

App. No. _____

In the Supreme Court of the United States

AKASH DIXIT, PETITIONER

v.

TANYA SINGH DIXIT, RESPONDENT.

ON PETITION FOR A WRIT OF CERTIORARI
BASED ON JUDGMENT OF THE SUPREME COURT OF GEORGIA.

PETITION FOR A WRIT OF CERTIORARI

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**WHY ARE CRIES OF CHILDREN HEARD IN THE US ONLY IF THEY ARE
OUTSIDE OF THE US OR OF OUTSIDERS? WHY ARE THE CRIES OF 20-
MILLION-US-CITIZEN CHILDREN FORCIBLY SEPARATED FROM THEIR
WILLING, ABLE AND LOVING PARENTS NOT HEARD BY THE JUDICIARY OF**

THE US?



This Certiorari is about an international conspiracy to undermine the judicial system of the United States. It started as fraudulent divorce case filed, while the parties, who are citizens of India with no bona fide status in the US, resided in India with their son. They were denied visas several times to enter the US during that period. The divorce has case continued in the state court in total absence of jurisdiction. Such total lack of order, exemplifies a menace of brutality against children in your country as well. The brutality is

being indulged at a scale witnessed never before in the history of humanity by INFERIOR judiciary across your nation. Therefore, through this Certiorari, I ask that you address the main questions asked in the application and also take this as an opportunity to address the broken family law situation of your country.

QUESTIONS PRESENTED. RULE 14 - 1 (A)

I have listed 3 questions hereunder that fall under 3 criteria listed as (i) through (iii). The criteria are some of the clauses listed in Rule 10 of your court that you consider when making decisions whether to grant or deny Certiorari applications. Question 1 falls under criteria (i) and (iii); question 2 falls under criteria (i) and (ii); and question 3 falls under criteria (ii) and (iii).

Criteria

- i). Rule 10 (c) *a state court [having] decided an important question of federal law that has not been, but should be, settled by this Court;*
- ii). Rule 10 (b) *a state court of last resort having decided an important federal question in a way that conflicts with the decision of [several] United States courts of appeal, actually its own prior rulings as well;*
- iii). Rule 10 (a) *state court of last resort has so far departed from the accepted and usual course of judicial proceedings, [and has] sanctioned such a departure by a lower court, as to call for an exercise of this Court's supervisory power;*

Questions Presented

1. Did the state court of last resort err in ignoring/condoning illegal retention of a foreign-citizen-child by the Respondent in the US, putting the

US in violation of the international treaty of the Hague Convention on the Civil Aspects of International Child Abduction (Convention), Oct. 24, 1980, T.I.A.S. No. 11670, S. Treaty Doc. No. 99-11 to which the US is a signatory? The treaty has been duly codified in 42 U.S.C. 11601 to 11610 transferred to 22 U.S.C. 9001 to 9010.

2. Do the state courts of the US have jurisdiction to decide over divorce cases of foreign nationals who, at the time of filing of divorce petition, were residing in their own country with no legal or bona fide status to be in the US? OR, do the state courts have the authority to give legitimacy to use marriage or divorce as a ruse to hide flagrant attempt of illegal immigration? Please note that during the period of filing of the divorce the parties were denied entry by the US embassy in that foreign nation to enter the US several times.

3. Did the state court of last resort err and is in violation of the established principles of law that courts of civilized countries act within the jurisdictional limits set up by the legislature and are required to address duly posed jurisdictional defenses before proceeding? In this question, it is not so much as the action of the Supreme Court of Georgia that is in question, but rather its inaction.

PARTIES TO THE PROCEEDINGS. RULE 14 - 1 (B)

Akash Dixit has a doctorate degree from the Georgia Institute of technology, an institution of higher learning in Atlanta, Georgia. After finishing his doctorate degree, he was employed as a full-time faculty member in renowned universities in the US. Thereafter, he returned to his country, the Republic of India, where he was employed as a full professor in Graphic Era university. During his recent visit to the US on visitor's visa, his Indian citizen son was abducted and is now being illegally retained in the US. He has since lost his job due the mal and malafide functioning of the Georgia courts.

Respondent, Tanya Singh Dixit, has a mad desire to be in the US. She filed a divorce case in the US, while she, I (Petitioner) her husband and our son (**all Indian citizens**), **resided in the Republic of India** and when neither I, nor she had any bona fide status to even visit the US let alone reside in the US. She filed the divorce case after several of her visa applications to enter the United States were rejected by the US embassy in India, as an alternate and fraudulent means to enter the US.

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I. As in this case, can a foreign citizen child of two foreign citizen parents be illegally detained in the US by the US state courts on account of a divorce case filed while the parents were residing in their own country along with the child and who had no bona fide status to be in the US during the period under question. The parents were actually denied visa several times during the period under question.

Falls under: a state court [having] decided an important question which is against federal law and which has not been, but should be, settled by this court; additionally, the state court has so far departed from the accepted and usual course of judicial proceedings, [and has] sanctioned such a departure by a lower court, as to call for an exercise of this court's supervisory power

II. As in this case, do the states courts of the US have the ability to infringe upon federal immigration authority, and decide on the bona fide status of the parties in a divorce proceeding between foreign citizens residing in their own country with no bona fide status to be in the US? They were actually denied entry by us embassy in the foreign country during the period under question

Falls under: a state court [having] decided an important question of federal law that has not been, but should be, settled

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RELEVANT OPINIONS. RULE 14 - 1 (D)

The ruling of the Supreme court of Georgia is attached as Appendix A.

The ruling of the Supreme court of Georgia on the motion for reconsideration, which was rendered on March 29, 2018 is attached as Appendix B. This is the governing adjudication for calculating the 90-day period.

The ruling of the Court of Appeals of Georgia for the underlying case is attached as Appendix C.

The ruling of the Court of Appeals of Georgia on the motion for reconsideration is attached as Appendix D.

The ruling of the Superior court of the Fulton county in Georgia, which is the base case, is attached as Appendix E.

JURISDICTION RULE 14 - 1 (E)

The jurisdiction of this Court is invoked under 28 U.S.C. §1257 (a) and 28 U.S.C. §2101(c).

CONSTITUTIONAL AND STATUTORY PROVISIONS INVOLVED. RULE 14 - 1 (F)

1. The International treaty of the Hague Convention on the Civil Aspects of International Child Abduction (Convention), Oct. 24, 1980, T.I.A.S. No. 11670, S. Treaty Doc. No. 99-11 to which the US is a signatory. The treaty has been duly codified in 42 U.S.C. §§ 11601 to 11610 and transferred to 22 U.S.C. 9001 to 9010.
2. Article I, Section 8, clause 4 of the Constitution.
3. The first, fourth, tenth and fourteenth amendments of the US constitution.

As discussed with the clerk and per the rules, in the interest of brevity, I am not providing the above constitutional and statutory provisions that are very basic and readily available.

CONCISE STATEMENT OF MATERIAL FACTS. RULE 14 - 1 (G)

If review of a state-court judgment is sought, specification of the stage in the proceedings, both in the court of first instance and in the appellate courts, when the federal questions sought to be reviewed were raised; the method or manner of raising them and the way in which they were passed on by those courts; and pertinent quotations of specific portions of the record or summary thereof, with specific reference to the places in the record where the matter appears (e. g., court opinion, ruling on exception, portion of court's charge and exception thereto, assignment of error), so as to show that the federal question was timely and properly raised and that this Court has jurisdiction to review the judgment on a writ of certiorari

I, the Petitioner, Akash Dixit, the Respondent Tanya Singh Dixit (also referred to as Tanya Singh in this application) and our son, **are all citizens of India**. Repeatedly arguing against the illegal retention of my son, **till now I have asked whether the courts of Georgia have subject matter jurisdiction** over two foreigners residing in their own country with no bona fide status to be in the US **around a 100 times**, starting from the superior courts to the court of appeals and the supreme court of Georgia. I **emphasized that immigration is a federal question, and no proper statutory service has taken place** in the case. The question has not been addressed properly even once. The lower court did rule on the question, but that was after conducting the trial without stating that it has subject matter jurisdiction, making the trial itself void. I, also repeatedly asked if the question about jurisdiction can be ignored, corroborating my claim that it cannot be by giving citations of authority in the form of the uniform mandates of the constitution of the United States, federal and state statutes as exemplified by unequivocal opinions of the supreme courts of both

Georgia and that of the United States. Neither did the courts of Georgia say that it is not required for them to rule on that question, nor did they rule on it.

Three instances when I asked the question, one each from the lower court, court of appeals of Georgia and supreme court of Georgia are:

Lower court (Filing from India July 21, 2016):

"Sir, [I addressed the Judge as Sir] it is to bring to your kind attention that at the time the case was filed, the plaintiff and respondent both were in India. Further, neither the plaintiff nor the respondent fulfill the necessary criteria of six month Georgia residency prior to filing of divorce cases in Georgia, USA. Further, I have not been served anything except the last 'order to appear,' for status conference on 28th. July, 2016. Therefore, I have had no information about the case, other than one lines posted on the website of Georgia Superior Court. Obviously, I am not getting a fair chance to defend myself and my family and neither does the complaint has a locus standi."

"As a proof that neither I, nor the plaintiff, fulfill the Georgia residency requirement, I furnish utility bills, credit card bills, relieving letter from my employer and employment letter from my employer."

"I am unable to be present in your court because for foreigners to visit USA, we need a valid visa and money. In the absence of any documents so that I can be granted a visa to visit USA for the purpose to defend an illegally filed case, it is impossible for me to be present in your court.

Sir, who filed this case? Can any random person file a divorce complaint against somebody else's spouse? Is that the law of Georgia? It is strange that a divorce solve a case has been filed in your court where not only both the plaintiff and the defendant are non-residents of the state, but they are foreigners as well. How and why should we fight a case on a foreign soil. It is similar to calling the police of Russia to solve a police complaint in US. The filers have tried to make a joke of your court and by consequence judicial system of Georgia.

In light of the above, in absence of any locus standi and me having an unfair disadvantage in defending myself, I request the case be dismissed forthwith with prejudice and that whoever filed"

Court of Appeals (Appellant's brief Case A17A2036):

"Whether the judgment is void on the face of it or voidable because of improper service (De-novo review) and/or the trial court not making a timely ruling on whether it has jurisdiction (De-novo review), and/or exhibited malevolence/bias of the trial court Judge towards the father (De-novo review)?"

2. Whether the trial court had jurisdiction over the foreign litigants living in their own country with no legal status to live in US, enabling/forcing them to gain entry into US (De-novo review)?

Supreme Court of Georgia:

In the Supreme court of Georgia, I asked the same questions as above again and the following again.

"I further ask that you immediately subscribe to the duties of the United States under the Hague Convention on Private International Law (HCCH) (42 USC 11603) and IMMEDIATELY end this illegal retention of my son."

"I am not saying that you agree with me and deny you have jurisdiction. Claim jurisdiction. Make it a precedent that foreigners who are living in their own country can claim the jurisdiction of the state of Georgia. Make it a precedent that foreigners who have been denied entry into the US by the US embassy, can claim your jurisdiction. Make it a precedent that the state of Georgia disregards the supremacy clause of the US constitution regarding immigration being a federal subject. Article I, Section 8, clause 4 of the Constitution entrusts the federal legislative branch with the power to "establish an uniform Rule of Naturalization," and federal courts to adjudicate on matters therefrom. But, at least do not ignore your own constitution, your own statute and your own rulings which mandate you to take a call on the question of jurisdiction, whenever it is posed. "

1. I, the Petitioner, Akash Dixit, the Respondent Tanya Singh Dixit (also referred to as Tanya Singh in this application) and our son, **are all citizens of India.** Tanya Singh has a mad desire to be in the United States. Since May 2015, she departed matrimony giving a hand written and email separation notices to me. In the notice, she said that I was a better parent, so I should take care of the child and that she is no longer dependent on me. She abandoned her son and absconded to New Delhi in India. In New Delhi, she

applied for a lot of visas to enter the US. All those **visas were rejected** by the US embassy in India. Tanya Singh's family is in the US, in Georgia. On September 29, 2015, with the help of her family in the US, **she filed a divorce case** in Georgia, while she and I had **no** legal status to live in the United States, let alone Georgia, and were still living in India along with our son, **as an alternate and fraudulent means to enter the US.**

Surprisingly, it worked!

2. I filed police reports to ascertain her wellbeing and residence. Please see Appendix F. Eventually, the Indian police found Tanya Singh residing in New Delhi. The police in their report stated that the mother lived in an undisclosed location in Delhi by 'svechcha' (Hindi word for "on her own volition"). After the police found her, Tanya Singh briefly came and visited me and my son, during January-February 2016 in India before she vanished again. In the meetings during her brief visit, Tanya Singh disclosed to me that she had filed a divorce case against me in the US.

3. On May 12, 2016, **while all of us were still in India**, Tanya Singh filed a fraudulent certificate of service in the US in the name of a fictitious person in India. Please see Appendix G. In this certificate of service, she cites the rules of the courts in India, which are not decipherable. In her briefs and responses to my motion to dismiss, she repeatedly said that the service was done according to the laws of India. How are Indian laws applicable in the US? She states that the service was done on June 6, 2015, three months before even filing of the case in the US. She states that my signature is

attached as Exhibit C but has nothing attached there. When I challenged this ridiculous document that **she in effect claimed that Georgia is a state in the Republic of India, the Court of Georgia acquiesced!**

4. The statutory requirement of filing a divorce case in Georgia is governed by O.C.G.A. 19-5-2, which requires at least 6-month bona fide residence prior to filing of the divorce case. I sent a letter from India to the Georgia Court asking it to dismiss the action since it has absolutely no subject matter jurisdiction over foreign litigants residing in their own country. The court did not act on the letter within a reasonable time. Therefore, I came to the US on visitor's visa along with my son to show him the US and to end this ridiculous matter. The court ordered the illegal retention of my son in violation of the Hague convention. Thereafter, I filed motions to dismiss pointing to the illegal retention of my son due to the absence of subject matter jurisdiction and the improper service of process. The motion to dismiss in Georgia regarding subject matter jurisdiction are governed by O.C.G.A. 9-11-12 h (3), wherein it is stated: "*Whenever it appears, by suggestion of the parties or otherwise, that the court lacks jurisdiction of the subject matter, the court shall dismiss the action.*" In the meanwhile, four days before the trial date, Tanya Singh, came to the US on parole visa using our son who was being illegally detained here as an anchor baby.

5. **The trial court conducted the trial without ruling on the question of the jurisdiction.** Along with not making a timely and required ruling on the question of jurisdiction, the trial court judge indulged in blatant

disregard of law. I furnish two examples here. As I noted above, Tanya Singh, the Respondent, abandoned her son in her mad desire to be in the US. During the trial, I asked her, why did she not visit her son for two years while we were in India. She was at a loss, so the trial court judge helped her by suggestively asking her about gang rapes in India and about attacks on women in India. Tanya Singh tagged on to the suggestion and stated that she did not meet her son because of women's safety issues in India. On the seventh day of the judgment, during its automatic stay period, the judge was caught red handed in his collaboration with the Respondent. The Respondent filed a motion of contempt against me for stealing the toys and clothes of my son. The judge acted on the motion in 4 minutes. That means the judge read the 10-page motion, typed in a half page order, printed it, signed it, scanned it and e-filed within four minutes!

6. The conduct of the lower court inserted four non-amendable defects at the face of the record and pleading that were not corrected by the judgment rendering the judgment void:

- a) the absence of subject matter jurisdiction due to the illegal retention of my son in violation of the Hague convention and otherwise.
- b) No proper statutory service of process.
- c) the bias and malevolence of the trial court judge.
- d) No timely ruling on item a or b.

I brought my question about the voidness of the judgment at its face to the notice of the appellate courts of Georgia. The courts, rather than siding with

the statute and constitution, sided with the judge and the Respondent. In the face of undeniable evidences as stated above, they obviously could not state that the judgment was not void, so they ignored my question. However, ignoring the question about the absence of subject matter jurisdiction or voidness of a judgment is against the uniform mandates of the constitution of the United States, the statute of Georgia, exemplified by decisions of the supreme court of Georgia and your own decisions. You have used harsh words on such judicial actors such as they do "***treason to the constitution***" or are "***held in law as trespassers***." Please see the citations of the mandates that disallow conduct of judicial business despite questions about voidness of judgment or absence of subject matter jurisdiction in the next section.

ARGUMENTS AMPLIFYING THE REASONS RELIED ON FOR ALLOWANCE OF THE WRIT

In this part of the application, I provide the question, the criteria or the reasons that I claim it fulfills among those under rule 10 of your court that give guidelines of the criteria that you use to adjudge the granting or denial of the applications and arguments in support of that the I do indeed meet the criteria.

SECTION 1 QUESTION

As in this case, can a foreign citizen child of two foreign citizen parents be illegally detained in the US by the US state courts on account of a divorce case filed while the parents were residing in their own country along with the child and who had no bona fide status to be in the US during the period under question. The parents were actually denied visa several times during the period under question.

SECTION 1 CRITERIA

A state court [having] decided an important question which is against federal law and which has not been, but should be, settled by this court; additionally, the state court

SECTION 1 ARGUMENTS

Under this section, I raise the matter of the illegal retention of my son by the state court order, at the request of the Respondent, whose habitual

residence was India. The state court ignored my regular and repeated filings for return of my son in flagrant disregard of the mandates of the 22 U.S.C. 9001 through 9010. I objected several times to the courts of Georgia as described in the part titled 'Concise Statement of Material Facts' in this application. Another example is tendered below, wherein I am desperately trying to coax the judiciary to end this illegal detention of my son. Quoting in relevant part from my brief to the Supreme Court of Georgia:

"Did the Respondent have the right to hurt his tender and innocent heart by taking away the only source of parental love and support he knew in such an abrupt and rash manner only for the fact that he is a minor? If members of Boko Haram organization kidnap school girls in Nigeria, they are called terrorists, if my son is terrorized by a Judge in America in an open court room, what will you call him?"

22 U.S.C. 9001 states the following:

(1) *The international abduction or wrongful retention of children is harmful to their well-being.*
(2) **should not be permitted to obtain custody of children by virtue of their wrongful removal or retention.**
(4) *The Convention on the Civil Aspects of International Child Abduction, done at The Hague on October 25, 1980, establishes legal rights and procedures for the prompt return of children who have been wrongfully removed or retained, as well as for securing the exercise of visitation rights. Children who are wrongfully removed or retained within the meaning of the Convention are to be promptly returned unless one of the narrow exceptions set forth in the Convention applies. The Convention provides a sound treaty framework to help resolve the problem of international abduction and retention of children and will deter such wrongful removals and retentions.*

(1) *It is the purpose of this chapter to establish procedures for the implementation of the convention in the United States.*
(2) *The provisions of this chapter are in addition to and not in lieu of the provisions of the convention.*
(3) *In enacting this chapter, the Congress recognizes—*
(A) *the international character of the convention; and*

(B) the need for uniform international interpretation of the convention.

(4) **The convention and this chapter empower courts in the United States to determine only rights under the and not the merits of any underlying child custody claims.**

22 U.S.C. 9002 defines the different terms used in the chapter such as Convention, states and petitioner.

22 U.S.C. 9003 states:

(a) *Jurisdiction of courts* *The courts of the states and the United States district courts shall have concurrent original jurisdiction of actions arising under the*

(d) *Determination of case:* The court in which an action is brought under subsection (b) shall decide the case in accordance with the Convention.

(e) (2) *Burdens of proof:* *In the case of an action for the return of a child, a who opposes the return of the child has the burden of establishing—*

(A) *by clear and convincing evidence that one of the exceptions set forth in article 13b or 20 of the Convention applies; and*

(B) *by a preponderance of the evidence that any other exception set forth in article 12 or 13 of the Convention applies.*

(f) *Application of Convention* *For purposes of any action brought under this chapter—*

(2) *the terms “wrongful removal or retention” and “wrongfully removed or retained”, as used in the Convention, include a removal or retention of a child before the entry of a custody order regarding that child;*

22 U.S.C. 9004 gives the provisional remedies of the chapter that were again disregarded:

(a) *Authority of courts:* *In furtherance of the objectives of article 7(b) and other provisions of the Convention, and subject to the provisions of subsection (b) of this section, any court exercising jurisdiction of an action brought under section 9003(b) of this title may take or cause to be taken measures under Federal or State law, as appropriate, to protect the well-being of the child involved or to prevent the child’s further removal or concealment before the final disposition of the petition.*

(b) *Limitation on authority:* *No court exercising jurisdiction of an action brought under section 9003(b) of this title may, under subsection (a) of this section, order a child removed from a person having physical*

control of the child unless the applicable requirements of State law are satisfied.

22 U.S.C. 9005 states that no authentication of documents submitted to seek relief under the section is required.

22 U.S.C. 9007 provides that the Respondent pays the costs that is incurred or to be incurred by the Petitioner.

The case law 22 U.S.C. 9001 through 9010 is sparing. For example, see, Holder v. Holder Ninth Circuit nos 01-35467, 01-35519. Didon v. Castillo Third Circuit 15-3579, 15 -3350 (precedental). However, it is totally unheard of that a mother, who was residing in India, uses an Indian citizen child, who was also residing in India, during a visit to the US to be able to immigrate to the United States. The habitual place of residence of the child for the purposes of the convention and the 22 U.S.C. 9001 through 9010 has to be the place of citizenship and birth of the parents. Both the parents are on temporary visas to the US. As such, the state court gravely erred in ignoring the question of jurisdiction and Ordering the child be held in the United States. This is the first such case, where both the parents are Indian citizens, who were residing in India along with the child at the time of filing of the custody dispute. As such, this court's urgent attention for the prompt return of the child is requested. The lower court in the state ignored the federal statutory mandates by not addressing the duly posed question about illegal retention of my foreign citizen son. The appellate courts of Georgia ignored the inaction by the lower court. As such, the state appellate courts, particularly the Supreme

court of Georgia, failed to uphold any and all the provisions of the code section 22 U.S.C. 9001 through 9010. Therefore, the state supreme court so far departed from the accepted and usual course of judicial proceedings, [and has] sanctioned such a departure by a lower court, as to call for an exercise of this Court's supervisory power. Also, this case exemplifies an issue which is a federal question that can only be addressed by your court.

SECTION 2 QUESTION

As in this case, do the states courts of the US have the ability to infringe upon federal immigration authority, and decide on the bona fide status of the parties in a divorce proceeding between foreign citizens residing in their own country with no bona fide status to be in the US? They were actually denied entry by us embassy in the foreign country during the period under question

SECTION 2 CRITERIA

A state court [having] decided an important question of federal law that has not been, but should be, settled by this Court; Additionally, a state court of last resort having decided an important federal question in a way that conflicts with the decision of [several] United States courts of appeal, actually its own prior rulings as well

SECTION 2 ARGUMENTS

The subject matter jurisdictional requirements of divorces in Georgia are given by O.C.G.A. 19-5-2 that requires a six-month bona fide residence in the state of Georgia. Though the Respondent does not meet that

requirement by any extension of imagination, let alone facts, legal basis or logic, I am not debating about her meeting the criterion. My point is can the state courts even determine if she meets the bona fide residence criteria once the US embassy has denied her visa several times? Article I, Section 8, clause 4 of the Constitution entrusts the federal legislative branch with the power to “establish an uniform Rule of Naturalization.” The Congress has entrusted federal offices with the responsibility to regulate entry to the United States by the foreigners such as the Department of Homeland Security, the United States Citizenship and Immigration Services and different embassies and consulates of the United States in different countries. The US embassy in the Republic of India, according to the testimony of the Respondent herself, denied entry to the Respondent more than once. Then, can the Respondent claim that she was a bona fide resident of the United States during that same period?

As per amendment tenth of your constitution, your court has repeatedly controlled and denied ability of the state governments to infringe on the power to regulate immigration. Your court struck down efforts by New York and Massachusetts to impose a head tax on incoming immigrants. Four justices concluded that such taxes usurped congressional power to regulate commerce under Article I, Section 8, clause 3 of the Constitution. A unanimous court applied the same rationale in 1876, striking down a New York state statute taxing immigrants on incoming vessels in *Henderson v. Mayor*

of New York. In a recent noteworthy case Arizona v. United States, 387 (2012), Justice Kennedy wrote:

"The Government of the United States has broad, undoubted power over the subject of immigration and the status of aliens. ... This authority rests, in part, on the National Government's constitutional power to "establish an uniform Rule of Naturalization," U. S. Const., Art. I, §8, cl. 4, and its inherent power as sovereign to control and conduct relations with foreign nations...."

Federal courts have not addressed the question directly but have indirectly addressed it. Federal courts have repeatedly found that even U.S. citizens residing abroad cannot claim residence of a state in the US. Then, how can foreigners claim such a status? Please see, *Coury v. Prot* , 85 F.3d 244, 248-51 (5thCir. 1996). "A person cannot be a [resident] of a state unless she is also a [resident] of the United States." See e.g., *Newman-Green, Inc. v. Alfonzo-Larrain*, , 109 S.Ct. 2218, 104 L.Ed.2d 893 (1989); *Coury v. Prot* , 85 F.3d 244, 248-51 (5thCir. 1996).

The question posed herein is that if the state governments do not have power to infringe upon federal immigration authority, do the state courts have that power?

This question cannot be addressed by the state court. It has a precedent value and the state court having 'ruled' is in disagreement with the rulings of federal courts and court of appeals.

SECTION 3 QUESTION

Did the state court of last resort err and is in violation of the established principles of law that courts of civilized countries act within the jurisdictional limits set up by the legislature and are required to address duly posed jurisdictional defenses before proceeding?

SECTION 3 CRITERIA

The state court of last resort has so far departed from the accepted and usual course of judicial proceedings, [and has] sanctioned such a departure by a lower court, as to call for an exercise of this court's supervisory power.
Additionally, state court, its own rulings and rulings of this court.

SECTION 3 ARGUMENTS

Under this section, I raise the matter of requirement of courts to rule on the question of void judgments because of:

- a) Absence of subject matter jurisdiction due to the illegal retention of my son because of a violation of the Hague convention and otherwise.
- b) No proper statutory service of process.
- c) Bias and malevolence of the trial court judge.
- d) No timely ruling on item a or b.

All the four pillars of judiciary, namely, the constitution of the United States, the statutory law of Georgia, duly exemplified in decisions of the Supreme courts of both the United States and that of Georgia, uniformly mandate and enunciate that once the question of judgments being void due to absence of subject matter jurisdiction or for any other reason is posed, it is required for

the courts to address it by either claiming jurisdiction or dismissing the matter.

The Supreme Court of the United States:

*"a court must take jurisdiction if it should (and deny jurisdiction if it shouldn't). The judiciary cannot, as the legislature may, avoid a measure because it approaches the confines of the constitution. We cannot pass it by, because it is doubtful. With whatever doubts, with whatever difficulties, a case may be attended, we must decide it if it be brought before us. **We have no more right to decline the exercise of jurisdiction which is given than to usurp that which is not given.** The one or the other would be **treason** to the constitution. Questions may occur which we would gladly avoid; but we cannot avoid them."* (citations omitted) *United States v. Will*, 449 U.S. 200 (1980).

*"No judicial process, whatever form it may assume, can have any lawful authority outside of the limits of the jurisdiction of the court or judge by whom it is issued, and an attempt to enforce it beyond these boundaries is nothing less than **lawless violence.**"* *Ableman v. Booth*, 21 Howard 506 (1859)

*"But if [a court acts] without authority, its judgments and orders are regarded as nullities. They are not voidable, but simply void, and form no bar to a remedy sought in opposition to them, even prior to a reversal. They constitute no justification, and **all persons concerned in executing such judgments or sentences are considered in law as trespassers.**"* *Elliot v. Piersol*, 1 Pet. 328, 340, 26 U.S. 328, 340 (1828)

*"A void judgment is not entitled to the respect accorded a valid adjudication, but may be entirely disregarded or declared inoperative by any tribunal in which effect is sought to be given to it. It is attended by none of the consequences of a valid adjudication. It has no legal or binding force or efficacy for any purpose or at any place. It cannot affect, impair, or create rights. It is not entitled to enforcement and is, ordinarily, no protection to those who seek to enforce it. **All proceedings founded on the void judgment are themselves regarded as invalid.** In other words, a void judgment is regarded as a nullity, and the situation is the same as it would be if there were no judgment. It, accordingly, leaves the parties litigant in the same position they were in before the trial."* *Olson v. Leith*, 257 P. 2d 342 - Wyo: Supreme Court 1953

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

"Once jurisdiction is challenged, it must be proven." Hagens v Lavine, 415 US 533.

The Constitution of the United States:

The fourth and fourteenth amendment of the Constitution of the US talks about "due process" and "equal protection." It was held in *Williams v. North Carolina*, 325 U.S. 226(1945) that a judgment entered in absence of subject matter jurisdiction or without proper service is void on its face and denies the offended party 'due process' of law. It was also held in the same case, that other courts have the right to overturn such a judgment that was rendered in absence of 'due process.'

The Statute of Georgia:

The Georgia Statute speak in sync with the rulings of the Supreme Court of the United States and the Constitution. O.C.G.A 9-11-12 (h) (3), O.C.G.A. 9-12-16 and O.C.G.A. 9-11-60 (a), respectively, state that:

"Whenever it appears, by suggestion of the parties or otherwise, that the court lacks jurisdiction of the subject matter, the court shall dismiss the action."

"The judgment of a court having no jurisdiction of the person or the subject matter or which is void for any other cause is a mere nullity and may be so held in any court when it becomes material to the interest of the parties to consider it."

"Collateral attack. A judgment void on its face may be attacked in any court by any person."

The Supreme Court of Georgia:

The Supreme court of Georgia interpreted the statute in no uncertain terms, (something that the Judges summarily failed to uphold) as can be seen in the following rulings.

*"[W]e point out that this holding (that void judgments cannot be attacked on appeal) is in conflict with long-standing statutory and case law **requiring** courts to dismiss an action "[w]henever it appears, by suggestion of the parties or otherwise, that the court lacks jurisdiction of the subject matter." OCGA § 9-11-12(h)(3).*

*"The court's lack of subject-matter jurisdiction cannot be waived and may be raised at any time either in the trial court, in a collateral attack on a judgment, or in an appeal. [Cit.]" Citations omitted. See *Abushmais v. Erby*, 652 S.E.2d 549 (Ga.2007)*

The state Supreme Court by ignoring the question of jurisdiction has not just conflicted with several federal court of appeals, but it conflicted with itself, with you and with even the Constitution of the United States and the statute of the state of Georgia. You have used harsh words on such judicial actors such as they do **"treason to the constitution"** or are **"held in law as trespassers."**

I am not sure if this conduct of the Supreme Court of Georgia falls more under it having decided an important federal question in a way that conflicts with the decision of [several] United States courts of appeal, actually its own prior rulings as well, Or under it has so far departed from the accepted and usual course of judicial proceedings, [and has] sanctioned such a departure by a lower court, as to call for an exercise of this Court's supervisory power. However, it does seem that guidance of the Supreme Court of the United States is desperately needed here.

MATTER OF GRAVE CONCERN AND IMPORTANCE TO PUBLIC

My case is one of millions of cases of injustice in which little children are brutalized by courts across your nation. Since, along with my personal case, I also have a responsibility towards the society, the American society in this case, I take your leave to highlight this menace in the hopes that you will use my case as an example to give relief to the innocent little children country, whose only crime is to be born here in the United States.

I request you that you take due cognizance that when, my case that does not have an iota of jurisdiction of the courts of the United States and any of the state contained therein, entailing inhuman brutality towards my son, can extend for close to three years now and counting, imagine what will happen to families and children about whom the courts here do hold jurisdiction. If you do not feel even more empathy for the children of your own country, disregard my request here and just give me justice for my personal case, which individually demands your interference.

Veritatem qui non libere pronunciat, proditor est veritatis.

It is my moral responsibility to highlight the plight of the children of your country, lest I be called a traitor to truth. I honestly do not understand America. You are the only country that incinerated hundreds of thousands of men, women and even children in Japan and then everywhere in the world you go about putting sanctions on people who develop atomic bombs. When

about 20 Syrian children died due to alleged chemical attacks in Syria, your nation is the first one to undertake punitive measures. When 200 odd Chibok girls are kidnapped in Nigeria, all of America shouts in chorus: 'Bring back our girls.' When a few illegal immigrants break law and they are arrested, you are able to accomplish one of the most successful fund raisers in the history of humanity. **These are all great things and speak so highly of your nation, its citizens and their care for humanity in the world and in their own nation.** But, do you guys not see your own backyard? About 24 million US children will sleep today desperately yearning for what?! Not toys or candies, but for their loving, able and willing parents. It is the biggest inhuman act in the history of the world that was ever inflicted by a nation on its own people. Family courts across your nation have a single-minded purpose of disregarding the 'best interests of the children.' Please see <https://www.childwelfare.gov/topics/systemwide/laws-policies/statutes/best-interest/>

What kind of an idiotic doctrine is this 'best interests of child' doctrine? Since times immemorial, parents have been taking care of their children, others do NOT. They take care of themselves and their children. If you get my case in front of a judge or a lawyer or a case worker, will they think about the best interests of my child or their child(ren) and themselves? We are yet to reach that level of human evolution, if at all it is even possible that human beings determine the best interests of my child of somebody else child.

Jura naturae sunt immutabilia.

The laws of nature are immutable. How many times in a day, do you think about my son? I think about him a hundred times. How many times in a day do you think about your children? When deciding a case, will you care about the interest of my children or your children? Have you ever seen in any of the to other animal species that animals other than parent animals take care of the child animals? Yes, there are sometimes when the state needs to step in, but that sometimes happens one in a million, where there are established and verifiable precedents of abuse. More diligence needs to be given to those one in million acts, when a parent is alleged to be incapable, unwilling or incompetent to take care of his children than even when awarding a death sentence to an adult. Taking a parent away from a child is an evil act that even Devil himself will shudder to perform. It is performed as a normal business in your country. The act is called brutal and inhuman act rather than 'best interest of child.' The family law in the US has become a joke. The results are for everybody to see.

According to American Psychological Association:

"[A]bout 40 to 50 percent of married couples in the United States divorce. The divorce rate for subsequent marriages is even higher."

Please see: <http://www.apa.org/topics/divorce/>. Effect of divorces on children are heartrending for anybody having even a bit of humanity inside of them: . I present some salient points below:

Physical effects: Following a divorce, children are fifty percent more likely to develop health problems than two parent families. (Ronald

Angel and Jacqueline L. Worobey, "Single Motherhood and Children's Health," Journal of Health and Social Behavior 29 (1985): 38 - 52.)

*Psychological effects: Adult children of divorce tend to have: lower paying jobs and less college education than their parents; unstable father-child relationships; a history of vulnerability to drugs and alcohol in adolescence; fears about commitment and divorce; and negative memories of the legal system that forced custody and visitation. (Judith Wallerstein, Julia Lewis, and Sandra Blakeslee, *The Unexpected Legacy of Divorce: A 25-Year Landmark Study*, New York, Hyperion, 2000)*

*Educational effects: Children of divorced parents are twice as likely to drop out of high school than their peers who are still living with parents who did not divorce. (McLanahan, Sandefur, *Growing Up With a Single Parent: What Hurts, What Helps*, Harvard University Press 1994)*

*Fatherless America: Forty percent of children growing up in America today are being raised without their fathers. (Wade, Horn and Busy, *Fathers, Marriage and Welfare Reform*, Hudson Institute Executive Briefing, 1997)*

I claim that US is the undisputed capital of the world in the area of mass shootings on account of this failed family law structure that brutally snatches parents from innocent and little children. As you can see, the legal structure of the United States in the area of child custody and divorce has failed miserably. When that happens you fall back to the natural laws.

Legibus sumptis desinentibus, lege naturae utendum est.

Even if you do not want to go to the laws of the nature, your own constitution is one of the best documents written in the history of the humanity. Not allowing a child to meet his own parents, in effect incarcerating them is fundamentally against first, fourth and fourteenth amendment of your constitution. Children are not properties that can be divided during divorces!! You need a foreigner to tell you all this?

Divorces, but way more importantly, the plight of children as a result of divorces, are no doubt a matter of grave public concern. I hope your court will take my case that exemplifies the total lawlessness as it started and continued in total absence of jurisdiction and disregard of laws and welfare of a little child. Otherwise, how would a divorce case between two Indian citizens, who were residing in their own country, with neither having any bona fide status, actually been denied visa by federal agencies to enter the US need an audience of the Supreme Court to be dismissed? If a case such as mine can extend for three years and counting, with my 5-year-old son being illegally and inhumanly retained in the USA, then the plight of children and parents who have the misfortune to be American citizens is unimaginable.

Kindly, do excuse if the truth and the facts that I cite sound harsh. When truth starts to hurt it is time to introspect. I am very thankful to America for a lot of things and it is no doubt a great country with some of the most beautiful and responsible citizens. My intention is that my case in which me and my son, who are foreigners

CONCLUSION

In this Certiorari, I ask three questions. First, is about illegal retention of a minor child by the state judiciary of Georgia for a child custody case that was filed while both the parents, who are citizens of India and were residing

in India, with no bona fide status to be present in the US, at the time of filing of the case. The parents were actually denied visa by the US embassy of India. Second, and on similar lines, when the federal authorities have denied visa to the spouses, can the state courts, during the period of denial of the visa, still adjudicate on their bona fide residence status. Third, is it not required for the courts to first make a determination about a judgment being void on its face due to reasons such as absence of subject matter jurisdiction before further litigation can be carried out in the case?

I request, for the above and foregoing reasons, the petition for writ of certiorari be granted. I also request that my motion for leave to proceed in forma pauperis be granted for reasons contained therein. In the alternative, this Court should permit me to amend and file my brief as per Rule 33.1 of your court within sixty (60) days.

DATED: June 25, 2018

Respectfully,



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