

No. 18-5316

IN THE
SUPREME COURT OF THE UNITED STATES

Susan Wells Vaughan,
Petitioner,

v.

Currituck Department of Social Services, Jennifer Vaughan
Respondents

On Petition For Discretionary Review and
Appeals to the North Carolina Supreme Court and Court of Appeals

PETITION FOR REHEARING

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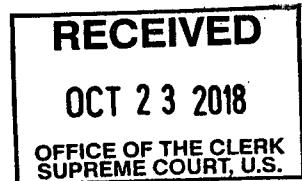


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Other Authorities

- Child Abuse Prevention and Treatment Act (CAPTA)
- 1, 2
- The Federal Child Abuse Prevention and Treatment Act (CAPTA) (42 U.S.C.A. § 5106g), as amended by the CAPTA Reauthorization Act of 2010, defines child abuse and neglect as, at minimum:
 - "Any recent act or failure to act on the part of a parent or caretaker which results in death, serious physical or emotional harm, sexual abuse or exploitation"; or
 - "An act or failure to act which presents an imminent risk of serious harm."

- Elizabeth Jordan, Child Trends, An introduction to Child Welfare Funding And How States Use It, Jan. 1, 2016..... 3
<https://www.childtrends.org/publications/an-introduction-to-child-welfare-funding-and-how-states-use-it-3>
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- Hon. Richard S. Arnold, Why Judges Don't Like Petitions for Rehearing, 3 J. APP. PRAC. & PROCESS 34, (2001), cited in Brian De Vito, When U.S. Supreme Court Decisions Are Not Final: An Examination of the Rehearing Rule and the Court's Application of It in *Kennedy v. Louisiana*, Seton Hall University eRepository @ Seton Hall Law School Student Scholarship
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- U.S. Supreme Court Justice Brett Kavanaugh, "We make decisions based on law, not based on policy, not based on political pressure, not based on the identity of the parties, no matter who you are in our system, no matter where you come from, no matter how rich you are or how poor you are, no matter your race, your gender, no matter your station in life, no matter your position in government." [cited by CBS station 5 KPIX, San Francisco]..... 11
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- Supreme Court Justice Sandra Day O'Conner, "The courts of this country should not be the places where resolution of disputes begins. They should be the places where the disputes end after alternative methods of resolving disputes have been considered and tried." 2, 3, 6-8
- Richard Wexler, NCCPR Executive Director, Civil Liberties Without Exception: NCCPR's Due Process Agenda for Children and Families..... 8, 9, 10
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- Richard Wexler, DONALD TRUMP'S CHILD HOSTAGES: What Trump is doing to migrant children is nothing like what the foster-care system does – except when it is, June 25, 201813
<http://www.socialjusticesolutions.org/2018/06/25/donald-trumps-child-hostages-trump-migrant-children-nothing-like-foster-care-system-except/>
- U.S. Department of Health and Human Services Administration for Children and Families Administration on Children, Youth and Families Children's Bureau, Definitions of Child Abuse and Neglect..... 2
<https://www.childwelfare.gov/pubPDFs/define.pdf>
- World Justice Project, Definition of Rule of Law: "The World Justice Project has proposed a working definition of the rule of law that comprises four principles
1. A system of self-government in which all persons, including the government, are accountable under the law 2. A system based on fair, publicized, broadly understood and stable laws 3. A fair, robust, and accessible legal process in which rights and responsibilities based in law are evenly enforced
4. Diverse, competent, and independent lawyers and judges." ABA Division for Public Education, What is the Rule of Law?..... 2, 5, 11

Constitutional Provisions

- Amendment 4 1-14
The right of the people to be secure in their persons, houses, papers, and effects, against unreasonable searches and seizures, shall not be violated, and no Warrants shall issue, but upon probable cause, supported by Oath or affirmation, and particularly describing the place to be searched, and the persons or things to be seized.
- Amendment 5..... 1-14
No person shall be...deprived of life, liberty, or property, without due process of law; nor shall private property be taken for public use, without just compensation.
- Amendment 8 11
Excessive bail shall not be required, nor excessive fines imposed, nor cruel and unusual punishments inflicted.
- Amendment 14, Section 1 2,-14
Section. 1. All persons born or naturalized in the United States and subject to the jurisdiction thereof, are citizens of the United States and of the State wherein they reside. No State shall make or enforce any law which shall abridge the privileges or immunities of citizens of the United States; nor shall any State deprive any person of life, liberty, or property, without due process of law; nor deny to any person within its jurisdiction the equal protection of the laws.

INTRODUCTION

"Yet rehearing is an important device to help correct mistakes and ensure that justice is served." 1

For the reasons stated herein below, not discussed or introduced as in my original Petition, I am requesting a rehearing of this Court's denial of hearing, dated October 1, 2018. I ask your patience with my use of the first person and my poor ability to express these very crucial concerns in normal legalese. This is far too personal for me to refer to myself in the third person and far too important to the health and rights of our current and future society for me to just give up and accept your denial as final.

I have been repeatedly deprived of substantial and procedural right to due process and been deprived of my right to association with my only grandson, my right to legal custody of him, my right to adopt him and my right to reunification with him or even have him placed with me during his mother's illness. I have also been deprived of my good name and reputation, that I worked hard all my life to earn.

A Federal District Court judge has just recently argued that because of Vosburg's ruling on absolute immunity and, as a grandmother (because of this Court's ruling in Troxel), I was not Constitutionally deprived when a social worker came to my home with police, not even alleging abuse or any emergency, and ripped my perfectly healthy, unharmed and well-cared-for 3-month-old grandson from my arms, never to see him again. She had procured an unlawful removal order after presenting, via a phone call from a magistrate to a district judge, a Petition full of false allegations, which, even if true, do not meet the state or CAPTA definitions of neglect or abuse. Legally required facts about my grandson's status were omitted. She completely ignored a whole section of procedural due process, and she and the district judge broke several very important laws that were meant to be safeguards of due process rights. This social worker has recently signed, under penalty of perjury, an affidavit admitting that no emergency ever existed, and yet an emergency is required for the actions she and the district judge took.

1. Hon. Richard S. Arnold, *Why Judges Don't Like Petitions for Rehearing*, 3 J. APP. PRAC. & PROCESS 34, (2001), cited in Brian De Vito, *When U.S. Supreme Court Decisions Are Not Final: An Examination of the Rehearing Rule and the Court's Application of It in Kennedy v. Louisiana*, Seton Hall University eRepository @ Seton Hall Law School Student Scholarship Seton Hall Law, 2010

Because of the crimes these government agents committed against me, I am now listed on a state central registry as a "perpetrator" of child neglect, and my grandson is listed as a neglected child. Neither could be further from the truth.

Nothing I did or didn't do while my grandson was in my care meets either CAPTA's, US Department of Health and Human Services', North Carolina juvenile code's or North Carolina Department of Health and Human Services' definitions of child abuse or neglect, much less the trumped-up charge of "serious neglect" Currituck County DSS used to coerce me into stipulating that my grandson was neglected — which led to an order for which I **was denied a right of appeal**.

REASONS FOR REHEARING

Request for rehearing- regarding issues not previously presented or detailed:

I. Parts of the North Carolina Juvenile Code are Unconstitutional.

It allows a child caretaker to be "charged" and "convicted" of neglect or abuse, but prohibits the accused and/or convicted from appealing any Orders related to those "charges" or "convictions".

II. The Fourth Circuit's ruling on absolute immunity for social workers in *Vosburg v Department of Social Services* is Unconstitutional and violates Rule of Law. [884 F.2d 133 (1989)]

III. Under the circumstances, the US Supreme Court's refusal to hear my case would be unconstitutional, denying me equal protection under the law.

IV. All other options for any semblances of justice have been exhausted.

V. Those sections of the NC Juvenile Code, the "safeguards" that are in place to protect a citizen's right to due process are blatantly and routinely disregarded and/or violated by fourth circuit government agents who enjoy absolute immunity from liability no matter what they do, while performing their so-called quasi-prosecutorial roles.

VI. There are incentives that encourage government agents to remove children who are not abused or in any imminent danger; however, there are no deterrents to

discourage these government agents from breaking the law in the process. The most egregious part about the Title IV-E funding awarded to state agencies is that it results in the poor being discriminately targeted. Agencies receive no funding unless they take the children they place in foster care from families considered “needy.” 2

2. Elizabeth Jordan, Child Trends, An introduction to Child Welfare Funding and How States Use It, Jan. 1, 2016

Although Title IV-E provides the majority of federal funds to child welfare programs across the country, leaders did note some challenges accessing these dollars. To be eligible for the Title IV-E Foster Care Program, the vehicle through which states receive Title IV-E funds for children in foster care, children must:

- be in out-of-home placements,
- have been removed from families that are considered “needy” (based on measures in place in 1996 under the Aid to Families with Dependent Children (AFDC) program),
- have entered care through a judicial determination or voluntary placement, and
- be in licensed or approved foster care placements. 5

<https://www.childtrends.org/publications/an-introduction-to-child-welfare-funding-and-how-states-use-it-3>

DISCUSSION on I through V

I. NC's Juvenile Code is unconstitutional.

I was denied any right of appeal of the order declaring my perfectly healthy, well-cared-for grandson “neglected,” mainly because of my status as caretaker. The only avenue left available to me after my rights were trampled upon during the child neglect case—to seek redress of the false allegations and “convictions” against me—came through a motion I filed in another county in conjunction with my Complaint for Custody, justifiably requesting dismissal (alleging lack of subject matter jurisdiction) of that juvenile case **that put a stay** on my Custody action and “convicted” me of neglect. To this day, neither any court nor any law enforcement agency has addressed the dozens of violations, including crimes, government agents committed against me. If this court of last resort won’t, then who will?

I had filed a timely notice of appeal of the Adjudication order in the original case. However Currituck DSS’s motion to dismiss my appeal was unlawfully granted by district court before I could file my record on appeal.

Several statutes within North Carolina's Juvenile Code (NC GS 7B) refer to the fact that a caretaker can be accused of neglect, as I was by Currituck County Department of Social Services in its September 18, 2013 Petition. Some of these statutes are listed below:

- 7B-101 (15) defines a "Neglected Juvenile," as one "...who does not receive proper care, supervision, or discipline from the juvenile's parent, guardian, custodian, or caretaker;"
- 7B-101 18(a) defines a "Responsible Individual" as "A parent, guardian, custodian, or caretaker who abuses or seriously neglects a juvenile."
- 7B-101 (19a) defines "Serious Neglect" as "Conduct, behavior, or inaction of the juvenile's parent, guardian, custodian, or caretaker that evidences a disregard of consequences of such magnitude that the conduct, behavior, or inaction constitutes an unequivocal danger."
- 7B-200 (b) states that " The court shall have jurisdiction over the parent, guardian, custodian, or caretaker of a juvenile who has been adjudicated abused, neglected, or defendant...."

However there is no statute protecting an accused or "convicted" caretaker's right to appeal the charges against him/her, the adjudication order or his/her inclusion on a state list of "perpetrators" of child neglect.

Following is the N.C. Juvenile Code's complete list of those who have the right to appeal. pursuant to 7B-1001, "Any order, including the involuntary dismissal of a petition, Any initial order of disposition and the adjudication order upon which it is based.....Any order that terminates parental rights or denies a petition or motion to terminate parental rights."

As the following shows, a caretaker is completely excluded from the list of those who can appeal an order.

§ 7B-1002. Proper parties for appeal.

Appeal from an order permitted under G.S. 7B-1001 may be taken by:

- (1) A juvenile acting through the juvenile's guardian ad litem previously appointed under G.S. 7B-601. If such an appeal is made, the court shall appoint a guardian ad litem pursuant to G.S. 1A-1, Rule 17 for the juvenile for the purposes of that appeal.

- (3) A county department of social services.
- (4) A parent, a guardian appointed under G.S. 7B-600 or Chapter 35A of the General Statutes, or a custodian as defined in G.S. 7B-101 who is a nonprevailing party.
- (5) Any party that sought but failed to obtain termination of parental rights.

I was falsely accused, denied my right to hearing on the allegations at a meaningful time and in a meaningful way, and in some cases denied any right to hearing, altogether. I faced trumped-up charges, in retaliation, when I tried to exercise my legal rights and then was coerced into stipulating to a lesser "charge," After this malicious prosecution, I was denied right of appeal of any of the orders, denied right to retrial as well.

II. Fourth Circuit's ruling in *Vosburg v The Department of Social Services* violates state and federal constitutions and the rule of law.

This unfair ruling is being used to restrict me from suing government agents who falsely accused me and violated my rights to due process and deprived me of the most precious things in life, my family and my reputation, after the state refused my right of appeal and then refused to address, on their merits, my motions and appeals for dismissal of that case.

Vosburg is also encouraging social workers in the fourth circuit to break the law and reap federal rewards.

Vosburg relies heavily upon US Supreme Court rulings in *Imbler* and *Butz*. It says that "*Imbler* held that prosecutors are absolutely immune" from civil rights actions "for conduct occurring within the scope of their duties." However the duties of social workers are clearly detailed within the juvenile code, and these duties do not include removing a child in the absence of an emergency and /or without allegations that meet the legal definitions of abuse or neglect or without first complying with procedural due process as outlined in 7B-402-408.

It is ironic that *Vosburg* would cite the Supreme Court's statement that "[t]he ultimate fairness of the operation of the system itself could be weakened by subjecting prosecutors to Sec. 1983 liability. 424 U.S. at 427, 96 S. Ct. 993, 47 L.Ed.2d 14], " at the same time completely disregarding the unfairness of the operation of the juvenile court "system," which, as my and many others' cases show, is being "weakened" by NOT

subjecting quasi-prosecutors who violate due process to "Sec. 1983 liability and legal consequences. Their victims of malicious prosecution don't even get retrials!

In effect the *Vosburg* ruling is giving social workers in the Fourth Circuit more protection than they are entitled to, (and more than they are getting in other circuits), when they act outside the scope of their duties and violate due process rights. It is clearly unconstitutional for *Vosburg* or any ruling to allow and therefore fail to discourage violations of a citizen's right to due process.

The egregious unfairness of the Fourth Circuit's *Vosburg* precedent is another compelling reason this Court should hear my case.

iii. The US Supreme Court's refusal to address the constitutional violations in my case would, in itself, be unconstitutional. Because the lower courts deprived me of my right of appeal of orders in the juvenile case and then refused to address, on their merits, my motions, irrefutable evidence and appeal seeking dismissal of that case due to violations that created a lack of subject matter jurisdiction, I am forced to seek justice from this Court of last resort. Hearing by this highest Court is the only avenue I have left to seek review of the unconstitutionality of my state's juvenile code and a fourth circuit precedent that deprives me of my right to appeal and seek redress for due process and other violations committed against me that deprived me of right to reunification, custody and adoption of my grandson and my good reputation.

IV. Every other responsible Agency or Court has failed in its duty to protect my constitutional rights. I have diligently sought all other legal recourse I can find and continue to be denied my right to due process. I have exhausted all other options before seeking rehearing. Listed below are some of the many steps I took, agencies with which I filed complaints and responses received in my attempt to defend my rights, before I sought review from this highest Court:

- County Sheriff - refused to investigate police report I filed against social worker for committing fraud and perjury, for falsifying evidence and omitting exculpatory evidence in her petition containing allegations against me personally.
- District Court - dismissed or ignored numerous motions I filed seeking correction of fraudulent documents, false allegations and violations of due process rights. Also retaliated by unlawfully granting S. Services request to move the case to next county and imposing sanctions on me for filing justified, legal pleadings.

- NC Court of Appeals refused to hear my Petitions for Prohibition and Mandamus and Certiorari, and later refused to address my evidence of violations and lack of subject matter jurisdiction of lower court, on appeal of my Complaint for Custody and Petition to Adopt
- District Court blocked my attempt to appeal Adjudication decision that was based on coerced and fraudulent stipulation, after refusing to enforce due process and my right to Judicial Review and discovery.
- NC Supreme Court refused to hear case documenting lack of subject matter jurisdiction or address due process violations
- NC Judicial Standards Commission refused to investigate due process violations and other judicial misconduct of district judges - claiming they only investigate conduct
- US Department of Justice sent a letter stating it was too busy to address my complaint and referred me to other agencies which do nothing.
- NC DHHS's Valerie Johnson claims to investigate complaints about local departments of Social Services. In my case Ms Johnson, over two years after I reported the misconduct and other violations of county agents, told me the "division" decided the agency "complied" with all child welfare laws, refusing to address the evidence that clearly contradicts that claim and refusing to respond to my recent request that the division show specifically "how" the agency "complied."
- NC Department of Justice will not investigate the violations I document, and it is defending the county Clerk of Court who violated my right to due process under 7B-323 (b) in failing to calendar a hearing date for my timely and properly filed Petition for Judicial Review, after the county social services agency violated 7B-320 and failed to properly notify me of its charges against me, the evidence it relied upon to make the charges and my right to Judicial Review.
- Federal District Court Judge will not allow me to sue for liability for the due process violations social workers committed against me, while performing their "prosecutorial roles," despite all the crimes they committed.
- US Supreme Court - Petition for Writ of Certiorari denied.
- FBI website on Civil Rights states that "Fabricating evidence against... an individual also violates the color of law statute, taking away the person's rights of due process " This official website claims that " The FBI is the lead federal agency for investigating color of law violations, which include acts carried out by government officials operating both within and beyond the limits of their lawful authority."

Shortly after the local law authorities refused to investigate my police report against Foltz for committing fraud and perjury in her Petition and Affidavit as to Status of Minor Child, I contacted the NC FBI office and was told they do not investigate child custody issues. Recently after the state Supreme Court and the NC DHHS would not even address the clearly documented violations I exposed, I found the FBI website on Civil Rights and followed its advice, mailing a letter to the Assistant Attorney General's office in Washington, DC. A few days ago I received a response that my complaint had been received, but the DOJ could not promise it would respond. That letter

suggested I call my local FBI Office or my regional US Attorney's office.

I called the FBI office in Charlotte, NC and after about 20 minutes on hold was told by the agent to "get a lawyer." When I pointed to the FBI website and asked why they would not investigate as they claim they do, the agent hung up the phone, even after I told her that no lawyer in the state would take on the Department of Social Services, and that a representative with the "lawyer referral service" I had called seeking legal representation laughed at me when I told her a social worker committed the crimes. Her response: "You cannot sue the state."

Now living in Greensboro, I called the local US Attorney's office located here, had to leave a message, but did get a call back. The agent was courteous, but he told me he didn't know why the letter or the website directed me to call his office because he said they do not investigate. He suggested I call an Eastern NC US Attorney Office and a Raleigh FBI office. The number he gave me for the latter is disconnected. A courteous person at the eastern US Attorney's Office said I should either write a letter or fill out their online form. No doubt I could easily die of old age before the FBI does anything.

V. Those sections of the NC Juvenile Code that do protect a citizen's right to due process are blatantly disregarded by government agents who enjoy absolute immunity from liability no matter what they do while performing their so-called quasi-prosecutorial roles. My case exemplifies this statement, and if this Court will hear a few cases like mine they will get some idea of just how widespread this practice is among agencies across the country. The reality exemplified by my case and many others debunks the justification for immunity as being that there are "safeguards" in place within the system that protect due process rights. The routine violation of due process rights in neglect cases has been well-documented, including by Richard Wexler, executive director of the National Coalition for Child Protection Reform. 3

VI. Within the child protection system, there exist substantial incentives that encourage government agents to remove children who are not abused or are in any imminent

3. Richard Wexler, NCCPR Executive Director, Civil Liberties Without Exception: NCCPR's Due Process Agenda for Children and Families
https://drive.google.com/file/d/0B291mw_hLAJsa3ZWTGNMV0VBOVE/view

danger. However there are no effective deterrents to discourage them from breaking the law in the process. States and Social Services agencies receive government funds when they meet certain quotas and criteria of placing children in Foster Care and adopting them. They have been receiving no such incentives for placing children with kin or providing services to help families stay together.

The failure of the Supreme Court to limit quasi-prosecutorial immunity has not only failed to discourage social workers violations of parents/caretakers' due process rights, it has done nothing to counter the strong incentives for social workers to ignore the laws that determine their duties.

Furthermore, by rewarding state agencies when they take children considered "needy," they are not only discriminating against the poor, but they are targeting low-income families, often single parents, often women who have left abusive spouses or who suffer from disabilities, those who cannot afford the means to defend themselves

In *Ostrzenski v. Seigel* [177 F.3d 245 (4th Cir. 1999)] the Fourth Circuit court of appeals cited the opinion in *Forrester v White*, where the U.S. Supreme Court recognized that "Suits for monetary damages are meant to... discourage conduct that may result in liability." [484 U.S. 219, 223, 108 S.Ct. 538, 98 L.Ed. 2d 555 (1988)].

The opinion goes on to say that "The prospect of liability for damages encourages public officials to perform their assignments appropriately and in a manner that does not injure others. See *id.* Because generally actions for damages serve this laudable goal, the Supreme Court has been very sparing in its grants of absolute immunity from damages for constitutional violations in § 1983 actions. See *id.* at 224, 108 S.Ct. 538." The problem now is that the Supreme Court is refusing to hear such cases at all—*Hoffman v Harris*, for example, my case, and many others.

The Louisiana State University Medical and Public Health Law Site states the following, in regard to Ostrzenski and absolute immunity:

Absolute immunity is not available to most officials. Unlike qualified immunity, the nature of the act is not as important as the position of the official. Generally, only judges, prosecutors, legislators, and the highest executive officials of all governments are absolutely immune from liability **when acting within their authority**. Medical peer review participants may also receive absolute immunity. *Ostrzenski v. Seigel*, 177 F.3d 245 (4th Cir. 1999).

Absolute immunity only applies to acts committed within the scope of the official's duties. Usually, this will not include acts that are committed by the official with malice or corrupt motives [emphasis supplied].

In my case, evidence supporting my claim that at least one social worker's acts were committed with malice and corrupt motive is that I gave her ample opportunity to correct the serious omissions and false allegations very early in the proceedings, when I filed my Motion to Stay the Proceedings and Correct the Affidavit as to Status of Minor Child, on which she knowingly omitted that my grandson was safely in my care during his mother's hospitalization, lying to the court that he was "dependent," and had no one "appropriate" to care for him. I and the law [7B 50A-209(b)], gave her an easy out to pretend she had simply made a mistake; however, not only did she never correct the false affidavit, her agency retaliated. Responded to my motion by moving the case to account that leveled a trumped-up, seriously false, charge against me.

When social workers are protected, one way or another, not only from criminal investigations but from liability suits, no matter what they do, then there remains nothing left to discourage "wrongful actions" or other "conduct that may result in liability." In NC they don't need immunity in order to protect children, because under 7B-500, they can take any child, without following due process, with impunity, in cases of danger or emergency. When no emergency exists or is alleged, they must respect due process.

When they receive funds for taking children from low income families and placing them in non-kin foster care, they are rewarded for targeting the poor and disabled, and also have little incentive to place children with family members where the children may suffer far less adverse effects of separation, than when forced into placement with complete strangers.

3. Richard Wexler, NCCPR Executive Director, Civil Liberties Without Exception: NCCPR's Due Process Agenda for Children and Families,
https://drive.google.com/file/d/0B291mw_hLAJsa3ZWTGNMV0VBOVE/view

CONCLUSION

There is simply nowhere else for me to go to seek justice. The inappropriate response to my efforts reveal the absurdity of Judge Ervin's suggestion in Vosburg—that "Parents, resentful of and humiliated by an attempt to usurp their rights, would likely channel their frustration into the ascription of improper and malicious actions to

the State's advocate," as if frustration is all parents whose hearts have been ripped out of their chests suffer. Seriously irrational is his concern that the "efficient functioning of the state's child welfare system," would be "adversely affected," should social workers' be required to honor state laws and Constitutional rights, especially considering that section 500 of NC's juvenile code gives social workers all the license they need to completely disregard due process restrictions in cases of emergency.

I believe I have a right to appeal charges and convictions, made maliciously and recklessly, in violation of my right to due process. I believe I have the right to have an impartial tribunal hear my case on its merits. I believe I have a right to due process, and when the lower courts and other government agents violate these rights, and either block me from appealing or refuse to address my appeals and motions on their merits, I believe I have a right to have my US Supreme court address these ongoing violations—especially considering the gravity of deprivations, disgrace and pain I and my family members have suffered. This is about excruciating, unspeakable pain, loss and trauma, not to be trivialized as "frustration,"

This is far from a trivial or isolated issue. What is being done to children and families is not only unconscionable and in blatant violation of due process and Constitutional and Human rights, but it is destroying children, traumatizing them in many cases for life, leading also to many suicides committed by deprived parents who cannot deal with such a devastating and unjust loss, considered by some to be the civil equivalent of a death sentence. The fact that such egregious violations go unpunished in the United States leave some of us in sheer shock, certainly traumatized ourselves, perhaps for the rest of our lives.

I listened closely to the Honorable Judge, now Justice, Kavanaugh's hearing and recall him repeatedly stating that "no one" not even the president of the United States, "is above the law." This is how it should be, but it is not the reality. Vosburg is unconstitutional because it puts social workers above the law, immune from facing any consequences, either criminal or civil, even if they violate due process. Thus it encourages them to go for the incentives and ignore the laws that protect family rights.

I am innocent of the false and irrelevant allegations that led to the order that continues to deprive me of any contact with my grandson or any contact of him with his mother, even though I never harmed, never neglected him while he was in my care

and custody. From the very beginning I was deprived of my right under several state statutes and UCCJEA 20.5 (a) 7B-506 (b) to due process. Both the social worker and the judge blatantly violated half a dozen laws in presuming jurisdiction over the case that ended with the adoption of my grandson to a family not biologically related to him.

Where are the safeguards that justify these state agents having immunity from my ability to sue them in Federal District Court? if no court in my state will address the violations and several others committed in this case, who I am supposed to go to now if this court of last resort will not address these egregious violations or at least remand the case back to those who should have done so in the first place?

If courts want to protect against excessive litigation regarding child welfare cases, then the best way to do so is to ensure state laws protect constitutional rights of all who are accused, remove absolute immunity for caseworkers performing their quasi-prosecutorial roles, remove the ability to abusively take advantage of government funds and to ensure that judge immunity is limited to when they don't violate due process rights -- also ensure that jury trials be an option for the accused/respondents to these cases. I know this is a lot for someone like myself to ask of these honorable justices. But aren't these protections simply what justice is about?

Petitioner's case clearly shows that the so-called "procedural safeguards" are blatantly ignored and violated by both quasi-prosecutorial caseworkers and district judges in abuse/neglect cases in NC, and there are no other safeguards currently in place to guarantee that procedures, laws, constitutional rights or other due process rights are honored. It is essential that this court step in and correct the unconstitutionality of state law and 4th circuit precedent, as the 9th circuit opinion clarified in Hardwick v Vreeken, January, 2017. The court stated unequivocally that lying on a petition, falsifying evidence and or violating a parent, caretaker or guardian's right to due process excludes the violator from liability protections. 4

I am certain, that if the existing safeguards provided by the juvenile code of NC , despite its flaws, were actually enforced, then I would not be seeking this court's assistance or the Federal district court's for compensation, and my grandson would be with us and my daughter well.

4. <https://cdn.ca9.uscourts.gov/datastore/opinions/2017/01/03/15-55563.pdf>

In 1994, this Court refused to hear *Hoffman vs. Harris*. But at least Hoffman, who was suing for damages after he was falsely accused and denied right of hearing, did finally get his child back and his name cleared. However I have not been allowed to see, talk to, give gifts to or know the status of my grandson, nor has his mother, in five years. He is not allowed to know us, his closest biological relatives or his family history that goes back to English, Scottish royalty and back to the 1600s in the U.S. My reputation remains unjustly tarnished. I am on a list of perpetrators of child neglect, and my well-cared for and never neglected grandson is listed as a neglected child. I want to see my grandson. His mother wants to see her son and wants him to know who she is and that she loves him. Neither of us have committed any crime or any offense at all. Where is the justice here? Where is my right to due process?

Brian DeVito's paper, cited on page 1 of this petition, states that "The [Supreme] Court has also granted rehearing when petitioners have demonstrated that the Court's decision would have unexpected adverse effects." The adverse effects have already materialized, and ignoring these effects is making it worse each day, rising to an excess this Court may not expect. According to Richard Wexler, "**The number of children separated from their parents at the border since April [2018] is almost equal to the number taken by U.S. child protective services (CPS) every three days.**"⁵

A recent report in *The Nation* states that "The research is clear on the psychological and physical damage these practices inflict: Parent-child separations lead to increased anxiety and depression, lower IQs, and post-traumatic stress disorder in children."⁶ Refusal to hear Petitioner's case, to correct the unconstitutional state laws and to clarify the limits of quasi-prosecutorial and judicial immunity have the potential to further encourage the rash of due process violations, as documented in Richard Wexler's paper on Due Process and as Petitioner's case exemplifies.

5. Richard Wexler, DONALD TRUMP'S CHILD HOSTAGES: What Trump is doing to migrant children is nothing like what the foster-care system does – except when it is, 06/25/2018 <http://www.socialjusticesolutions.org/2018/06/25/donald-trumps-child-hostages-trump-migrant-children-nothing-like-foster-care-system-except/>

6. Rachel Blustain, Our Foster-Care System Shouldn't Separate Families Either: It's not just our immigration system; taking children away from their parents should always be a last resort, *The Nation*, July 26, 2018

<https://www.thenation.com/article/foster-care-system-shouldnt-separate-families-either/>

Even if I were to prevail in recovering some monetary damages from those who falsely accused me, smeared my reputation and deprived me, or if I were able to convince criminal investigators to investigate and prosecute the violators, this would not officially clear the smear upon my reputation nor return my grandson to his biological family or even ensure that I and his mother would see him ever again. This is not acceptable,

I believe and agree that Justice Kavanaugh had a right to due process, a right to have the allegations made against him investigated and addressed and a right to be heard and to clear his name. But I also believe that His Honor had no more right to this process than I do. If no court or agency in this country will fairly address and appropriately respond to the false allegations made against me and the violations of due process that allowed those false allegations to stand on the record and deprive me of my constitutional rights, then I do not have equal protection under the law as those holding prominent government positions or positions of power.

If this highest Court now refuses to hear my case, then it will confirm that some people are, in fact above the law - social workers and district judges—while others are not, in reality, entitled to even equal protection under the law.

I understand that normally, even as a United States citizen, I do not have right of appeal to my U.S Supreme Court. However, because I have been denied the right to appeal the district court order labeling me as a perpetrator of child neglect, which has been used to deprive me of my right to reunification with and custody of my only grandson, thus also denying his mother's right to see her only child, and because no subsequent court would even address the documented violations of due process, I should not now have to beg this court of last resort for at least a hearing.

"Justice Robert H. Jackson observed once of the United States Supreme Court 'We are not final because we are infallible, but we are infallible only because we are final.'"¹ [1 Brown v. Allen, 344 US 443, 540 (1953)]. 1 That said, Rule 44, 2 allows me one final opportunity to plead for justice.

I therefore amend my original requests, asking this Court to reconsider my Petition for Writ of Certiorari and either address the due process violations committed against me by government agents or remand my case back to the state Courts with instructions that they do so, with an unbiased tribunal addressing my case on its merits.

I also respectfully request this Court to recognize NC GS 7B (NC's Juvenile Code) as unconstitutional in respect to denying right of appeal to an accused caretaker and to recognize Vosburg as unconstitutional in regard to absolute immunity for social workers who violate due process and commit other crimes.

CERTIFICATION OF COUNSEL

I, petitioner for rehearing, pursuant to Rule 44.2, certify that the foregoing Petition for Rehearing is restricted to grounds not previously presented, and it is presented in good faith and not for delay.

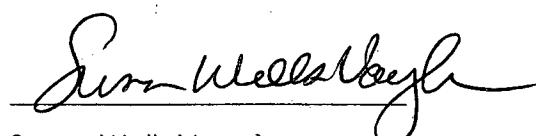
This the 18th day of October, 2018

CERTIFICATION OF SERVICE

I, Susan Vaughan, petitioner, also certify that I have served a copy of the foregoing Petition for Rehearing on respondents: hand delivered to J. Vaughan and mailed via US Postal Service to counsel for Currituck Department of Social Services at the address below.

Christopher J. Geis
Womble Bond Dickinson
One West Fourth St.
Winston-Salem, NC 27101

This the 18th day of October, 2018



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