.S. *Id.* this Court mandated a showing of clear and convincing evidence before a state may terminate parental rights. However, the VCCS allows such an abolition based on a mere showing of a preponderance of the evidence, as was done by Geisler in regard to Jonathan (A90) and Powell in regard to Erin (A22-26). See *Fudge v. Payne,* 86 Va. 303, 308 (1889). Given this, the VCCS violate the rights of parents.

Virginia Common Law Pertaining to In Camera *Interviews Violate Parents' Due Process Rights*

When fundamental rights are at stake, the Due Process Clause guarantees a litigant's right to be heard – to call and examine his own witnesses, and cross-examine his opponent's witness in open court, not in secret, so that he may know and argue the evidence upon which a TC will rule. *Morrissey v. Brewer*, 408 U.S. 471 (1972); *Goldberg v. Kelly*, 397 U.S. 254 (1970); and *Fuentes v. Shevin*, 407 U.S. 67 (1972). This right is recognized even in the context of child custody cases under Virginia law, finding it proper for parents to call children to testify in open court, even though doing so may harm them. *Sydnor Pump v. County School Board*, 182 Va. 156, 170 (1943) and *Hepler v. Hepler*, 195 Va. 611 (1954).

The Virginia Court of Appeals (COA), however, has ruled that a TC may take a child's testimony *in camera,* in secret, ignoring the parent's due process rights. *Haase v. Haase*, 20 Va. App. 671, 679-693 (1995). In doing so, the COA refused to adopt a bright-line, objective test of applicability, leaving it entirely up to the broad discretion of the TC as to when to strip parents of their due process rights. *Brown v. Burch,* 30 Va. App. 670, 678-681 (1999). This authority has been implicitly codified in VAC §20-124.2:1, though, just like *Haase*, the Code is standardless as to application and does not require a strict scrutiny analysis. Because Virginia law allows a TC to receive a child's testimony in secret, violating a parent's right to due process as well as a parent's right to control their children per *Troxel*, Virginia

law as it pertains to *in camera* interviews of children in a child custody case is unconstitutional.

Virginia Law Pertaining to In Camera *Interviews of Children is Unconstitutionally Vague*

Neither *Haase* nor §20-124.2:1 clearly define the circumstances under which a TC may deny a parent their due process rights, making them as unconstitutionally vague as VCCS and for the same reasons as argued above.

§20-124.6(A) Violates Parental Rights

Not only does a parent have the fundamental right to the care, custody, and control of his children, but he has rights in those things which enable the full exercise of that right, for rights "are protected not only against heavy-handed frontal attack, but also from being stifled by subtler governmental interference." *Bates v. Little Rock*, 361 U.S. 516 (1960). It is axiomatic that to care for and control one's children, one must have maximal accesses to information pertaining to those children, especially concerning their physical and mental health via their medical records. Thus, if state law allows a TC to prevent a parent from having access to his child's medical records, the state has unconstitutionally stripped a parent of his fundamental rights though the backdoor. And this is exactly what §20-124.6(A) does, allowing a TC to deny the parental right to information pertaining to his children for "good cause shown". All that is required to deny a parent's rights is ***any*** reason a TC deems good enough, making it broader than the statute struck down in *Troxel,*

making this statute patently insufficient to survive Constitutional scrutiny. Given this, §20-124.6(A) violates the 14th Amendment and must likewise be struck down.

§20-124.6(A) is Unconstitutionally Vague

§20-124.6(A) fails to clearly define the circumstances under which a TC may deny a parent their due process rights, making it as unconstitutionally vague as VCCS and for the same reasons argued above. Indeed, this regulation could harm a child by 1) making it impossible for a parent to fully communicate his child's health history to a treating physician during visitation and making health care decisions affecting the child because he is proscribed from hearing from that same physician, and 2) by engendering a child's distrust of the parent because certain aspects of the child's life is "a secret", a distrust that leads to all kinds of life-long negative psychological problems, none of which is Constitutionally acceptable.

§20-124.6 is Unconstitutionally Overbroad

Because §20-124.6 empowers a TC to strip a parent of his fundamental rights for ***any*** reason whatsoever, including the exercise of any of his rights without the otherwise required strict scrutiny analysis, it is as Constitutionally overbroad as VCCS and for the same reasons argued above. For example, Powell robbed your Petitioner of his fundamental rights in this regard because he exercised his right to petition the government due process right to subpoena documents (A44).

VCCS Violates Equal Protection Rights

The 14th Amendment prohibits states from denying any litigant the equal protection of its laws, demanding "the same means and methods to be applied impartially to all the constituents of each class, so that the law shall operate equally and uniformly upon all persons in similar circumstances", rendering any contrary law or court order notwithstanding. *Kentucky Railroad Tax Cases*, 115 U.S. 321, 337 (1885). VCCS violates your Petitioner's equal protection rights in three significant respects, demanding it be struck down:

First, despite classifications based on gender being unconstitutional per *Reed v. Reed*, 404 U.S. 71 (1971), VCCS does nothing to prevent a TC from discriminating based on sex and even expressly authorizes it "when appropriate", a constitutionally vague exception that swallows the rule, facially violating the Equal Protection Clause. But even if facially neutral, the best interests standard has a much more negative impact on men, especially in Virginia Courts, resulting in them being denied custody, rendering it unconstitutional per *Smith v. City of Jackson*, 544 U.S. 228 (2005).[5]

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5. See "More Dads Demand Equal Custody" from the 6/14/14 edition of *U.S. Toda – Demography Journal* studied 9,873 custody cases between 1986 and 2008 and found that women were given sole custody 42% to 9% of the time; Cynthia A. McNealy, "Lagging Behind the Time: Parenthood, Custody and Gender Bias in the Family Court", 25 Fla. St. U. L. Rev. 891 (1994); and "Gender Bias in the Courts Task Force, Gender Bias in the Courts of the Commonwealth Final Report", Wm. & Mary J. Women & L, 705 (2001).

Second, VCCS does not apply to intact marriages or to cooperating, divorcing parents, denying Virginia TC any authority with which to interfere with their parental rights, creating one class of parents, while VAC §20-91 allows a mother to abandon her marriage, abscond with the father's children and then sue the father for custody, authorizing a TC to destroy his relationship with his children, though he is utterly without fault, creating a second class of parents. This classification system is expressly forbidden by this Court in *Quilloin v. Walcott*, 434 U.S. 246 (1978), precisely because it violates the equal protection rights of fathers.

Third, because mothers obtain custody more often than fathers, fathers more often must pay child support unequally. While this is bad enough, when mothers deny fathers their custody rights, they are punished with a token fine, but if fathers fail to pay child support, they are punished with jail, as has been the case with the parties here. Despite the equality of their duties (*i.e.,* mothers provide visitation/fathers pay support), men are systemically discriminated against in how punishments are assigned for violating those duties.

II. ARE THE PARTIES' 2006, 2010 AND 2012 CHILD CUSTODY ORDERS UN-CONSTITUTIONAL AS APPLIED?

Yes, because each order violates your Petitioner's Constitutional rights writ large.

The Orders Violate Your Petitioner's

Substantive Due Process Rights.[6]

Contrary to *U.S. v. Goodwin*, 457 U.S. 368 (1982) and *Griffin v. California*, 380 U.S. 609 (1965), each of the at-issue custody orders repeatedly violated your Petitioner's 14th Amendment rights by punishing him for the exercise of his constitutionally guaranteed rights - either directly or by drawing a negative inference about him - by limiting or eliminating his parental rights, rendering each order void, as follows:

- Because each order violates your Petitioner's right to the care, custody and control of his children and their right to his daily companionship, all three orders violate their reciprocal fundamental rights.

- In violation of the 1st Amendment's freedom of religion, which includes a parent's right to believe and profess without civil consequences and teach their children such beliefs per *Employment Div., Ore. Dept. of Human Res. v. Smith,* 494 U.S. 872 (1990) and *Wisconsin v. Yoder* 406 U.S. 205 (1972), each order singles out your Petitioner's traditional Christian religious convictions and his desire to instruct his children in them (A34-35, 90-91, 132, 138-144 & 149).

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6. The declaration that an order is void renders any subsequent order based upon that order likewise void. *Harris v. Deal,* 189 Va. 675 (1949). Thus, if either of the prior orders fall, the later orders necessarily fall, as the latter orders expressly relied on the prior orders.

- In violation of the 1st Amendment's freedom of expression and thought per *Griswold v. Connecticut,* 381 U.S. 479 (1965), each order singles out things your Petitioner's thoughts and his communications with others, including his children (A31-33, 39, 91, 139-147, & 150)..

- In violation of the 1st Amendment's right to petition the government, including the right to seek custody of one's own children, per *Boddie v. Connecticut,* 401 U.S. 371 (1971) and *Hepler v. Hepler,* 195 Va. 611 (1954), each order singles out the fact of the Petitioner's litigation, inferring from it that he suffers a serious psychopathology[7] (A31-34, 36-37, 88-92, 97-99, 140-141, 145-147, & 150).

- In violation of the aforementioned right to confront, examine and rebut the evidence to be used by a TC, each order relies on the secret investigation of the GAL[8] and the *in camera* testimony of the children. (A30-31, 34-42, 91-92 & 123-124).

- In violation of the aforementioned right to be heard through one's own witnesses, both Geisler and Powell condemned your Petitioner

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7. And this even though each TC found it in the children's best interests that visitation be *increased,* which is to say each TC vindicated the bringing of the litigation but punished him anyway.

8. This also violates your Petitioner's procedural due process rights, for Virginia law proscribes the admission of hearsay and does not allow lawyers to offer opinions. RSCVA2:802 and *Trout v. Commonwealth,* 167 Va. 511, 517-522 (1936).

for having subpoenaed his children (and others) and mere *desire* to call them as witnesses, respectively (A31, 36-37 & 92).

- In violation of a parent's right to direct one's children's upbringing, education and destiny without government interference per *Perce v. Society of Sisters*, 268 U.S. 310 (1925); *Prince v. Massachusetts*, 321 U.S. 158 (1944); and *Lehr v. Robertson*, 463 U.S. 248 (1983), each order singles out how your Petitioner would rear his children. Indeed, Powell condemns your Petitioner for his unwillingness to provide his children birth control and for providing one child academic testing, saying "children are not robots to be programmed and tested" when such are his call, not the state's (A32, 39, 90-91, 129, 132, & 139-141).

- The right to due process includes a litigant's right to have his cases tried by an impartial tribunal. *Woodford v. Ngo*, 548 U.S. 81 (2006). Despite this, it is clear from reading each of the TC's orders they disliked your Petitioner for his beliefs and his tireless legal efforts to provide his children his companionship. They then effectuated this dislike by ignoring the law, turning a blind eye to the facts, applying different standards of analysis and total one-sidedness, resulting in a purposeful stealing from him any meaningful contact with his children. When a court rules in such a manner, its ruling can only be explained by lack of impartiality. Indeed, Geisler and Powell tacitly admitted their bias by recusing

themselves from any further involvement in your Petitioner's cases when accused of bias.

- The orders even violate your Petitioner's rights recognized under Virginia law:

  - The aforementioned right to employ moderate corporal punishment with Campbell singling it out as justification to deny his right to custody of his children (A142).

  - The right to file motions and subpoena relevant documents per VAC§8.01-399 and RSCVA4.9(A) with Geisler and Powell punishing your Petitioner for having exercised that right (A16, 18, 20, 31, 37, 41 83, & 92).

The Orders Violate Your Petitioner's Procedural Due Process Rights.

"When the sovereign has established rules to govern its own conduct, it will be held to self-imposed limitation on its own authority, departure from which denies procedural due process of law", rendering such judgment void. *Bluth v. Laird*, 435 F.2d 1065 (4th Cir, 1970) and *Pennoyer v. Neff*, 95 U.S. 714 (1878). Every one of the at-issue orders demonstrates a radical departure from Virginia law concerning how a TC is to determine custody, violating your Petitioner's rights, rendering them void[9]:

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9. Under Virginia law, a TC's authority is *purely statutory* with due process demanding *strict compliance*, even if deviating from that scheme is perceived to be best for the child with failure resulting in an order that is void for lack of jurisdiction. *Willis v. Gamez*, 20 Va. App. 75,

- Basing custody on "facts" not in evidence or contrary to them *contra Russell County School Bd. v. Anderson*, 238 Va. 372 (1989); and *Bernau v. Nealon*, 219 Va. 1039 (1979). [10]

- Failing to rely on the facts in evidence rather than speculation contra *Coe v. Coe*, 225 Va. 616, 622 (1983).

- Failing to consider ***all*** the factors of VAC§20-124.3 contra *Piatt v. Piatt*, 27 Va. App. 426 (1998) and *Artis v. Jones*, 52 Va. App. 356 (2008).

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82 (1995); *Rader v. Montgomery County*, 5 Va. App. 523, 528, (1988) and *Wilson v. Wilson*, 109 U.S. 258 (1883).

10. A more egregious example was Geisler and Powell "finding" that Campbell found your Petitioner "has a narcissistic personality disorder" and "diagnosed" with same, making his contact with his children "dangerous" and "damaging to them" (A37, 83, 91-92. 98). But Campbell never made such a finding, but instead merely said,

> The evidence presented by expert testimony and, as challenged by other expert testimony, is that Mr. Barrett has a narcissistic personality disorder....

(A129). To the contrary, Campbell expressly found your Petitioner had no mental impairment (A129). Furthermore, Campbell made no connection to this disputed evidence of damage to the children. Indeed, even Campbell was wrong, for the expert testified that she did not find your Petitioner to have NPD (A152). Your Petitioner was robbed of his children on a lie.

- Failing to consider ***all*** of the facts in evidence *contra Venable v. Venable*, 2 Va. App. 178 (1986).

- Refusing to award custody to a fit parent over an unfit parent *contra Patrick v. Byerley*, 228 Va. 691 (1995); *Leisge v. Leisge*, 223 Va. 688, 693 (1982); *Mason v. Moon*, 9 Va. App. 217 (1989) and *Bailes v. Sours*, 231 Va. 96, (1986); *Mullen v. Mullen*, 188 Va. 259 (1948); and *Bottoms v. Bottoms*, 249 Va. 410 (1995).

- Awarding custody to a parent when the children are not actually in their custody *contra Commonwealth v. Jackson*, 276 Va. 184 (2008) and *Davis v. Davis*, 187 Va. 63 (1948).

- Limiting the introduction of relevant facts of past performance, *contra* VAC§20-124.3; *Keel v. Keel*, 225 Va. 606 (1983) and even *Barrett v. Barrett*, Record Number 0753-10-3 (Ct. of App. 01/25/2011).

- Relying on extra-judicial knowledge and facts outside of the record, *contra Bernau v. Nealon*, 219 Va. 1039 (1979).

- Failing to determine what custody is ***best*** for the children *contra* VAC§20-124.2; *Keel* and *Kane v. Szymczak,* 41 Va. App. 365 (2003).

- Failing to consider the broadest range of evidence and, instead, taking a myopic view of the facts *contra Keel.*

- Failing to consider the "overall aim" in deciding custody *contra Keel.*

- Failing to perform a ***comparative analysis*** to determine "best" *contra Keel.*

- Failing to perform a ***rational analysis*** to determine "best" *contra Keel.*

- Punishing one parent or rewarding the other parent for wrongs suffered *contra Moyer v. Moyer*, 206 Va. 899, 902 (1966).

- Making an equal factor cut against your Petitioner when Virginia law makes it irrelevant to custody *contra Turner v. Turner*, 3 Va. App. 31 (1986).

- Failing to consider the consequences of separating siblings and the presumption that they should be together *contra Hughes v. Gentry*, 18 Va. App. 318 (1994).

- Making factual findings with no foundation in the evidence *contra Vissicchio v. Vissicchio*, 27 Va. App. 240 (1998).

Should *certiorari* be granted, your Petitioner will exhaustively document examples of all these violations, confirming each judge utterly disregarded Virginia law and the evidence and chose to punish your Petitioner for daring to disagree with their child rearing philosophy, rather than doing what is best for his children,

The Orders Violate Your Petitioner's Right to Equal Protection.

Each of the orders violate your Petitioner's equal protection rights, negatively impacting his fundamental right to custody of his children, rendering said orders void *ab initio*. Even a superficial reading of the orders reveals that the TCs applied one standard of analysis to the Respondent and another standard of analysis to your Petitioner; ignoring that which favored your Petitioner while emphasizing the negative, that *a priori* promoted the Respondents' position while holding the parties to different rulings as to evidence and dissimilar burdens of proof to keep versus obtain custody:

- Geisler refused to allow your Petitioner to call the children to testify, while allowing the Respondent to do so in different, but related hearings. Geisler spoke of what the Respondent offered the children while ignoring what your Petitioner offered, including their respective experiences with actual custody of the children.

- Powell refused to allow your Petitioner to call the children to testify, while allowing the Respondent to do so and she refused to allow your Petitioner to admit into evidence any allegation that arose prior to Geisler's order, but allowed the Respondent to do so while she relied on the prior, extra-judicial opinions of Campbell and Geisler in rendering her judgment. Powell condemned your Petitioner for obtaining the children's records, filing

motions, the manner in which he conducted his case, his attitude toward the Respondent's parenting skills, while the Respondent's similar actions and attitudes were ignored. Power speaks glowingly of the Respondent's attributes as a parent while ignoring your Petitioner's. Powell favors the step-father's involvement in the lives of the children, while ignoring the step-mother's.

And these are but a few examples that can be gleaned from these orders. If *certiorari* is granted, each will be expanded and elucidated upon.

Conclusion

Because the at-issue custody orders resulted from a failure to apply Virginia law in violation of your Petitioner's (and his children's) substantive and procedural due process and equal protection rights, this Court should grant *certiorari* and declare them void *ab initio*.

III. MAY A TRIAL COURT ARBITRARILY DENY AN AGGRIEVED PARENT HIS DAY IN COURT IN VIOLATION OF STATE LAW UNDER THE 1ST AND 14TH AMENDMENTS?

No. Virginia law allows a party to challenge any custody order as being in violation of parental rights or due to lack of subject matter jurisdiction due to constitutional infirmity via VAC §8.01-428(D), a mere motion or any other means,

including a declaratory judgment action. *F.E. v. G.F.M.*, 35 Va. App. 648 (2001); *Va. Dept. Corr. v. Crowley*, 227 Va. 254, 261 (1984); *Barnes v. American Fertilizer Co.*, 144 Va. 692, 705 (1925). Likewise, in keeping with long standing Virginia tradition that a right without a remedy is a thing unknown at law, Virginia law recognizes the tort of inference with custody rights, which allows a parent to sue in tort *any* third party that interferes with a parent's custodial rights, citing two parent v. parent cases. *Wyatt v. McDermott*, 283 Va. 685 (2012). Thus, as argued above, parents have 1st and 14th Amendment rights in keeping with these causes of action that no court may deny, especially by means that are themselves in violation of state law.

In this case, your Petitioner filed a Complaint (A53-195) in which he alleged that his prior custody orders were, in fact, unconstitutional, making the same arguments there as here, asking the TC to declare them as such, and seeking to hold his ex-wife responsible in tort for her repeated intentional kidnapping of his children in violation of even his meager custodial rights. Unfortunately, when confronted with the Respondent's Demurrer, the TC utterly ignored Virginia law and sustained it without reason, violating your Petitioner's rights, begging for this Court's vindication.

A Demurrer Cannot be Sustained if a Complaint States a Cause of Action.

Under Virginia law, a complaint will survive demurrer if, when viewing the complaint in the light most favorable to the plaintiff, its factual allegations

and those facts which may be inferred from those allegations, all of which are deemed to be true, are sufficient to state a cause of action. *Schmidt v. Household Finance Corp.*, 276 Va. 108 (2008); *Didato v. Strehler*, 262 Va. 617 (2001); and *Ogunde v. Prison Health Services*, 274 Va. 55 (2007).

Count 1A

Per *F.E. v. G.F.M.* 35 Va. App. 648 (2001) and *Rook v. Rook*, 233 Va. 92 (1987), a parent may bring an independent action to challenge a child custody order as void *ab initio* per VAC§8.01-428(D), which preserves the common law action to obtain equitable relief from judgment on the *sole* basis that said order violates Constitutionally recognized rights or lacks jurisdiction under Virginia law. Such equitable relief is available anytime a party can show the necessity to do full justice (*Bucholtz v. Computer Based Systems*, 255 Va. 349 (1998)), to maintain his civil rights (*Yoder v. Givens*, 179 Va. 229 (1942)), and to prevent him from suffering a wrong without a remedy (*Price v. Hawkins*, 247 Va. 32 (1994)).

Recognition of a parent's Constitutional right to the custody of his children is an essential prerequisite of jurisdiction, rendering a contrary order void. Indeed, Virginia has long recognized that violations of the Constitution render an order void (*e.g.*, *Evans v. Smyth-Wythe Airport Commission*, 255 Va. 69 (1998) and *Cha v. Korean Presbyterian Church*, 262 Va. 604 (2001)), for no court has the jurisdiction to act outside of the limits of the law. *Harris v. Deal*, 189 Va. 675 (1949).

When dealing with a Constitutional deprivation of parental rights, a parent has need of full justice to maintain his civil rights, having no other means to redress that deprivation but to challenge the offending order in equity to impeach it as absolutely null. Virginia law expressly allows such a challenge at any time or *in any manner the subject may be brought to the attention of any court*, all of whom have the authority to declare such order void. *Barnes v. American Fert. Co.*, 144 Va. 692 (1925) and *Thacker v. Hubard*, 122 Va. 379, 386 (1918). This necessarily includes a cause of action filed pursuant to 8.01-428(D), for it allows a trial court to reverse an order for any reason this Court could, including lack of Constitutionality. *Landcraft Co. v. Kincaid*, 220 Va. 865 (1980).

Indeed, the Virginia General Assembly enacted VAC§8.01-428 with the "avowed purpose... to have Virginia practice become more like that under Federal Rules 55 and 60", which expressly provides a party the right to challenge any court order on grounds that "the judgment is void." See Annotator's Note to VAC§8.01-428; John Costello, *In Favor of Second Bites at the Apple: Attacking Final Judgments in Virginia*, Journal of the Virginia Bar Association, Volume 18, Number 3 (1992), Page 12; and FRCP Rule 60(b)(4).

With Complaint Count 1A (A154-155), your Petitioner alleged his fundamental parental rights were violated by the prior custody orders, asking the TC to declare them void under VAC§8.01-428(D), sufficiently pleading this cause of action.

Count 1B

Per *Martin v. Garner*, 286 Va. 76 (2013), a cause of action for declaratory relief requires an "actual controversy when there is an antagonistic denial of right" by adverse parties. In this case, the parties being the parents of the at-issue children who are adversely interested in the children's custody (A156) with the express allegation of the denial of your Petitioner's parental rights (A156) satisfying both, respectively. In liberally applying the declaratory judgment statute as required by VAC§8.01-191, this cause of action was sufficiently plead in Count 1B (A154-155).

Counts 2 to 4

The elements for negligence *per se* under Virginia law are set forth in *McGuire v. Hodges*, 273 Va. 199 (2007), and replicated virtually verbatim as to William in Counts 2 and 3 and Katarina in Count 4 (A178-181), which means your Petitioner has sufficiently plead this cause of action.

Counts 5 and 6

The elements for tortuous interference with parental rights under Virginia law are set forth in *Wyatt v. McDermott*, 283 Va. 685 (2012), and replicated virtually verbatim as to William in Count 5 and Katarina in Count 6 (A181-185), which means your Petitioner has sufficiently plead this cause of action.

Counts 7 and 8

The elements for intentional infliction of emotional distress are set forth in *SuperValu, Inc., v. Johnson*, 276 Va. 356 (2008) and *Russo v. White*, 241 Va. 23 (1991), and replicated virtually verbatim as to William in Count 7 and Katarina in Count 8 (A185-192), which means your Petitioner has sufficiently plead this cause of action.

Counts 9 and 10

The elements for ordinary negligence are set forth in *Delk v. Columbia/HCA Healthcare Corp.*, 259 Va. 125 (2000), and replicated virtually verbatim as to William in Count 9 and Katarina in Count 10 (A192-193), which means your Petitioner has sufficiently plead this cause of action.

By sustaining the Demurrer when these allegations are properly plead, the BCC violated your Petitioner's Constitutional rights.

A Demurrer Cannot Be Had on Grounds Not Plead.

While the Respondent demurred to Count 1 pertaining to relief under VAC§8.01-428(D), she did not demurrer to Count 1 pertaining to declaratory relief. Nevertheless, the BCC dismissed all of Count 1. In doing so, the TC violated your Petitioner's Constitutional rights, for the Virginia law does not allow the sustaining of a demurrer on grounds not claimed. *Boyd v. Boyd*, 2 Va. App. 16 (1986) and VAC§8.01-273.

A Demurrer Cannot Be Sustained

Based on Extraneous Matters, Other Pleadings or New Facts.

In sustaining the Demurrer, the BCC expressly states in its 04/14/2016 order (A1-3) that it considered and relied upon the Respondent's written and oral arguments in sustaining it, both of which contained unlawful arguments as to extraneous matters and referenced other pleadings and new facts. In doing so, the BCC violated your Petitioner's Constitutional rights, for Virginia law allows a demurrer to test *only* the sufficiency of the pleadings based *solely* on the pleading itself and *without* reference to extraneous matters and insists that a demurrer stands or falls by what appears on the face of the Complaint; that resort cannot be had to any other pleading or new facts. VAC§8.01-273; 6A Michie's Jurisprudence, *Demurrer*, §8, page 8, citing *Watt v. Com*, 99 Va. 872 (1901) and *Harris v. Thomas,* 11 Va. (1 Hen. & M.) 18 (1806); *Anderson v. Patterson*, 189 Va. 793 (1949); and 6A Michie's Jurisprudence, *Demurrer*, §32, page 30 and *Basic Construction v. Hospital*, 213 Va. 587 (1973).

Leave to Amend is Mandatory.

Under Virginia law, after the sustaining of a demurrer, leave to amend a Complaint should be liberally granted to a plaintiff as a matter of law, with failure to do so an abuse of discretion, unless it would be "impossible" to state a cause of action *and* when a defendant fails to demonstrate any prejudice by the granting of such leave. *Strader v. Metropolitan Life Ins. Co.*, 128 Va. 238 (1920); Rule 1:8 of the RSCVA; and *Kole v. City of Chesapeake*,

247 Va. 51 (1994). In this case, the BCC refused to grant your Petitioner leave to amend without finding the requisite impossibility and without the Respondent demonstrating any prejudice. By failing to grant your Petitioner leave to amend, the BCC violated your Petitioner's Constitutional rights.

A Sustained Demurrer Cannot be with Prejudice.

By sustaining the Demurrer and dismissing the Complaint with prejudice without a finding as to a specific deficiency in the Complaint, let alone a finding that such a deficiency could not be cured by amendment, the BCC violated your Petitioner's Constitutional rights, for Virginia law insists that under such circumstances a demurrer cannot result in a dismissal with prejudice. *Jackson v. Richmond*, 152 Va. 74 (1929).

Sustaining a Demurrer Must Be Reasonable.

Because a judicial decree is the *law* of the case as to the parties as much as an act of any legislature (*Miller-Jenkins v. Miller-Jenkins*, 276 Va. 19 (2008)), to survive constitutional scrutiny, that decree must not be unreasonable, arbitrary or capricious per *Nebbia, Id.* To lack reason is to be unreasonable, arbitrary and capricious, by definition. Therefore, the BBC violated your Petitioner's Constitutional rights in sustaining of the demurrer utterly and literally without any reason whatsoever.[11]

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11. The VSC compounded this error by summarily declaring the BCC's ruling to be without error with itself providing no reason and without notice and the

Sustaining the Demurrer Robbed Your Petitioner of Justice.

Given the above arguments and the undeniable facts that the at-issue custody orders denied your Petitioner of his fundamental rights and that the Respondent had kidnapped his children by denying him visitation (see VAC§18.2-49.1), the BCC violated a most basic principle of Virginia due process: where there is a rights violation, there is a remedy. Furthermore, the right to petition is rendered moot if a trial court can without a legal rationale dismiss any case that does not meet its *ad hoc* predilections as to what is a good enough case. Thus, in utterly robbing your Petitioner of his day in court, denying him any shot at justice, the BCC violated your Petitioner's Constitutional rights, resulting in a decision that cannot survive judicial review and must be reversed by this Court.

Sustaining the Demurrer Robbed Your Petitioner of Equal Protection.

Per *Barbier v. Connolly*, 113 U.S. 27 (1884), the Equal Protection Clause demands that all persons:

> ...should have like access to the courts of the country for the protection of their persons..., the prevention and redress of wrongs...; that no impediment should be interposed to the

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opportunity to be heard, violating not only the *Nebbia* rule, but also your Petitioner's due process rights, rendering its order void *ab initio* and the case undecided, allowing this Court to pass upon it.

> pursuits of any one, except as applied to the same pursuits by others under like circumstances...

Thus, any ruling will be invalid if litigants are not "treated alike, under like circumstances and conditions, both in the privileges conferred and in the liabilities imposed." *Hayes v. Missouri,* 120 U.S. 68 (1887). Despite this absolute Constitutional mandate, the BCC failed to treat your Petitioner as the litigants in the aforementioned cases of *F.E.; Wyatt; and Memmer v. Memmer*, Record Number 45503 (Judge Thomas Middleton, Fairfax Circuit Court, 03/07/1980), though their claims were cognizable under nearly identical facts and appeals to the same legal principles, violating your Petitioner's right to equal protection and begging this Court reverse and remand.

IV. FINAL PLEA

The social sciences have spoken.[12] The last forty years of separating parents from their children

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12. See Patrick F. Fagan and Aaron Churchill, The Effects of Divorce on Children, downloads.frc.org/EF /EF12A22.pdf (2012); and Jane Anderson, The Impact of Family Structure on the Health of Children: Effects of Divorce, www.ncbi.nlm.nih.gov/pmc/articles/PMC42400 51 (2014) - two of the thousands of scholarly articles documenting the devastating effects of divorce on children. See also www.fatherhood.gov/library and search "fatherlessness" to see many articles exposing the problems of children without fathers. Indeed, almost all mass shootings in the past ten years have been by fatherless young men per

has been an unmitigated disaster, causing not only great physical and psychological problems for the involved children that manifest in negative behaviors, but devastating consequences for the culture, being multi-generational in effect and transcendent of all demographics.

Given that all 50 states have ignored these effects and have deceived themselves into thinking they are acting in the "best interests of the children", the time has come for this Court to consider whether a parent's fundamental right to the custody of their children and the children's fundamental right to family integrity, mandate recognizing the states' child custody laws as Constitutionally infirm. Indeed, given the scientific data as to the damage they inflict, it is simply not possible to argue they are advancing a compelling interest to justify such a violation.

No, all indications are that the rights of parents and children are not just ancient American legal tradition but are founded on transcendent truths that are borne out by millennia of human experience and that states are acting tyrannically when they pretend to know what is better for children than their parents. It is time for this Court to follow through on the logic of its long line of precedents and do what is truly best for children and stop the forced separation of parents and children.[13]

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http://thefederalist.com/2015/07/14/guess-which-mass-murderers-came-from-a-fatherless-home/.

13. Because the Constitution reaches this issue and because all states ignore these rights, with the VSC Court doing so specifically in this case, Rule 10(c) applies.

Given these circumstances, it is unlikely any other case considered by this Court will have the potential for the far reaching and positive effects in the lives of millions of American children as this case. This makes this case one of the most important cases this Court could even conceivably consider.

We ask this Court to look past any weakness in your Petitioner's arguments and consider what is the heart of his plea: The Constitution proscribes states from the *de jure* kidnapping of children with no right of redress - the ultimate tyranny. We believe in doing so, this Court will grant the Petition, find Virginia's child custody scheme unconstitutional, and, thereby, protect the most innocent and vulnerable among us.

CONCLUSION

Given the above, we respectfully submit this issue to the Court with the hope that it grants the Petition.

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