original copy

No. _____

In The
Supreme Court of the United States

BISMARK KWAKU TORKORNOO,

Petitioner,

v.

HELWIG ESQ., ET AL.,

Respondents.

On Petition for a Writ of Certiorari to the
Fourth Circuit Court

PETITION FOR A WRIT OF CERTIORARI

BISMARK KWAKU TORKORNOO

3213 Duke Street #235
Alexandria, VA 22314
biztork@msn.com
(240) 552-4756

MAY 2018 Pro se

QUESTIONS PRESENTED

1. Does fraud vitiates every judicial proceedings, if so, did the Fourth Circuit Court's decision [at App. 1] affirming the district court's reasons based on preclusion, deprives Petitioner of his due process and equal protection under the law—by sidelining his admissible evidence on file to invalidate his independent claim to render inadequate state court's proceeding tainted with fraud which prevented the Petitioner from making his civil case in full, violates the Constitution?

2. Whether a litigant who had no benefit of a full and fair trial in the state courts, and his rights measured by laws made to affect him individually (to break his family and deprive him of his financial interests), not by general provisions of law applicable to all those in like condition, is deprived of his freedom, liberty, and property without due process of law.

3. Whether the Fourth Circuit Court's affirming district court's new reasons [App. 1] based on res judicata [App. 2] without relying on any documentary proof on file showing adequacy of state court's proceedings prejudiced the petitioner in light of admissible evidence on file in support of multiple independent claims against respondents' fraud, collusion, and conflict of interests invalidating its previous Order at App. 3 Vacating the district court erroneous decision at App. 4, violate the Fourteenth Amendment.

4. Whether a court can apply claim preclusion doctrine [res judicata] to undermine *cases where proof of fraud is admissible* to deprive a person of his freedom, liberty, or property without relying any documentary proof to show adequacy of prior state court's proceedings, violates the Constitution.

APPENDIX
TABLE OF CONTENTS

PETITION FOR A WRIT OF CERTIORARI

Petitioner is Bismark Kwaku Torkornoo, a *pro se* with civil lawsuit from Maryland respectfully petitions this Honorable Court for a Writ of Certiorari to review the judgments of the Fourth Circuit Court denying him appeal based on the decision by United States District Court in Maryland.

OPINIONS BELOW

Unpublished opinion and judgment issued by the United States Fourth Circuit Court at App. 1 affirming the United States District Court's decision, App. 2. The Fourth Circuit Court's previous unpublished opinion, judgment and mandate at App. 3 directly conflict with the Fourth Circuit Court's unpublished opinion as well as the District Court opinions at App. 1-2, and 4 on identical persons, same issues and same evidence without merit. There is no written opinion from Montgomery County Circuit Court regarding disposition of petitioner's civil case on the merit besides orders denying the civil lawsuit without prejudice. App. 5 [at "Exhibit 61"]. Other relevant documentary evidences are made available at Appx. 6-14 and Appx. A-I.

JURISDICTION

The Fourth Circuit Court issued its decision on May 16, 2018, affirming District Court's Judgment dated October 27, 2017 dismissing petitioner's civil lawsuit, App. 1-2.

CONSTITUTIONAL AND STATUTORY PROVISIONS INVOLVED

U.S. Const., amend. V

provides:

"due process" to apply the Bill of Rights to the states

"due process of law"

"the promise of legality and fair procedure"

U.S. Const., amend. XIV

Equal Protection Clause
provides:

"We hold these truths to be self-evident, that all men are created equal, that they are endowed by their Creator with certain inalienable Rights, that among these are Life, Liberty and the pursuit of Happiness."

Due Process Clause

provides:

[N]or shall any State deprive any person of life,

liberty, or property, without due process of law. . . .

STATEMENT

1. The United States Court of Appeals, the Fourth Circuit (4th Cir) has reached the unprecedented conclusion denying petitioner's appeal casting doubt on the settled expectations and failing to balance between equity and uniformity in accordance with the general maxims recognized by this Honorable Court. The Fourth Circuit Court's new approach however, directly conflicts its prior decision on same subject matter between same parties, and directly contrary to precepts recognized in equity, specifically exceptions to fraud by the Court in light of *United States v. Throckmorton*, 98 U.S. 61 (1878) "*The maxim that fraud vitiates every proceeding must be taken, like other general maxims, to apply to cases where proof of fraud is admissible...*" *see* Page 98 U. S. 66.

2. On May 16th, 2018, the 4th Circuit affirmed the unprecedent legal decision in which United States district court located at Greenbelt, Maryland applied erroneous standard apparently, undermining the Constitution (specifically, the Fourteenth Amendment), Doctrines of Statutory Construction, Supreme Court Practice, Procedural Doctrines, and Substantive Law Doctrines.

3. The Fourth Circuit Court's recent decision below [at App 1], which agrees with the United States district court's decision below [at App 2], directly conflicts with same Fourth Circuit Court's decision dated December 8th, 2016 below [at App 3] in light of admissible evidence gathered and presented to the court relevant to the civil lawsuit dismissed without merit.

4. The Fourth Circuit Court's decision did not previously sideline, buried or ignore admissible evidences to invalid the facts not independent claim but disagreed, App. 3 with the district court decision because the evidences are explicitly palpable to justify reason why it vacated decision at App. 3. The settled law at App. 3, bears same parties, same facts and timeline, same material evidence and same arguments therefore the decisions at App. 1-2 are unconstitutional pursuant to 28 U.S.C. §1738 ["Full Faith and Credit"]. App. 3 is a settled the jurisdictional issue relitigated at App. 1-2 to infringed upon petitioner's due process and equal protection rights.

5. The fundamental principle of rule of law require "equal justice for all" before the law. However, the Fourth Circuit Court decision failed to justify the district court's reasons to re-litigate resolved jurisdictional issues App. 3 based on documentary evidence in direct conflict with admissible evidence produced. For example, had district court or the Fourth Circuit relied documentary written opinion by Judge Callahan from the state court regarding the sound discretion of the state court and the basis upon which the civil lawsuit was dismissed to articulate genuine issue relevant for discussion on res judicata doctrine or claim preclusion.

6. Here, there is no existence of such documentary evidence because there was no trial to begin with. The civil action was dismissed without merit. The factual and verifiable documentary evidence produced by the petitioner, which include copies directly made from the state court's transcripts and actual exhibits were excluded from the district court's decision-making process. The documentary evidence in support of petitioner's independent claim is Appendix 5, Exhibit 60. The lower courts' decisions

Appendixes 1 and 2 contradict Exhibit 60. Exhibits shows clearly the civil action was dismissed without prejudice. As such, there unwavering conflict of interest demonstrated by Judge Callahan in the appearance of Exhibit 3 at App. 8, also see App. 6 paragraphs 11-41 to dismiss the civil action to benefit respondents. Appendix 5 is also affirming the unwavering conflict of interest to the extent by which Judge Callahan scheduled a premature hearing to disregard petitioner's health condition to dismiss the civil case without merit.

7. The documentary evidence reflects judicial proceedings tainted with fraud, collusion, conflict of interest, and abject disregard to rule of law which infringed petitioner's constitutional rights. The Fourth Circuit Court's decision at App. 1 directly conflicts with its settled expectations in light of *Resolute Insurance Co. v. North Carolina,* 18.397 F.2d 586 (4th Cir. 1968) explicitly regarding exceptions to res judicata based on fraud, deception, accident, or mistake. Also see exceptions to fraud citing *United States v. Throckmorton*, 98 U.S. 61 (1878) "fraud vitiates everything it touches".

8. With indulgence of the Court and for verification purposes, petitioner will submit that the Court take judicial notice of Affidavit at App. 5 in recognition of admissible evidence gathered and available for verification[1] as part of the record otherwise sidelined, unmentionable and suppressed by the Fourth Circuit and the district court regarding *Torkornoo v. Helwig et al..*, No. 8:15-CV-02652-tdc (pacer.gov under Maryland District Court), ECF nos. 1-74[2]. The case originally arose from Montgomery County Circuit Court, Maryland regarding the family law case no. 71419 and civil case no. 378782V between the same respondents according to the Complaint and Affidavit App. 5 [ECF 5, 21].

9. In that case, four (4) officers of the State Court connived with 2 (two) State judicial officials *deliberately* and *repeatedly* prevented the petitioner from making his cases in full at his defeat. The names of the respondents are Nina Helwig Esq., Mary Torkornoo, Jacqueline Ngole Esq., John Monahan Esq.

10. Nina Helwig Esq. was the court appointed Best Interest Attorney. Mary Torkornoo is the petitioner's ex-wife. Jacqueline Ngole Esq. was Mary Torkornoo's legal counsel, and John Monahan Esq. was the court appointed Trustee.

11. According to the complaint, affidavit and the record evidence, three (3) officers of the State Court colluded with 2 (two) State judicial officials and compromised the integrity of the state court *knowingly* and *repeatedly* to prevent the petitioner from making both his family law case and civil case in full at his defeat. The 2 (two) judicial officials were Judge Cynthia Callahan and Master Clark Wisor.

12. The apparent misdeeds actionable under Count I (Interference with Parental Rights), Count II (Fraudulent Misrepresentation) and Count III (Unjust Enrichment), was

---

[1] The unmentionable evidences gathered are public records, factual and verifiable, which include copies directly made from the state court's transcripts and actual exhibits.

[2] The entire evidence and facts are available at *Torkornoo v. Helwig et.al,* No. 8:15-CV-02652-tdc ECF nos. 1-74 for any further references or verifications with the Court's indulgence.

unlawfully prevented by the same judge [Judge Callahan] at the state court who aided and abetted in the commission of the misdeeds to undermine rule of law.

13. The district court ignored and suppressed the material evidence gathered and presented in support of the complaint and injunctive to stonewall petitioner to undermine his constitutional rights, Appx. 2, 4. The Fourth Circuit however, agreed with the petitioner on his first appeal to vacate the same erroneous standard the district court applied to petitioner's complaint and injunctive relief at Appx. 3-4. But, for no good reason and without documentary proof, the Fourth Circuit Court reversed its prior decision to agree with the district court and respondents to infringe petitioner's constitutional rights: The First Section of the Fourteenth Amendment of the Constitution declares that:

> "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."

14. The Fourth Circuit ignored due process of law to apply erroneous standard to align with the district court in the commission of omission of admissible evidence gathered and presented by petitioner in support of the complaint and injunctive relief to undermine the Constitution in the appearances of violations of Article VI (2) of the Constitution and the First Section of the Fourteenth Amendment of the Constitution alone. In action, the unmentionable evidence gathered shows that respondents colluded with Master Wisor and Judge Callahan to procure orders at Exhibits 2-3, 24, 33-34, 35, 46, 52 and 61 to evade orders at Exhibits 7, 14, 24, 29, and 36 to circumvent rule of law, violate 18 U.S. Code § 1512 (b) [Tampering with Evidence], 18 U.S. Code § 1509 [Obstruction of Court Orders] on its face. The unmentionable evidences gathered are public records, factual and verifiable, which include copies directly made from the state court's transcripts and actual exhibits.

15. The issues presented to the Federal Court by the petitioner established factual evidence that reflects respondents and the two state judicial officials' [Judge Cynthia Callahan and Master Clark Wisor] conflict of interests, collusions, fraud and deceptions at petitioner's detriment, depriving him of his right to freedom, liberty, happiness and property.

16. The issues presented in petitioner's first appeal to the Fourth Circuit Court [*see* (4th Cir 2016) *Torkornoo v. Helwig et al..*, No. 16-1650) are same issues presented in the second appeal [*see* (4th Cir 2017) *Torkornoo v. Helwig et al..*, No. 17-2319)] against the district court's erroneous decision at App. 2 and 4 below.

17. Petitioner's legal contentions rested on the exceptions defined in "Restatement (Second) of Judgments § 26(1)(d)" as direct result of his multiple independent claims alleging fraud, collusion, deception, and conflict of interest occurred both during the family law case and the civil case in the state court by respondents aided and abetted by Judge Cynthia Callahan and Master Clark Wisor aided abetted.

18. The issues in the complaint supported with palpable evidences presented in support, clearly established that respondents violated 18 U.S. Code § 1512 (b) [Tampering with Evidence], 18 U.S. Code § 1509 [Obstruction of Court Orders], and the Fourteenth of the United States Constitution among others. "[T]he meaning of statutory language, plain or not, depends on context." were ignored. See *Holloway v. United States*, 526 U.S. 1, 7 (1999) (quoting *Brown v. Gardner,* 513 U.S. 115, 118 (1994), and *King v. St. Vincent's Hospital*, 502 U.S. 215, 221 (1991)). The evidence that reflect violations of 18 U.S. Code § 1512 (b) [Tampering with Evidence], 18 U.S. Code § 1509 [Obstruction of Court Orders], and the Fourteenth Amendment to trigger exceptions to both Rooker-Feldman, res judicata and estoppel doctrines were ignored and unmentionable by both the district court and the Fourth Circuit Court.

19. The unmentionable evidence in support of the complaint and injunctive relief are made available not difficult to research via pacer.com under *Torkornoo v. Helwig et al..*, No. 8:15-CV-02652-tdc (pacer.gov under Maryland District Court), ECF nos. 1-74. In action, the Fourth Circuit as well as the district court made no effort to take judicial notice of the admissible evidence gathered in support of the complaint and injunctive relief. Apparently, respondents never disputed the evidence gathered once in their defense.

20. There is no justification why the Fourth Circuit Court and the district court remained silent on the admissible evidence produced in support of facts to undermine codified exceptions defined in defined in "Restatement (Second) of Judgments § 26(1)(d)" to compromise judicial integrity. Admissible evidence, in a court of law, is any testimonial, documentary, or tangible evidence that may be introduced to a factfinder—usually a judge or jury—to establish or to bolster a point put forth by a party to the proceeding. For evidence to be admissible, it must be relevant and "not excluded by the rules of evidence".

21. As result of the district court and the Fourth Circuit Court's actions and inactions, the state court judge in Maryland continues to treat petitioner with indifference while treating other citizens with different skin color with deference because of petitioner's skin color and gender. Petitioner continued to be deprived the benefit of a full and fair trial in the state court, and his rights are measured, by laws made to affect him individually, but not by the general provisions of law applicable to all those in like condition.

22. A timely example is the unjustifiable treatment against petitioner's interests as compared to treatment in favor of Mr. Tahir's interests by same Judge Callahan sharply differ. See Affidavit at Appendix 6 with partial supporting evidence at App. 5, 7-23. In Mr. Tahir's case, he is guaranteed a constitutional right, which Judge Callahan explained as a "Safe Passage" for Mr. Tahir to see his child at Appx. 9-11 irrespective of his bad records in direct contrast to petitioner's good record without any act of violence against anyone including his family. See Appendixes B, C, and D.

23. Even though petitioner continued to pay his child support, Judge Callahan continued to deny him access to his own biological minor children as direct result of respondents [Ms. Helwig Esq. (BIA), Ms. Ngole Esq. and Ms. Torkornoo) and Master

Wisor's fabricated evidence, collusion, unwavering conflict of interest, and deception. With indulgence of the Court refer to Appendix 6 or *Torkornoo v. Helwig et al..*, No. 8:15-CV-02652-tdc (pacer.gov under Maryland District Court) ECF Nos. 5 and 21 for verification.

24. The legal precedents that triggers exceptions to res judicata requires that petitioner's civil suit no. 378782V in the state court should have been litigated on the merit. However, this was not the case in the appearances of Appendix 8 showing same judge [Judge Callahan] extending her unwavering interest to repress petitioner's rights to his freedom, liberty, and properties. This repression serves as a cover up for respondents' misdeeds, and stonewalling petitioner away from the state court. He had no choice than to file a federal civil suit resulting to actionable elements under Count I (Interference with Parental Rights), Count II (Fraudulent Misrepresentation) and Count III (Unjust Enrichment) against respondents to deter and protect his interests.

25. Appendix 7 are showing that petitioner's civil action in the state court was initially assigned to Judge Sharon Burrell. Apparently, Judge Callahan appear to obtain App. 8 with same unwavering interest at App. 11 to procure a standing order at App. 12 to take charge of petitioner's family law case without good cause except the obvious ill motive. Same ill motive present itself again at Appendixes E through J to shield Ms. Torkornoo for her continuous noncompliance and from contempt charges with an attitude of stonewalling to deprive petitioner of his equal rights. The interests demonstrated here resulted to recurrent denials of substantive justice according to the affidavit at App. 6 and complaint on federal court's file noted above.

26. However, the Fourth Circuit Court's decision in dispute which shows that it to avoided reassessments of petitioner's admissible evidence presented to the district court in support of the civil action violates the Fourteenth Amendment evidenced by district court's own Memorandum which shows one sided opinion and judgment that lacks factual standings, App. 2:

> "The State Case, however, was dismissed after consideration of "the entire record" and after Judge Callahan granted seven Motions to Dismiss. These Motions' collectively asserted grounds including a lack of a legal or factual basis for Mr. Torkornoo's claims and a failure to state a claim upon which relief can be granted. In particular, Monahan's Motion to Dismiss Plaintiffs Fourth Amended Bill of Complaint, which was granted, asserted failure to state a claim as its only basis for dismissal..."

27. The district court holding that *"Judge Callahan granted seven Motions to Dismiss.."*, failed to articulate whether Judge Callahan approached the civil action with open mind to exhibit objectiveness to give the petitioner the benefit of full and fair trial. Furthermore, the district court's failed to articulate in its opinion any written opinion by Judge Callahan to proof the merit of the civil case no. 378782V within rule of law. The *"seven Motions"* were factually granted arbitrary in favor of respondents without due process of law.

28. There is no written opinion from the state court by Judge Callahan regarding the disposition of that civil action on record. Among the *"seven Motions"* granted to

benefit respondents' interests, none of these motions were granted in petitioner's favor including his motion for postponement at the time he needed such relief to recover from his impaired or hoarse speech as result of the surgical procedure to remove his entire thyroid *also* known in medical term as *"Total thyroidectomy"* according to App. 13. Although petitioner's motion was in good faith, supported with palpable evidence, Judge Callahan dismissed it without due process of law. At the same token, respondents made stunning admissions directly related to their misdeeds in the family law case which resulted to civil action during a hearing where petitioner was forced to come to court when he was still hoarse because his motion for postponement was denied by Judge Callahan. At that hearing Judge Callahan ignored respondents' admissions to dismiss the civil action without merit, App. 6 paragraphs 11-41 or refer to district court's Document 21 pages 5-7, 97-104, 183.

29. The Fourth Circuit Court decision at App. 1 is erroneous because it failed to take judicial notice of these admissible evidence produced and presented by petitioner in support of the complaint and injunctive relief pursuant to FRCP Rule 401 and Rule 613 to balance between equity and uniformity. The Fourth Circuit's holding is not consistent with Due Process Clause and Equal Protection Clause as it undermines the cause of actions Count I (Interference with Parental Rights), Count II (Fraudulent Misrepresentation) and Count III (Unjust Enrichment) against respondents evidenced by its erroneous findings:

> "Bismark Kwaku Torkornoo appeals the district court's order denying relief on his civil complaint. We have reviewed the record and find no reversible error. Accordingly, we affirm for the reasons stated by the district court. *Torkornoo v. Helwig*, No. 8:15-CV-02652-tdc (D. Md., Oct. 27, 2017). We dispense with oral argument because the facts and legal contentions are adequately presented in the materials before this court and argument would not aid the decisional process."

30. *Factually*, the Fourth Circuit Court's recent decision at App. 1 conflicts with its prior decision dated December 8th, 2016, at App. 3 with same evidence, same parties and same timeline where it recognized petitioner's civil action as an independent claim... *"if a plaintiff in federal court does not seek review of the state court judgment itself but instead presents an independent claim"* that is related to a matter decided by a state court. *Id.* at 320. (*Thana v. Bd. Of License Commissioners for Charles City*, 827 F.3d 314 (4th Cir. 2016). Based on same facts and admissible evidence, the Fourth Circuit vacated district court's decision and remanded for further proceedings as follows:

> "Subsequent to the district court's order, we clarified the narrow scope of the Rooker-Feldman doctrine in *Thana v. Bd. Of License Commissioners for Charles City*, 827 F.3d 314 (4th Cir. 2016), explaining that the doctrine does not apply "if a plaintiff in federal court does not seek review of the state court judgment itself but instead presents an independent claim" that is related to a matter decided by a state court. Id. at 320 (internal quotation marks and emphasis omitted). Instead, "any tensions between

> the two proceedings should be managed through the doctrines of preclusion, comity, and abstention." Id."
>
> "Because the district court's Rooker-Feldman analysis may be inconsistent with our recent clarification, we vacate its order and remand for reconsideration in light of Thana. We deny as moot Monahan's motion to dismiss. We dispense with oral argument because the facts and legal contentions are adequately presented in the materials before this court and argument would not aid the decisional process."

31. The evidence produced by the respondents collectively did not merit the district court's judgment. On the contrary, petitioner's documentary collectively evidence shows the repressive acts of fraud, collusion, deception and conflict of interest by Master Wisor and Judge Callahan in collaboration with Helwig Esq, Ngole Esq., Monahan and Ms. Torkornoo to alter evidence, deceive the court, and abuse process in direct violations of 18 U.S. Code § 1512 (b) [Tampering with Evidence] 18 U.S. Code § 1509 [Obstruction of Court Orders].

32. At **Issue 1** of the complaint according to Affidavit at App. 6 paragraphs 42-133 [Second Amended Complaint at ECF 5], respondents Nina Helwig Esq. was the court appointed "Best Interest Attorney (BIA) with specific orders under state law MD F.L. § 1-202(a)(l)(ii) not under MD F.L. § 1-202(a)(l)(i), which represents "Child Advocate Attorney" (CAA). However, Master Wisor, Helwig Esq., and Ngole Esq. colluded to accept Ms. Torkornoo's (petitioner's ex-wife) to relitigate her fabricated. Master Wisor, Helwig and Ngole enabled Ms. Torkornoo to articulate to their minor child her positions, claims, and interest previously settled at App. 15 [Exhibits 5-8]. Because she had a bad record and was found to be contempt, Master Wisor appointed Helwig coordinated by Ngole to remove the consequential order at App. [Exhibit 14].

33. The evidence Helwig presented is a fabricated evidence which represent Ms. Torkornoo's positions, claims, and interest. The evidence was re-litigated through the minor child at App. 17 [Exhibit 26 (pages 115-128, 233-243)] represents the same issues and claim with same timeline exactly as Ms. Torkornoo's position, claims, and interests. At appendix 16, Master Wisor previous recognized that petitioner was a danger to anyone evidenced by Ms. Torkornoo and her attorney on record before access was granted to him.

34. The word "danger or dangerous" was mentioned eight times as Ms. Torkornoo and her Attorney stipulated that petitioner was no danger to her and the children contrary to Mr. Tahir case at Appendixes B, C, D where Judge Callahan render decisions sharply in contrast to one that she rendered at petitioner's defeat to separate him from his children. According to Appendix 15O, on the contrary, Judge Rubin relied on the court evaluator reports at Exhibit 8 was exactly predivorce assessment and basis for the original custody order at Exhibit 6 when petitioner told the court he was relocating to Arizona and requested visitation every three months.

35. The Fourth Circuit had access to all the admissible evidences but failed to correct the district court's erroneous standard regarding the state court double standard to procure adversary judgments to infringed petitioner's constitutional rights Appendix 17 Exhibits 33-34 to break up his family. The Fourth Circuit's holding directly contradict the Court's [Supreme Court] precepts which it recognizes that: "fundamental rights" and "are protected by judicial review at the level of strict scrutiny." *Washington v. Glucksberg*, 521 U.S. 702, 720–21(1997); "upper-tier parents have a fundamental right to the care, custody, and control of their children under the Fourteenth Amendment." *Troxel v. Granville*, 530 U.S. 57, 65–66 (2000); and *Quilloin v. Walcott,* 434 US 246 (1978):

> "We have little doubt that the Due Process Clause would be offended "[i]f a State were to attempt to force the breakup of a natural family, over the objections of the parents and their children, without some showing of unfitness and for the sole reason that to do so was thought to be in the children's best interest....."

36. A competent judge would have adjudicated the contempt, enforcement and custody modification motions without any confusion because the numerous evidence including Exhibits 6-8, 13-16, 22, 31. Master Wisor and Judge Callahan's holdings are also contrary to *Chief Justice John Roberts (Chief Justice of the Supreme)* precepts to defend the Constitution as any other competent judge would across this nation:

> "Judges are like umpires. Umpires don't make the rule; they apply them. The role of an umpire and a judge is critical. They make sure everybody plays by the rules. But it is a limited role. Nobody ever went a ball game to see the umpire. I will remember that it's my job to call balls and strikes and not to pitch or bat."

37. At **Issue 2** of the complaint according to Affidavit at App. 6 paragraphs 149-151 [Second Amended Complaint at ECF 5], Judge Callahan denied petitioner's motion to enforce the monetary judgment in the amount of $1,500 ordered in his favor [Exhibit 36] against Ms. Torkornoo could not be enforced because she willfully relied on defense attorney Ngole's misrepresentation that the Montgomery County Office of Child Support Enforcement ["MCOCSE"] was ordered to credit petitioner's MCOCSE account [Exhibit 52].

38. On the contrary, the audit from MCOCSE show no evidence in support of the judge and Ngole's misrepresentation [Exhibit 45]. Apparently, Judge Callahan failed to verify that fact although she was capable of doing so with the record evidence before the court. The judge had all the record before the court but refused to be an objective fact finder, also refused to schedule a hearing to give petitioner the opportunity to present evidence against the misrepresentation. 39. It is relevant now that the same "lack of disinterestedness or impartiality" infected her judgment at petitioner's defeat with regard to both the judge and Ngole's collective misrepresentations of fact to deny petitioner substantive justice. Exhibit 2 prevented the petitioner from exhibiting fully his case because the evidence to enforce the monetary judge is palpable, and any competent judge would have enforced it without further confusion. Judge Callahan enforced Ms. Helwig's attorney fees on the petitioner while she denied the similar judgment on Ms. Torkornoo in petitioner's favor.

40. At **Issue 3** of the complaint according to Affidavit at App. 6 paragraphs 42-152-197 [Second Amended Complaint at ECF 5], Judge Callahan accepted and relied on fabricated evidence, which include affidavit to sign orders ratifying the sale and transfer of the former joint marital real property without a trial against affirmative evidence on record conflicting with Monahan's fraudulent accounting regarding the ratification of former joint marital real property because of Exhibit 2. Exhibit 2 is an unconstitutional order under which the judge allowed Monahan prevented petitioner from exhibiting fully his case resulting Exhibit 46. Exhibit 2 preceded the judgment at Exhibit 46.

41. On 4/15/2013, prior to signing the sale ratification or DEED, the judge denied petitioner's motion in favor Monahan's incompetent appraiser [Exhibit 39] without taking judicial notice of Monahan's own statement directly contradicting the material facts and documentary evidence on record: *"It does not appear that any of those properties took into account Mr. O'Neill's adjustment of $5,000.00 for replacement of the heating and air conditioning system...."*Appendixes 14 [Exhibit 40 (page 2 ¶5)]. This submission is consistent with the petitioner's complain that the Monahan's appraiser was adjusted and fraudulent and yet Judge Callahan did not give the petitioner opportunity for full and fair trial.

42. On 6/7/2013, the same Judge Callahan signed the sale ratification to illegally transfer the former joint marital joint real property to Ms. Torkornoo without due process after she ruled that the all the repairs of the real property in question cost $470 including the heating and air conditioning system after the facts. According to court transcript dated 6/7/2013, Ms. Torkornoo conceded that the heating and air conditioning system was repaired "not replaced" contrary to Monahan's affidavit. See Appendix 14 Exhibits 37-40 and Exhibit 42 (pages 39-41), Exhibit 42 (page 101).

43. The payoff balance produced by Monahan contains an affidavit. The content of the affidavit was fraudulent, it increased the mortgage payoff balance more than $4,300.00. At the trial, petitioner entered Exhibit 43 (Plaintiff's "Exhibit 1") to reflect the approximate mortgage payoff balance that he printed from the Nationstar Mortgage Company's website before coming to court on 6/7/2013. Petitioner was not put on notice regarding Monahan's motion for the sale ratification; however Judge Callahan tried it and ruled on it without Monahan present for authentication of his affidavit.

44. According to Exhibit 43, the mortgage balance was $184,473.43 as of 5/14/2013 contrary to Monahan's payoff balance in his affidavit dated 5/13/2013 in amount of $189, 000.00 at Exhibit 41. The same affidavit decreased the value of the real property under the pretext that the heating and air conditioning system was replaced in the amount of $5,000. The palpable evidence shows that it was repaired with the repairs within $470. See Exhibits 37-40, Exhibit 42 (pages 39-41,101).

45. On 11/27/2013, 5 months after the former joint marital real property was sold, Monahan conceded that the false mortgage balance payoff was provided to her by Ms. Torkornoo at Exhibit 25 (page 31): *"What actually did occur is that I based that in the report of sale and the information given to me by Mrs. Torkornoo that the balance on*

the mortgage, she thought, was $189,000....". It clearly appears that both Monahan and Ms. Torkornoo colluded to fabricate the evidence.

46. The court order at Exhibit 29 however, and the Uniform Trust Code 406, 801, and 802, and the Fourteenth Amendment bars Monahan's collusion. Exhibit 2 prevented petitioner from exhibiting fully his case because the evidence in light of Exhibits 28-29, 37-46 sidelined by Judge Callahan who consistently failed "to call balls and strikes".

47. At **Issue 4** of the Second Amended Complaint at ECF 5, petitioner's civil case [378782V] was never tried in any court according to Exhibits 56-58. Exhibit 3 prevented the petitioner from exhibiting fully his case because of Judge Callahan's conflicts of interest for her direct involvement in this matter. Had the civil action not removed from Judge Sharon Burrell to Judge Callahan, petitioner would not have refiled it in federal court district court.

48. It was because the state court restricted and subjected petitioner's fundamental rights to Judge Callahan at Exhibits 2 and 3. Judge Callahan only scheduled respondents' motions to dismiss the civil lawsuit [App. 10] to undermine the original scheduling order on record at App. 7 in the appearance of App. 8 at akin with the same unwavering interest at Appendixes 9, 11 and 12. The collective efforts by Ms. Helwig Esq., Ngole Esq., Monahan Esq and Ms. Torkornoo aided and abetted by Judge Callahan prevented petitioner from fully making his civil case in full. Appendix I also shows that Ms. Torkornoo disobeyed Judge Callahan and Master Wisor's order which was intentionally flawed to protect Ms. Torkornoo's interests according docket entries 575-581. That motion for contempt was dismissed with even a scheduling hearing according to Appendixes H and I.

49. Same unwavering conflict of interest by Judge Callahan occurred in on May 8, 2017 when petitioner attended to schedule a therapy session with the minor children pursuant to Judge Callahan and Master Wisor's orders at App. 17 Exhibit 33. The contempt was filed on 8/22/2013. Contempt charges was filed after Ms, Torkornoo failed to comply with that order. Judge Callahan removed the hearing notice without a trial according to Appendix G without good cause.

50. The issues presented was clearly about the petitioner's independent cause of actions which were not fully litigated on the merit in the state court can be attributed to Judge Cynthia Callahan unwavering obstructions by obtaining a court order [App. 8 at Exhibit 3] to allow her to remove the civil case from Judge Sharon Burrell's custody without good cause except to dismiss it without merit when petitioner was still recovering from hoarse speech as result of post total thyroidectomy surgery on 10/18/2013 when the medical report was explicit on "qualitative changes of the voice". The civil action was dismissed on 11/27/2013, thirty 30 days after the surgery when petitioner was recovering from hoarse speech. This was elective surgery as petitioner relied on that original scheduling's timetable at App. 7 (last page or page 3) with estimated "Trial Date Between: 05/16/2014 and 10/06/201".

51. *Tellingly*, the State Court's granting of seven motions in respondents favor is not enough to proof that the action was actually litigated on the merit. Apparently, there was no trial on the merit, and as such Judge Callahan did not review any evidence

objectively before dismissing the petitioner's civil action against respondents in the Montgomery County Circuit Court as suggested by the district court.

52. Petitioner multiple independent claims include fraud on the court, collusion, deception, and conflict of interest occurred both during the family law case and the civil case in the state court. Callahan was not originally assigned to that civil action in the first place according to Appendix 7 at Exhibit 58. It was originally assigned to Judge Sharon Brussel not Judge Callahan Appendix 8 at Exhibit 3. As result, Judge Callahan did not want Judge Sharon Brussel or any other judge for that matter to see what transpired. She was driven by same wrong motive Appendix 11-12 at Exhibits 27 and 2 to take custody of the civil action at Exhibit 3 to cover up for respondents, herself and Master Wisor. Both aided and abetted the oppressive acts in the domestic relations case with respondents. However, Judge Callahan further infested of the sale and transfer of the former joint marital real property and other equity with same fraudulent transactions against the petitioner's interests to deny petitioner due process of law.

53. Both the Fourth Circuit and the district court failed to take judicial notices of the facts and the evidence pertaining to petitioner's claim with regard to his motion for postponement denied by Judge Callahan as result of his surgical procedure regarding total thyroidectomy which affected his speech and needed time to recover. That motion for the postponement including other relevant motions were dismissed without due process of the law. The medical report was attached to that motion in the state court docket.

54. This same medical report is part of the federal lawsuit according to Appendix 6 paragraphs 11-14 and App. 13 at Exhibit 60. This same medical report was also presented to the district court to substantiate petitioner's independent claim yet the lower courts failed to take judicial notice of this evidence in its decision process before suggesting that *"the entire record" and after Judge Callahan granted seven Motions to Dismiss..* to contradict precepts under *Thana v. Bd. Of License Commissioners for Charles City*, 827 F.3d 314 (4th Cir. 2016) in which the Fourth Circuit recognized that *"if a plaintiff in federal court does not seek review of the state court judgment itself but instead presents an independent claim" that is related to a matter decided by a state court." Id.* at 320.

55. Respondents never denied documentary proof of admissible evidence on record and processed on each of them with the summons and complaint. The district court and the Fourth Circuit Court for that matter did not discredit the validity of same admissible evidence to substantiate its decision with documentary opinion to proof how Judge Callahan made its findings before dismissing the state civil case otherwise the decisions at App. 1-2 should be vacated and remanded for jury trial in light of *Riehle v. Margolies*, 279 U.S. 218, 225 (1929) where the Court [Supreme Court] over eighty-nine (89) years ago recognized that only "*'in the absence of fraud or collusion' does a judgment from a court with jurisdiction operate as res judicata."* See *Riehle v. Margolies*, 279 U.S. 218, 225 (1929) to preserve *"both the appearance and reality of fairness . . . by ensuring that no person will be deprived of his interests in the absence of a proceeding in which he may present his case with assurance that the arbiter is not*

predisposed to find against him." citing *Marshall v. Jerrico,* 446 U.S. 238, 242 (1980) and *Schweiker v. McClure*, 456 U.S. 188, 195 (1982).

REASONS FOR GRANTING THE PETITION

56. The Fourth Circuit Court and the district court failed to take judicial notice of admissible evidence that reflects inadequate State's judicial proceedings in absence of documentary evidence specifically opinion written by Judge Callahan to justify that petitioner had the benefit of full and fair trial regarding his civil case no. 378782V and the family law case no. 71419 consistent with expectation in Article VI (2) of the United States Constitution. That holding is clearly inconsistent with the United States Supreme precepts under *Marchant v. Pennsylvania* R.R., 153 U.S. 380, 386 (1894) and *Hagar v. Reclamation Dist.,* 111 U.S. 701, 708 (1884) where the United States Supreme Court recognized that:

> "Thus, where a litigant had the benefit of a full and fair trial in the state courts, and his rights are measured, not by laws made to affect him individually, but by general provisions of law applicable to all those in like condition, he is not deprived of property without due process of law, even if he can be regarded as deprived of his property by an adverse result."

57. *Nearly* 140 years ago, the Court [Supreme Court] recognized the maxim to set aside judgment procured through "fraud, deception, and collusion" to preserve the integrity of the judicial system in the public interest citing *United States v. Throckmorton*, 98 U.S. 61 (1878), under Syllabus # 2 and 3 as follows:

> **1.** "The frauds for which a bill to set aside a judgment or a decree between the same parties, rendered by a court of competent jurisdiction, will be sustained are those which are extrinsic or collateral to the matter tried, and not a fraud which was in issue in the former suit."
>
> **2.** "The cases where such relief has been granted are those in which, by fraud or deception practiced on the unsuccessful party, he has been prevented from exhibiting fully his case, by reason of which there has never been a real contest before the court of the subject matter of the suit."

58. The Fourth Circuit and the district court both avoided the petitioner's multiple independent claims otherwise cooperated with admissible documentary evidences establishing fraud on the court, collusion, deception, and conflict of interest knowingly exhibited by Ms. Nina Helwig Esq., Ms. Jacqueline Ngole Esq., Mr. John Monahan Esq. and Ms. Mary Torkornoo accepted and condoned by Judge Callahan his minor children and emancipated children, and freedom and liberty to his property, and infringements of untold hardship on petitioner.

59. Here, the BIA did not produce any document evidence reflecting the interviews she conducted at children schools, interviews conducted while visiting the children with their mother (Ms. Torkornoo), and the interview conducted with the petitioner with his attorney present. Ms. Helwig Esq. had the legal obligation what was required of her excepted the collusion that occurred in the appearance of ex parte

communication with Master Wisor in his chambers with Ngole Esq. present where a proffer was presented to petitioner's attorney to request petitioner to drop the contempt charges brought against Ms. Torkornoo to stop Helwig Esq. new evidence of domestic abuse against.

60. Judge Callahan admitted on record not by choice because of petitioner's iron clad objections during the exception hearing before the judge. Then, Judge Callahan accused petitioner of retribution because he is angry of his ex-wife. Petitioner objected that accusation because it was offensive and extrajudicial. At that very moment, Judge Callahan then made the following submissions:

> ...the plaintiff, but a large amount of what happened here with regard to these proceedings, and the reason that Mr. Torkornoo has pursued them, is because of Ms. Torkornoo's absolute refusal to abide by court orders and to use her children to make it so that Mr. Torkornoo does not see his children. It is the worst kind, frankly, of parenting fault in my view — to use your children this way...." [see Exhibit 32 (page 59) at ECF 1, 7].

61. Both Master Wisor and Judge Callahan signed orders legitimized Helwig Esq. role to act "as an arm of the court" deceptively under F.L. § 1-202(a)(l)(i), as "child advocate attorney" to present the "child's wishes" without presenting any documentary evidence in direct contrast to the court's own orders App. 16 [Exhibit 24] and "Best Interest Attorney" mandate appointed under F.L. § 1-202(a)(l)(ii). When petitioner objected to the BIA's illegal fees, Judge Callahan made another submission on record that: "*her* [Helwig] *doing her job resulted in Master Wisor have the evidence he needed to make the order...* " knowing too well the source of the evidence was extrajudicial. Judge Callahan then added that: *"I cannot erase what's in your children's heads....I think everybody agrees the defendant put there...* ". Exhibit 32 page 45, 47, 49-51 at ECF 1, 7.

62. The misdeeds resulted to consequential orders at App. 17 [Exhibit 33] without merit. The consequence explicitly restricts petitioner's freedom of access to his biological minor children without justifiable reasons. The other consequential order targeted Judge Quirk's Purge Provision order, which was intended to deter Ms. Torkornoo transgressions because of her bad behavior when she in contempt in 2010 at App. 15 [Exhibit 14] focused on maintaining law and order.

63. The Fourth Circuit Court and district court's failed to recognized that Helwig Esq. [BIA] deliberately violated order at App. 17 Exhibit 24 as well as §1-202 of the Maryland Family Law Article by re-litigating fraudulent evidence to obtain court order at Exhibit 33-34 to remove orders at Exhibits 7 and 14. Therefore, Helwig misdeeds uder the color of law as Best Interest Attorney in a fraudulent manner to abuse process in the procurement of fraudulent manner is liable under the law (citing *Fox v. Wills*, 390 Md. at 624. *Fox v. Wills*, 151 Md. App. at 40, 42, 44):

> "This statute also did not provide for a duty to the Court or any duty other than to the minor. Thus, "an attorney appointed pursuant to §1-202 of the Family Law Article is not entitled to any type of immunity from a malpractice suit."

64. Monahan motion failed to dispute the evidence brought to light about the personal prejudice targeted at petitioner of which he [Monahan] himself was involved in the fraudulent act to some extent. For Example, Monahan was appointed the Trustee by the state court to foresee the sale of the former joint marital real property pursuant to App. 14 at Exhibit 29. This exhibit which mandated to act objectively, was flouted by him [Monahan] knowingly, without due regard to petitioner's inalienable right to equity.

65. Monahan presented fraudulent appraiser to the circuit court knowingly [Exhibit 40-41]. When challenged, his defense was that, the heating to the air conditioning system was replaced at the cost of $5,000: *"It does not appear that any of those properties took into account Mr. O'Neill's adjustment of $5,000.00 for replacement of the heating and air conditioning system...."* according to App. 14 [Exhibit 40 (page 2 ¶5)]. Monahan's claim was invalidated by Ms. Torkornoo's own testimony and Judge Callahan's own ruling that the all the repairs including the heating and air conditioning system repairs cost $570.

66. Monahan also increased the mortgage payoff balance more than $4,000. He undervalued the real property and increased the mortgage balance and admitted after the fact that Ms. Torkornoo provided him with the wrong mortgage balance: Exhibit 25 (page 31): *"What actually did occur is that I based that in the report of sale and the information given to me by Mrs. Torkornoo that the balance on the mortgage, she thought, was $189,000...."*. It now appears that Monahan's own action undermines his own mandate App. 14 at Exhibit 29, which forbids collusion and fraud.

67. Monahan's misrepresentation incorporated in his affidavit in support of his motion for the sale ratification was direct App. 14 [Exhibit 41] at petitioner's defeat. Apparently, Judge Callahan knowingly, ignored the palpable evidence and petitioner's "iron clad" objections not to sign the sale ratification order [App. 14 at Exhibit 46] beyond which the judge gave preferential treatment to Monahan, Ngole and Ms. Torkornoo over petitioner's interest in direct contradiction to the judge's own findings regarding the double billing of the heating and air conditioning system and fraudulent mortgage balance [Exhibits 37-43]. Monahan acting as Trustee in a fraudulent manner is liable under the law (citing *Ellerin v. Fairfax Savings, 337 Md. 216,236*):

> "If the plaintiffs' had brought an equitable action seeking an accounting or the rescission of a contract, Weisman's alleged actions might have been sufficient to set forth constructive fraud, although we do not in this case decide that issue. See, e.g., *Ellerin v. Fairfax Savings, 337 Md. 216,236 n. 11, 652 A.2d 1117, 1126-1127 n. 11 (1995); Nagel v. Todd, 185 Md. 512, 45 A.2d 326 (1946)*.

68. Both the Fourth Circuit and the district court failed to take judicial notices of the facts and the evidence pertaining to petitioner's claim with regard to his motion for postponement denied by Judge Callahan as result of his surgical procedure regarding total thyroidectomy which affected his speech and needed time to recover. That motion for the

postponement including other relevant motions were dismissed without due process of the law. The medical report was attached to that motion in the state court docket.

69. This same medical report is part of the federal lawsuit App. 13 showing at Exhibit 60. This same medical report was also presented to the district court to substantiate petitioner's independent claim yet the lower courts failed to take judicial notice of this evidence in its decision process before suggesting that *"the entire record" and after Judge Callahan granted seven Motions to Dismiss..* to contradict precepts under *Thana v. Bd. Of License Commissioners for Charles City*, 827 F.3d 314 (4th Cir. 2016) in which the Fourth Circuit recognized that *"if a plaintiff in federal court does not seek review of the state court judgment itself but instead presents an independent claim" that is related to a matter decided by a state court." Id.* at 320.

70. But perhaps, a timely example on domestic issues of the whole discussion can be related to *Greene v. Greene*, 2 Gray (Mass.) 361[3], where the opinion was delivered by Chief Justice Shaw. That was a bill filed by a woman against her husband for a divorce. The husband had five years before obtained a decree of divorce against her. In her bill she alleges that the former decree was obtained by fraud, collusion, and false testimony, and she prays that this may be inquired into, and the decree set aside.

71. The court was of opinion that this allegation meant that the husband colluded or combined with other persons than complainant to obtain false testimony or otherwise to aid him in fraudulently obtaining the decree. The Chief Justice says that the court thinks the point settled against the complainant by authority, not specifically in regard to divorce, but generally as to the conclusiveness of judgments and decrees between the same parties. He then examines the authorities, English and American, and adds:

> "The maxim that fraud vitiates every proceeding must be taken, like other general maxims, to apply to cases where proof of fraud is admissible. But where the same matter has been actually tried, or so in issue that it might have been tried, it is not again admissible; the party is estopped to set up such fraud because the judgment is the highest evidence, and cannot be contradicted."

72. Petitioner's lawsuit was in two folds, the complaint and injunctive relief. The complaint requested damages against Ms. Nina Helwig Esq. and Ms. Jacqueline Ngole Esq., John Monahan Esq. and Ms. Mary Torkornoo for the legal injuries caused to him with ill-motive to procure orders predicated on fraud. Their misdeeds interfered and separated the petitioner from his biological children and denied him equity based on false testimony and fabricated documents according to the evidence produced.

73. The second paragraph of the syllabus under *United States v. Throckmorton*, 98 U.S. 61 (1878), on the maxim recognizing that "fraud vitiates everything" by the Court [Supreme Court] *supra*, held: *"The frauds for which a bill to set aside a judgment or a decree between the same parties, rendered by a court of competent jurisdiction, will be sustained are those which are extrinsic or collateral to the matter tried, and not a*

---

[3] *Also see* Page 98 U. S. 68, the same doctrine is asserted in *Dixon v. Graham*, 16 Ia. 310; *Cottle v. Cole & Cole,* 20 *id.* 482; *Borland v. Thornton,* 12 Cal. 440; *Riddle v. Baker,* 13 *id.* 295; *Railroad Company v. Neal,* 1 Wood 353.

fraud which was in issue in the former relevant for the Court [Supreme Court] to grant an injunctive relief to set aside orders App. 11-12 showing at Exhibit 2 obtained at will in the appearance of Exhibit 27 which subjects petitioner's fate and rights under Judge Callahan and Master Wisor's extreme bias instead of the Constitution in light of *United States v. Throckmorton*, 98 U.S. 61 (1878). The relief if granted will not only terminate Exhibit 2 but it will also terminate the same order at App. F which continue to repress against the petitioner's his civil right not prevent him from seeking justice in that jurisdiction.

74. The first paragraph of the syllabus under *United States v. Throckmorton*, 98 U.S. 61 (1878), on the maxim recognizing that "fraud vitiates everything" by the Court [Supreme Court] *supra*, held: *"The cases where such relief has been granted are those in which, by fraud or deception practiced on the unsuccessful party, he has been prevented from exhibiting fully his case, by reason of which there has never been a real contest before the court of the subject matter of the suit."* It is relevant for the Court [Supreme Court] to remand this action back to the district court to proceed on merit on jury trial as request by the petitioner in his complaint in light of *United States v. Throckmorton*, 98 U.S. 61 (1878).

75. The factual evidence of recurrent frauds relevant to the civil complaint and injunctive relief precluded from the district court's decision making process are verifiable documentary evidences produced by petitioner, and it include copies directly made from the state court's custody evaluation/visitation, original orders, contempt orders, purge provision orders, conclusory orders [by Master Wisor and Judge Callahan], depositions, submissions made on transcript and actual exhibits. These admissible evidences collectively reflect a material fact. A material fact is one which might affect the outcome of the case under governing law. *Anderson v. Liberty Lobby, Inc.,* 477 U.S. 242, 248 (1986). If evidence is in the form of witness testimony, the party that introduces the evidence must lay the groundwork for the witness's credibility and knowledge[4]. In this case, the groundwork is incorporated in the Second Amended Complaint and verifiable according to petitioner's Affidavit at App. 5 [Also see ECF no. 5, 21].

Rule 401. Test for Relevant Evidence

Evidence is relevant if:

(a) it has any tendency to make a fact more or less probable than it would be without the evidence; and

(b) the fact is of consequence in determining the action.

Rule 613. Witness

(a) Showing or Disclosing the Statement During Examination. When examining a witness about the witness's prior statement, a party need not show it or disclose its contents to the witness. But the party must, on request, show it or disclose its contents to an adverse party's attorney.

(b) Extrinsic Evidence of a Prior Inconsistent Statement. Extrinsic evidence of a witness's prior inconsistent statement is admissible only if the witness is given an

[4] Richard Glover, *Murphy on Evidence* (2015), p. 29.

opportunity to explain or deny the statement and an adverse party is given an opportunity to examine the witness about it, or if justice so requires.

76. This case warrant review because the Fourth Circuit has a constitutional mandate under the Fourteenth Amendment and The ALL WRIT ACTS [28 U.S.C. § 1651] to act in accordance with exceptions to fraud, collusion, and unwavering conflict of interest in Restatement (Second) of Judgments § 26(1)(d) but failed to do so. The independent claims actionable under Count I (Interference with Parental Rights), Count II (Fraudulent Misrepresentation) and Count III (Unjust Enrichment) exhibited by respondents are the basis to grant this petition.

77. The Fourth Circuit's decision affirming the District Court's recent decision is inconsistent with the precepts of this Court and the Fourteenth Amendment under *Sinochem Int'l Co. v. Malaysia Int'l Shipping Corp.,* 549 U.S. 422, 430–31 (2007) and *Steel Co. v. Citizens for Better Environment,* 523 U.S. 83 (1998) where this Court [Supreme Court] recognized that "a federal court generally may not rule on the merits of a case without first determining that it has jurisdiction over the category...of claim in suit (subject-matter jurisdiction) and the parties (personal jurisdiction). *See id.* at 93–102. *'Without jurisdiction the court cannot proceed at all in any cause'*; it may not assume jurisdiction for the purpose of deciding the merits of the case."

78. Here, the Fourth Circuit Court's decision is erroneous because it affirmed the district court reasons which is far absent from assuming subject matter jurisdiction of the lawsuit before ruling on the merit in light of *Sinochem Int'l Co. v. Malaysia Int'l Shipping Corp.,* 549 U.S. 422, 430–31 (2007) and *Steel Co. v. Citizens for Better Environment,* 523 U.S. 83 (1998).

79. The 5th Circuit Court of Appeals has recognized that a court's dismissal on the grounds of subject matter jurisdiction is not a "final judgment" on the merits for purposes of "res judicata" in light of *Home Builders Ass'n of Miss., Inc. v. City of Madison, Miss.,* 143 F.3d 1006, 1013 (5th Cir.1998). Here, the district court's decision on lack of subject matter jurisdiction in support of its opinion is constitutionally erroneous merit for purposes of "res judicata" in light of *Home Builders Ass'n of Miss., Inc. v. City of Madison, Miss.,* 143 F.3d 1006, 1013 (5th Cir.1998).

80. The factual evidence before the Court [Supreme Court] reflects that 4th Circuit initially agrees with the petitioner in disagreement with the district court that its "lack of subject matter jurisdiction" dismissal based on Rooker-Feldman doctrine precept is narrow and erroneous standard considering the evidence and the law with understanding that "fraud vitiates everything it touches" like other general maxims, to apply to cases where proof of fraud is admissible against respondents.

> "Subsequent to the district court's order, we clarified the narrow scope of the Rooker-Feldman doctrine in *Thana v. Bd. Of License Commissioners for Charles City*, 827 F.3d 314 (4th Cir. 2016), explaining that the doctrine does not apply "if a plaintiff in federal court does not seek review of the state court judgment itself but instead presents an independent claim" that is related to

> a matter decided by a state court. Id. at 320 (internal quotation marks and emphasis omitted). Instead, "any tensions between the two proceedings should be managed through the doctrines of preclusion, comity, and abstention." Id."
>
> "Because the district court's Rooker-Feldman analysis may be inconsistent with our recent clarification, we vacate its order and remand for reconsideration in light of Thana. We deny as moot Monahan's motion to dismiss. We dispense with oral argument because the facts and legal contentions are adequately presented in the materials before this court and argument would not aid the decisional process."

81. Therefore, the action was remanded to the district court to further proceed on the merit. However, it failed to determine subject matter jurisdiction of the civil lawsuit before dismissing it again without due process of the law. Here, the district court relied on extrajudicial facts to subject petitioner's complaint to res judicata without taking judicial notice of the documentary on record to allow the case to go for a jury trial with recognition that "fraud vitiates everything it touches."

82. A few courts—most especially the United States Court of Appeals for the Sixth Circuit (*In re Sun Valley Foods Co.*, 801 F.2d 186 (6th Cir. 1986).)—have determined that Rooker-Feldman does not prevent the lower federal courts from reviewing state court judgments that were allegedly procured through fraud—in terms of dismissed civil action cited in the district court's findings which bears not a "single" documentary evidence regarding Judge Callahan's opinion to justify the dismissal on the merit.

83. In other words, when a "state-court loser" complains that the winner owes his triumph not to sound legal principles—or even unsound ones—but to fraud, then the loser is not really complaining of an injury caused by a state-court judgment, but of an injury caused by the winner's chicanery. The Court [Supreme Court] has emphasized the narrowness of the Rooker-Feldman doctrine's limitations under *Lance v. Dennis*, 546 U.S. 459, 464 (2006), Exxon Mobil, 544 U.S. at 284.

84. **At the first glance**, the district court relied on Rooker-Feldman to subject petitioner's complaint and injunctive relief to a jurisdictional doctrine as close to being absolute without any jurisdictional inquiries on a broader scope to take judicial notice of his undisputed facts cooperated by the overwhelming unmentionable documentary evidences on record.

85. **At the second glance**, the Fourth Circuit then gave clear mandated to the district court to further proceed on this civil action and the injunctive relief. However, the district court decided not to act on this mandate instead, it continued to relitigate its jurisdictional doctrine issues by subjecting the lawsuit to res judicata doctrine without first determining the admissibility of undisputed facts and the overwhelming documentary evidences on record regarding Judge Callahan's fraud on the court, extreme bias, and deception, that created obstruction in the state civil case. The Fourth Circuit is

erroneous standard in light of *United States v. Throckmorton*, 98 U.S. 61 (1878), where the Court recognized fraud as:

> "The cases where such relief has been granted are those in which, by fraud or deception practiced on the unsuccessful party, he has been prevented from exhibiting fully his case, by reason of which there has never been a real contest before the court of the subject matter of the suit."

86. The Fourth Circuit applied erroneous standard to the petitioner's civil lawsuit against the petitioner but was entirely correct in *Resolute Insurance Co. v. North Carolina,* 18.397 F.2d 586 (4th Cir. 1968) that there can be an exception to res judicata based upon fraud, deception, accident, or mistake.

87. At the same token, the contrary, the Fourth Circuit Court recent decision is erroneous standard conflicting with its earlier decisions in *Thana v. Bd. Of License Commissioners for Charles City*, 827 F.3d 314 (4th Cir. 2016) and with the Court's precepts under *Riehle v. Margolies*, 279 U.S. 218, 225 (1929) where the Court [Supreme Court] has stated for at least ninety years that only *"in the absence of fraud or collusion"* does a judgment from a court with jurisdiction operate as res judicata.

88. The "Maxim of the Law", which states that "he who comes into equity must come with clean hands". Equity does not relieve a person of the consequences of his or her own carelessness. A court of equity will not assist a person in extricating himself or herself from the circumstances that he or she has created. Equity will not grant relief from a self-created hardship.

89. This maxim bars relief for anyone guilty of improper conduct in the matter at hand. It operates to prevent any affirmative recovery for the person with "unclean hands," no matter how unfairly the person's adversary has treated him or her. The maxim is the basis of the clean hands doctrine. Its purpose is to protect the integrity of the court. It does not disapprove only of illegal acts but will deny relief for bad conduct that, as a matter of public policy, ought to be discouraged.

90. A court will ask whether the bad conduct was intentional. This rule is not meant to punish carelessness or a mistake. It is possible that the wrongful conduct is not an act but a failure to act. For example, someone who hires an agent to represent him or her and then sits silently while the agent misleads another party in negotiations is as much responsible for the false statements as if he himself or she herself had made them.

91. The bad conduct that is condemned by the clean hands doctrine must be a part of the transaction that is the subject of the lawsuit. It is not necessary that it actually have hurt the other party. For example, equity will not relieve a plaintiff who was also trying to evade taxes or defraud creditors with a business deal, even if that person was cheated by the other party in the transaction.

92. Equity will always decline relief in cases in which both parties have schemed to circumvent the law. In one very old case, a robber filed a bill in equity to force his partner to account for a sum of money. When the real nature of the claim was discovered, the bill was dismissed with costs, and the lawyers were held in Contempt of court for bringing such an action. This famous case has come to be called The Highwayman

(*Everet v. Williams,* Ex. 1725, 9 L.Q. Rev. 197), and judges have been saying ever since that they will not sit to take an account between two robbers.

93. The Fourth Circuit Court decision warrant a review under erroneous standard because of the exception mentioned by the Court [Supreme Court] in *Riehle v. Margolies "'in the absence of fraud or collusion' does a judgment from a court with jurisdiction operate as res judicata", Lance v. Dennis*, 546 U.S. 459, 464 (2006), *Exxon Mobil*, 544 U.S. at 284. The decision in Resolute Insurance Co. (*Resolute Insurance Co. v. North Carolina,* 18.397 F.2d 586 (4th Cir. 1968))—one for fraud, deception, accident, or mistake—is also a timely example in this case. Because this case focuses on fraud, it will parse out and focus on that piece of the exception.

94. The Fourth Circuit's decision at App. 3 is a settled jurisdictional issue between the petitioner and respondents based on rule of law. However, the same issue was relitigated at App. 1-2 prejudiced and infringed petitioner's due process and equal protection rights, violates the Fourteenth Amendment. The Fourth Circuit Court's decision did not previously sideline, buried or ignore admissible evidences to invalid the facts as not independent claim but, disagreed with App. 4 at App. 3 in a constitutional sense in light of the admissible evidence to justify reason because the district court's prior decision [App. 4] is erroneous standard. If the decision at App. 3 is based on settled law, the decisions at App. 1-2 are erroneous standards in violation of the Constitution pursuant to 28 U.S.C. §1738 ["Full Faith and Credit"], the Fifth Amendment, and the Fourteenth Amendment.

THE DECISION BELOW CONFLICTS WITH DECISIONS OF THE 4TH CIRCUIT COURT'S, OTHER CIRCUIT COURTS AND OTHER STATE APPEALS COURTS' DECISIONS.

95. When a party challenges the preclusive effect of a previously obtained judgment based upon the winner's fraud, courts often begin by asking what kind of fraud the loser alleges. A common distinction courts draw is between extrinsic and intrinsic fraud. The Florida Supreme Court, for example, defines extrinsic fraud as:

> [T]he prevention of an unsuccessful party [from] presenting his case, by fraud or deception practiced by his adversary; keeping the opponent away from court; falsely promising a compromise; ignorance of the adversary about the existence of the suit or the acts of the plaintiff; fraudulent representation of a party without his consent and connivance in his defeat; and so on.[5] (*Parker v. Parker*, 950 So. 2d 388, 391 (Fla. 2007) (quoting *Fair v. Tampa Electric Co.*, 27 So. 2d 514, 515 (Fla. 1946)).

96. According to the complaint and the record evidence, three (3) officers of the State Court colluded with 2 (two) State judicial officials compromised the integrity of the

[5] *Parker v. Parker*, 950 So. 2d 388, 391 (Fla. 2007) (quoting *Fair v. Tampa Electric Co.*, 27 So. 2d 514, 515 (Fla. 1946)).

state court *knowingly* and *repeatedly* to prevent the petitioner from making his cases in full at his defeat in direct violations of 18 U.S. Code § 1512 (b) [Tampering with Evidence], 18 U.S. Code § 1509 [Obstruction of Court Orders], and the Fourteenth of the United States Constitution among others. The apparent misconducts constitute fraud on the court, oppressive and disregard to rule of law. Extrinsic fraud, as its name implies, is fraud outside the workings of the case, fraud that stereotypically prevents a party from fully putting on her case or being heard by the court.[6]

97. Under the fraud exception to *res judicata*, a prior judgment may only be attacked on grounds of "extrinsic fraud". *Sprague v. Buhagiar*, 213 Mich App. 310, 313-314; 539 NW2d 587 (1995). The *Sprague* Court clarified the distinction as follows:

> Extrinsic fraud is fraud outside the facts of the case: "fraud which actually prevents the losing party from having an adversarial trial on a significant issue." *Rogoski v. Muskegon*, 107 Mich App 730, 736; 309 NW2d 718 (1981). An example of such fraud would be fraud with regard to filing a return of service. Extrinsic fraud must be distinguished from intrinsic fraud, which is a fraud within the case of action itself. An example of intrinsic fraud would be perjury, *Id.* at 737, discovery fraud, fraud in inducing a settlement, or fraud in the inducement or execution of the underlying contract...

98. The cause of action under Count I (Interferences of the Parental Rights), Count II (Fraudulent Misrepresentation), and Count III (Unjust Enrichment) therefore gave the District Court subject-matter jurisdiction in the appearances of the frauds, collusion and conflict of interest and the injuries. EFC nos. 2-4 is showing "Summons" previously issued to all respondentss. However, on 5/6/2016, the District Court reversed its course, and decided to subject the lawsuit to preclusive effect claiming *Rooker-Feldman* doctrine without recognition that "fraud vitiates everything it touches".

99. That holding contradicts the United States Court of Appeals for the Ninth Circuit which also developed body of case law creating a fraud exception to Rooker-Feldman. The Ninth Circuit did not, however, take its first opportunity to do so. In *Suter v. Cury*, the plaintiffs argued for a fraud exception to Rooker-Feldman, but the court rejected the proposed exception, stating, "The proper court in which the [plaintiffs] should have asserted fraud in the procurement of the judgment against them is the Nevada court that rendered the judgment. Nevada provides litigants ample opportunity to set aside judgments procured by fraud upon the court."[7] Two years later, a different panel of the Ninth Circuit reversed course in *Kougasian v. TMSL, Inc.*[8]

100. In that case, the court held that the plaintiff's assertions of extrinsic fraud in the procurement of the state-court judgment prevented Rooker-Feldman's application.[9]

---

[6] See *Long v. Shorebank Dev. Corp.*, 182 F.3d 548, 561 (7th Cir. 1999) (labeling allegation that the defense attorney told the plaintiff not to come to court as within the "classic definition" of extrinsic fraud); see also *Zelek v. Brosseau*, 136 A.2d 416, 421-22 (N.J. Super. 1957).

[7] 31 F. App'x 483, 484-85 (9th Cir. 2002).

[8] 359 F.3d 1136 (9th Cir. 2004).

[9] *Id.* at 1140.

The court explained, "At first glance, a federal suit alleging a cause of action for extrinsic fraud on a state court might appear to come within the Rooker-Feldman doctrine. It is clear that in such a case the plaintiff is seeking to set aside a state court judgment."[10]

101. The court went on, however, to state that "[a] plaintiff alleging extrinsic fraud . . . is not alleging a legal error by the state court; rather, he or she is alleging a wrongful act by the adverse party."[11] Thus, the court held Rooker-Feldman did not apply.[12] In creating this exception, the Ninth Circuit *relied on two sources:* (1) California state law providing its courts with the equitable power to set aside judgments on grounds of fraud, mistake, or lack of jurisdiction;[13] and (2) an 1878 Supreme Court case[14] holding that, under Louisiana law, a judgment is a nullity if "obtained through fraud, bribery, forgery of documents, &c."[15]

102. Nowhere did the Ninth Circuit bridge the intellectual gap between a state court setting aside its own judgments—or the United States Supreme Court applying state law to nullify a state judgment—to a lower federal court applying an exception to a federal doctrine in order to review the merits of state-court judgments. Nor have the cases that followed from the Ninth Circuit done so.[16]

103. While such cases do not explicitly cite *In re Sun Valley Foods Co.*, there can be little doubt that they have inherited their intellectual framework from that case and the many cases to accept its fraud exception to Rooker-Feldman. This is especially true of cases from or within the Sixth Circuit, where the tradition is the strongest, or those relying on Sixth Circuit case law. For example, the court in *Frame v. Lowe* did not cite In re Sun Valley Foods Co., but it did cite *McCormick v. Braverman*,[17] a more recent Sixth 2011] Fraud Exception to the Rooker-Feldman Doctrine Circuit case, as support for a fraud exception to Rooker-Feldman.[18]

104. The complaint articulates that court orders procured at Issue 1, Issue 2, Issue 3, and Issue 4 were all tainted with frauds, deceptions, collusions and conflict of interest

---

[10] *Id.*

[11] *Id.* at 1140-41.

[12] *Id* at 1141.

[13] *Id.* at 1140 (citing *Zamora v. Clayborn Contracting Grp.*, Inc., 47 P.3d 1056, 1063 (Cal. 2002)); see also Zamora, 47 P.3d at 1063 (citing In re Estate of Sankey, 249 P. 517, 523 (Cal. 1926) ("[U]nder the law of this state a judgment or order may be set aside on the ground of fraud, mistake or lack of jurisdiction.")).

[14] Kougasian, 359 F.3d at 1141 (citing *Barrow v. Hunton*, 99 U.S. 80 (1878)).

[15] Barrow, 99 U.S. at 84.

[16] See *Reusser v. Wachovia Bank,* N.A., 525 F.3d 855 (9th Cir. 2008); see also *Sample v. Monterey Cnty. Family & Children Servs.*, No. C09-01005 HRL, 2009 U.S. Dist. LEXIS 69260, at *10-11 (N.D. Cal. Aug. 7, 2009); *Garcia v. Cal. Dep't of Forestry & Fire Prot.*, No. CIV S-07-2770 GEB EFB PS, 2009 U.S. Dist. LEXIS 19229, at *19-21 (E.D. Cal. Mar. 12, 2009).

[17] 451 F.3d 382, 392 (6th Cir. 2006) ("Plaintiff asserts independent claims that those state court judgments were procured by certain Defendants through fraud, misrepresentation, or other improper means.").

[18] Frame, 2010 U.S. Dist. LEXIS 10494, at *1

by respondents. There are several of these modern Sixth Circuit cases that discuss a fraud exception to Rooker-Feldman without explicitly citing *In re Sun Valley Foods Co.*

105. Petitioner's civil suit is at akin with *Brown v. First Nationwide Mortg. Corp.*, 206 F. App'x 436, 440 (6th Cir. 2006) where the the Sixth Circuit recognized that "[Plaintiff's] allegations of fraud in connection with the state court proceedings... did not constitute 'complaints of injuries caused by the state court judgments, because they do not claim that the source of [plaintiff's] alleged injury is the foreclosure decree itself." (quoting McCormick, 451 F.3d at 392); *Todd v. Weltman, Weinberg & Reis Co., L.P.A.*, 434 F.3d 432, 437 (6th Cir. 2006):

> "Plaintiff here does not complain of injuries caused by this state court judgment, as the plaintiffs did in Rooker and Feldman. Instead, after the state court judgment, Plaintiff filed an independent federal claim that Plaintiff was injured by Defendant when he filed a false affidavit."; (see also *Whittiker v. Deutsche Bank Nat'l Trust Co.*, 605 F. Supp. 2d 914, 922 (N.D. Ohio 2009) (holding that the plaintiff alleged independent claims concerning "allegedly false information provided by defendants in the underlying foreclosure proceedings to obtain judgments, not the foreclosure judgments themselves");; *Moore v. Rees,* No. 06-CV-22-KKC, 2007 U.S. Dist. LEXIS 71240, at *10 (E.D. Ky. Sept. 25, 2007) ("[T]he Rooker-Feldman doctrine will not prevent a plaintiff from suing a participant in a prior state court proceeding for allegedly filing a false affidavit resulting in an adverse determination against the plaintiff.").

106. Likewise in *Fox v. Wills,* Nina Helwig was court appointed BIA to represent the parties' minor children. However, Ms. Helwig violated court order and breached her duty of care by intentionally inducing the parties' minor child to make false statement under oath with intent to protect Ms. Torkornoo and cause parental alienation and emotional distance between Mr. Torkornoo and his children. The minor child admitted *twice*: *"I can't remember. I was 6 years old"*. In addition, she responded *twice* that: *"Not that I remember"*, and once *"I don't remember"*. The BIA reviewed all the evidence on record including the 911 calls between 2004 and 2011. However, when Helwig acted beyond her scope of authority in the interest of Ms. Torkornoo at petitioner's defeat when she sidelined the record evidence and her fiduciary mandate [19].

107. In equity, fraud "includes all acts, omissions, and concealments which involve a breach of legal or equitable duty, trust, or confidence, justly reposed, and are injurious to another, or by which an undue and unconscientious advantage is taken of another. "Story, Equity Jurisprudence § 263 (14th ed. 1918)." The Court of Special Appeals in *Crawford v. Mindel, 57 Md.App. 111, 120-121,469 A.2d 454, 459 (1984),* "Based on the fiduciary duty appellant Crawford owed to the corporation and the

[19] "[O]RDERED, that although the minor child(ren) are not parties to this action, the court-appointed attorney shall be entitled to engage in discovery, including but not limited to all methods thereof authorize by the Maryland Rules, Title 2, Chapter 400, as part of the performance of the duties assigned herein...."

individual respondentss, his conduct may be categorized as a classic example of constructive fraud, which usually arises from a breach of duty where a relationship of trust and confidence exists." *See Scheve v. McPherson*, 44 Md. App. 398, 408 A.2d 1071 (1979).

108. Where, as in this case, a party is justified in believing that the other party will not act in a manner adverse or inconsistent with the reposing party's interest or welfare, constructive fraud may be found to arise from a violation of this belief. *Midler v. Shapiro*, 33 Md. App. 264, 364 A. 2d 99 (1976).

> "A person may be held liable as a principal for assault and battery if he, by any means (words, signs, or motions) encouraged, incited, aided or abetted the act of the direct perpetrator of the tort." *See, Purdum v. Edwards*, 155 Md. 178, 186-187, 141 A. 550, 554 (1927)[20]; *Sellman v. Wheeler,* 95 Md. 751, 758, 54 A. 512, 515 (1902)
>
> ("the authorities abundantly support the proposition that all persons actually present aiding, abetting or counselling an assault are guilty as principals"). *See also Etgen v. Wash. Co. B. & L. Ass'n*, 184 Md. 412, 418, 41 A.2d 290, 292 (1945); *Martin v. Moore*, 99 Md. 41, 57 A. 671 (1904); *Newton v. Spence*, 20 Md. App. 126, 134-135, 316 A.2d 837, 842, *cert. denied*, 271 Md. 741, 745 (1974).

109. *Tellingly*, at the State Court's procedural hearing, respondents made some relevant admissions on how they colluded with each other and the state court to misled same court. These facts implicated Judge Callahan granting denied the civil action without actual trial on the merit. Apparently, there was no trial on the merit, and as such Judge Callahan did not review any evidence objectively before dismissing the petitioner's civil action against respondents in the Montgomery County Circuit Court state court as suggested by the district court because she implicated herself in the case.

THE QUESTION PRESENTED IS OF SIGNIFICANT IMPORTANCE.

110. This civil lawsuit is cognizable and within the jurisdiction of the district court in light of *Riehle v. Margolies*, 279 U.S. 218, 225 (1929) where the Court [Supreme Court] over eighty-nine (89) years ago recognized that only "in the absence of fraud or collusion" does a judgment from a court with jurisdiction operate as res judicata. See *Riehle v. Margolies*, 279 U.S. 218, 225 (1929). However, the respondents colluded with Master Wisor and Judge Callahan in the Montgomery County Circuit Court to frame

[20] "upholding aider and abettor liability in a deceit action and pointing out that "`[w]hen several participate, they may do so in different ways at different times, and in very unequal proportions. One may plan, another may procure the men to execute, others may be the actual instruments in accomplishing the mischief but the legal blame will rest upon all".

petitioner and rely on fabricated evidences to infringe upon his right to freedom, liberty, happiness and property in violation of the Fourteenth Amendment.[21]

111. The case presented here, is cognizable and within the jurisdiction of this Court [Supreme Court] in light of *Exxon Mobil*[22] where the Court clarified that **not** all actions dealing with the "same or related question" resolved in state court are barred in federal court. Id. at 292.

112. The district court's opinion memorandum and judgment were conclusory without any specifics and documentary proof of any summary judgment documented by the Judge Callahan or a substance in support of the state court's decision. The district court failed to show any documentary proof or substance of Monahan's Motion to Dismiss granted by the state court. The district court is required under rule of law to show specific evidence from the documentary evidence to substantiate its assertions in its findings and decision process below:

> The State Case, however, was dismissed after consideration of "the entire record" and after Judge Callahan granted seven Motions to Dismiss. These Motions' collectively asserted grounds including a lack of a legal or factual basis for Mr. Torkomoo's claims and a failure to state a claim upon which relief can be granted. In particular, Monahan's Motion to Dismiss Plaintiffs Fourth Amended Bill of Complaint, which was granted, asserted failure to state a claim as its only basis for dismissal. Dismissal on this basis operates as a final judgment on the merits for res judicata purposes.

113. The 7 motions granted by the state court, were all in favor of respondents against the unmentionable factual evidences without due process. If the state court's judgment dismissing petitioner's civil action was on the merit, respondents themselves should have produced the content of these motions, exhibits, court transcripts as the summary judgment to substantiate these facts in its motion for dismiss in the federal suit.

114. The petitioner sought protection from the state court to protect his constitutional right because of Ms. Torkornoo's unjust aggression to deny him access to his three minor children. However, the Master Wisor and Judge Callahan jumped in to protect the unjust aggressor because she is a black female against the black man without due process of the law also in violation of the MD Declaration Act 20.

115. According to Appendix 16 [Exhibit 5], on 9/30/2008, the record reflects that Master Wisor sought emotional and demeanor evidence during the Pendente Lite trial to restraint petitioner's rights according to Exhibit 5. At the trial, however, both Ms. Torkornoo and Mr. Maurice Isaacs stipulated on record that petitioner posed no danger to

---

[21] "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."

[22] Exxon Mobil, 544 U.S. at 291. 10. Id. at 292.

her and three minor children, and all she was interested was the child support according to the complaint. Ms. Torkornoo's interest has always been child support money.

116. As Ms. Torkornoo was unsatisfied when the child support money dropped from $2,104 to $1,700 during the divorce trial, she decided not to interfere petitioner's access to his three minor children. Petitioner then sought protection from the state court to exercise its contempt powers to enforce law and order. That expectation was actualized App. 16 at Exhibit 14 by Judge Quirk. Ms. Torkornoo continue to impede access to his three minor children. When he tried to act upon Judge Quirk's orders, Master Wisor and Judge Callahan jumped in with Exhibits 27 to obtain orders at Exhibit 2 to act as an extension of Ms. Torkornoo's unjust aggression according to the complaint.

117. On one hand, Judge Callahan and Master Wisor undermined [App. 16, Exhibits 5-8, 14] to re-litigate App. 17 Exhibit 26 pages 115-128, 233-243 to procure orders at App. 17 Exhibits 33-34. Yet, Master Wisor and Judge Callahan reluctantly collaborated with Ms. Helwig Esq. and Ms. Ngole Esq. to rely on the extrajudicial source[23] to procure orders at Exhibits 33-34 without merit to oppress and to interfere petitioner's parental rights because petitioner is an African man according to the complaint. Petitioner's was framed incompetent parent in disguise based on purported emotional testimony presented under oath on domestic violence issues which the child factually admitted *"I can't remember, I was six years old"* by his minor child.

118. That holdings emboldened Ms. Torkornoo continue to disobey orders of the state court. As result, petitioner lost his fatherly trust, and emotional bond with his elderly daughter and continued as the second daughter emancipated this year (2018). The only minor child remaining will emancipate in 2021, and without this Court's intervention to grant petitioner's injunctive relief denied upon collateral order by the District Court, petitioner will get the opportunity to reunite with his only minor child in the custody of Ms. Torkornoo, Appendixes E-I.

119. He continues to pay child support for both his minor child and his emancipated daughter since May 2018 because Judge Callahan continued to obstruct justice and will not schedule any hearing on any issue including the child support

---

[23] See, e.g., Petition for a Writ of Certiorari at A15, *Stack v. Mason & Assocs.*, 552 U.S. 1142 (2007) (No. 07-612) ("There is an exception to the Rooker-Feldman doctrine where the state court judgment was 'procured through fraud, deception accident or mistake.'") (quoting *In Re Sun Valley Foods*, Co., 801 F. 2d at 189); Brief for Petitioner at 10, *In re Hirschfeld*, 528 U.S. 1152 (2000) (No. 99-1222) ("There are exceptions to the Rooker/Feldman doctrine when the state court judgment was 'procured through fraud, deception, accident, or mistake.'") (quoting *In re Sun Valley Foods Co.*, 801 F.2d at 189); see also Defendants' Consolidated Opposition to Plaintiff's Motion to Deny Defendants' Motion to Dismiss & Reply to Plaintiff's Opposition to Defendants' Motion to Dismiss at 3, *Hunter v. U.S. BankNat'l Ass'n.*, 407 F. App'x 489 (2009) (No. 09-cv-1205) ("Plaintiff is correct that some jurisdictions hold that a state court judgment 'procured through fraud, deception, accident, or mistake' does not bear the same preclusive effect as an untainted judgment, [but] the exception is triggered only where such conduct 'deceived the Court into a wrong decree.'") (quoting *In re Sun Valley Foods Co.*, 801 F.2d at 189);; Appellants' Final Brief on Appeal at 26, *Twin city Fire Ins. Co. v. Adkins*, 400 F.3d 293 (6th Cir. 2005) (No. 04-3204) ("A second exception was noted in *In re Sun Valley Foods Co.*, where this Court held that a federal court 'may entertain a collateral attack on a state court judgment which is alleged to have been procured through fraud, deception, accident, or mistake.'") (quoting *Resolute Ins. Co. v. North Carolina*, 397 F.2d 586, 589 (4th Cir. 1968)).

modification according to docket entries. Petitioner will submit for the best interest of just for the Court to take judicial notice of "Montgomery County Circuit Court" Family Law Case no. 71419 (Docket Entries #662-665). It is safe to submit that the Master Wisor and Judge Callahan toke side to serve Ms. Torkornoo and all respondents' interests at petitioner's defeat. The same applies in the district court case evidenced by the emotional opinion that went far too threaten petitioner with sanctions, as well labelled precepts that recognizes exceptions to fraud and collusion as "narrow" without standing.

120. On the other hand, Judge Callahan provided Mr. Tahir, who poses a threat to his family including his minor and refuses to pay child support was granted a "Safe Passage" to see his child. Mr. Tahir is an Asian man. These facts consistently substantiate petitioner's civil actions in the federal court that Master Wisor and Judge Callahan actions were tainted with conflict of interest, collusion, and fraud. As it clearly appears now, the same judge from the same state court applied the general provision of the law to grant a "Safe Passage" Mr. Tahir but failed to apply the same general provision of the law to the petitioner. This holding constitutes racial bias against the petitioner because he is an African man. Mr. Tahir who is an Asian man rights were protected.

121. In action, the State of Maryland continue to treat petitioner with indifference against his rights were ignored to undermine the Equal Protection Clause in light of the treatment given to Mr. Tahir, who was guaranteed a "Safe Passage" to see his child at Appendixes B-D.

122. The Six Circuit Court agreed with a petitioner when it held that: *"Plaintiff is correct that some jurisdictions hold that a state court judgment 'procured through fraud, deception, accident, or mistake does not bear the same preclusive effect as an untainted judgment, [but] the exception is triggered only where such conduct 'deceived the Court into a wrong decree."* (quoting *In re Sun Valley Foods Co.*, 801 F.2d at 189).

123. The district court subjected the lawsuit to preclusive effect to undermine the evidence of frauds, deceptions, collusion and conflict of interest against respondents implicating Master Wisor and Judge Callahan because it triggers exceptions to preclusion. The district court granted a summary judgment in favor of respondent's [Monahan Esq.] Motion to Dismiss. That motion was not "genuine" and without any substantial factual evidence in support.

124. To preclude summary judgment, the dispute about a material fact must also be "genuine," such that a reasonable jury could find in favor of the non-moving party. Materiality is that which is important; that which is not merely of form but of substance. The District Court's holding set forth above, is directly in contrast to the Sixth Circuit precept under *Wade v. Knoxville Utilities Bd.*, 259 F.3d 452, 460 (6th Cir. 2001) recognized that a party may obtain summary judgment where the evidentiary material on file shows "that there is no genuine issue as to any material fact and that the moving party is entitled to judgment as a matter of law." Fed. R. Civ. P. 56(c).

125. When a moving party properly supports its motion for summary judgment, the non-moving party cannot rest on mere allegations, but must set forth specific facts in response showing that there is a genuine issue for trial. *Anderson v. Liberty Lobby, Inc.*, 477 U.S. 242, 248 (1986). "The mere existence of a scintilla of evidence in support of the

[nonmoving party's] position will be insufficient; there must be evidence on which the jury could reasonably find for the [nonmoving party]." Id. at 252.

126. But just because most civil actions never go to trial does not mean that litigators can ignore the Rules of Evidence. Petitioner complied with Rule 56 of the Federal Rules of Civil Procedure. Rule 56 states that a motion for summary judgment must be supported or opposed by "citing to particular parts of materials in the record," to include "depositions, documents, electronically stored information, affidavits or declarations, stipulations, admissions, interrogatory answers, or other materials." Fed. R. Civ. P. 56(c)(1)(A). Petitioner's Exhibits 1-74 reflects all these documentary records on file which both the district court and the Fourth Circuit overlooked and not part of their decision process.

127. As "the moving party is 'entitled to judgment as a matter of law' because respondents, failed to make a sufficient showing on an essential element of its case with respect to which it has the burden of proof in support its Motion to Dismiss." *Celotex Corp. v. Catrett,* 477 U.S. 317, 323 (1986). Instead the district court relied on a public record from the state court which content and context cannot be verified.

128. *Undeniably*, over 115 years ago, the Court [Supreme Court] stated the principle concisely: this Court is *"not at liberty to travel outside the record." Red C Oil Mfg. Co. v. Bd. of Agric. of N.C., 222 U.S. 380, 393 (1912).* The Court has reiterated this principle on many occasions. For example, the Court has held that it could not consider an argument that *"appears to rest in large part on facts not part of the record before us,"* reasoning that *"this Court must affirm or reverse upon the case as it appears in the record." Witters v. Wash. Dep't of Servs. for the Blind,* 474 U.S. 481, 486 n.3 (1986).

129. This Honorable Court on many occasions enunciated the principled requirements of Due Process Clause. ***The Requirements of Due Process***.—Although due process tolerates variances in procedure "appropriate to the nature of the case,"[24] it is nonetheless possible to identify its core goals and requirements. The six requirements of due process recognized by this Court are as follows:

> **(1) Notice.** "An elementary and fundamental requirement of due process in any proceeding which is to be accorded finality is notice reasonably calculated, under all the circumstances, to apprise interested parties of the pendency of the action and afford them an opportunity to present their objections." *Mullane v. Central Hanover Trust Co.*, 339 U.S. 306, 314 (1950). *See also Richards v. Jefferson County,* 517 U.S. 793 (1996) under which this Court recognized that res judicata may not apply where taxpayer who challenged a county's occupation tax was not informed of prior case and where taxpayer interests were not adequately protected

[24] *Mullane v. Central Hanover Trust Co.*, 339 U.S. 306, 313 (1950).

(2) Hearing. "[S]ome form of hearing is required before an individual is finally deprived of a property [or liberty] interest."[25] This right is a 'basic aspect of the duty of government to follow a fair process of decision making when it acts to deprive a person of his possessions. The purpose of this requirement is not only to ensure abstract fair play to the individual. Its purpose, more particularly, is to protect his use and possession of property from arbitrary encroachment ..."[26] Thus, the notice of hearing and the opportunity to be heard "must be granted at a meaningful time and in a meaningful manner."[27]

(3) Impartial Tribunal. Just as in criminal and quasi-criminal cases,[28] an impartial decision maker is an essential right in civil proceedings as well.[29] "The neutrality requirement helps to guarantee that life, liberty, or property will not be taken on the basis of an erroneous or distorted conception of the facts or the law... At the same time, it preserves both the appearance and reality of fairness . . . by ensuring that no person will be deprived of his interests in the absence of a proceeding in which he may present his case with assurance that the arbiter is not predisposed to find against him."[30] Thus, a showing of bias or of strong implications of bias was deemed made where a state optometry board, made up of only private practitioners, was proceeding against other licensed optometrists for unprofessional conduct because they were employed by corporations. Since success in the board's effort would redound to the personal benefit of private practitioners, the Court thought the interest of the board members to be sufficient to disqualify them.[31]

---

[25] *Mathews v. Eldridge*, 424 U.S. 319, 333 (1976). "Parties whose rights are to be affected are entitled to be heard." *Baldwin v. Hale*, 68 U.S. (1 Wall.) 223, 233 (1863).

[26] *Fuentes v. Shevin*, 407 U.S. 67, 80-81 (1972). *See* Joint Anti-Fascist Refugee Committee v. McGrath, 341 U.S. 123, 170-71 (1951) (Justice Frankfurter concurring).

[27] *Armstrong v. Manzo,* 380 U.S. 545, 552 (1965)

[28] *Tumey v. Ohio,* 273 U.S. 510 (1927)); *In re* Murchison, 349 U.S. 133 (1955).

[29] *Goldberg v. Kelly*, 397 U.S. 254, 271 (1970).

[30] *Marshall v. Jerrico,* 446 U.S. 238, 242 (1980); Schweiker v. McClure, 456 U.S. 188, 195 (1982).

[31] *Gibson v. Berryhill,* 411 U.S. 564 (1973). Or, the conduct of deportation hearings by a person who, while he had not investigated the case heard, was also an investigator who must judge the results of others' investigations just as one of them would someday judge his, raised a substantial problem which was resolved through statutory construction). *Wong Yang Sung v. McGrath*, 339 U.S. 33 (1950).

There is, however, a "presumption of honesty and integrity in those serving as adjudicators,"[32] so that the burden is on the objecting party to show a conflict of interest or some other specific reason for disqualification of a specific officer or for disapproval of the system. Sometimes, to ensure an impartial tribunal, the Due Process Clause requires a judge to recuse himself from a case. In *Caperton v. A. T. Massey Coal Co., Inc.*, the Court noted that "most matters relating to judicial disqualification [do] not rise to a constitutional level," and that "matters of kinship, personal bias, state policy, [and] remoteness of interest, would seem generally to be matters merely of legislative discretion."[33] The Court asks not whether the judge is actually, subjectively biased, but whether the average judge in his position is 'likely' to be neutral, or whether there is an unconstitutional 'potential for bias.'"[34]

(4) Confrontation and Cross-Examination. "In almost every setting where important decisions turn on questions of fact, due process requires an opportunity to confront and cross-examine adverse witnesses."[35] Where the "evidence consists of the testimony of individuals whose memory might be faulty or who, in fact, might be perjurers or persons motivated by malice, vindictiveness, intolerance, prejudice, or jealously," the individual's right to show that it is untrue depends on the rights of confrontation and cross-examination. "This Court has been zealous to protect these rights from erosion. It has spoken out not only in criminal cases, . . . but also in all types of cases where administrative . . . actions were under scrutiny."[36]

(5) Discovery. The Court has never directly confronted this issue, but in one case it did observe in *dictum* that "where governmental action seriously injures an individual, and the reasonableness of the action depends on fact findings, the evidence used to prove the Government's case must be disclosed to the individual so that he has an opportunity to show that it is

---

[32] *Schweiker v. McClure,* 456 U.S. 188, 195 (1982); *Withrow v. Larkin*, 421 U.S. 35, 47 (1975); *United States v. Morgan*, 313 U. S. 409, 421 (1941).

[33] 129 S. Ct. 2252, 2259 (2009) (citations omitted).

[34] 129 S. Ct. at 2262 (citations omitted).

[35] *Goldberg v. Kelly*, 397 U.S. 254, 269 (1970). *See also* ICC v. Louisville & Nashville R.R., 227 U.S. 88, 93-94 (1913). *Cf.* § 7(c) of the Administrative Procedure Act, 5 U.S.C. § 556(d).

[36] *Greene v. McElroy*, 360 U.S. 474, 496-97 (1959). But see *Richardson v. Perales,* 402 U.S. 389 (1971) (where authors of documentary evidence are known to petitioner and he did not subpoena them, he may not complain that agency relied on that evidence). *Cf. Mathews v. Eldridge*, 424 U.S. 319, 343-45 (1976).

untrue."[37] Some federal agencies have adopted discovery rules modeled on the Federal Rules of Civil Procedure, and the Administrative Conference has recommended that all do so.[38] There appear to be no cases, however, holding they must, and there is some authority that they cannot absent congressional authorization.[39]

(6) Decision on the Record. While this issue arises principally in the administrative law area, it is applicable generally. "[T]he decision maker's conclusion . . . must rest solely on the legal rules and evidence adduced at the hearing... To demonstrate compliance with this elementary requirement, the decision maker should state the reasons for his determination and indicate the evidence he relied on . . . though his statement need not amount to a full opinion or even formal findings of fact and conclusions of law."[40]

130. In this case, the district court took upon himself to go outside the four corners of the courtroom on a fishing expedition to form unsupported opinion against the petitioner's interests. It now appears the district court acted as an investigator outside the four corners of the courtroom without showing actual documentary proof how *"The State Case, however, was dismissed after consideration of "the entire record" and after Judge Callahan granted seven".* App. 2.

131. Petitioner presented four issues in his complaint showing that failed to meet the Due Process Requirements by the state court. A timely example is regarding denying him his right to his property was the state court's failure to send out notice for the trial on the ratification of the sale of the former marital real property belonging to the petitioner and his ex-wife [Mary Torkornoo]. Instead, Judge Callahan sent out notice regarding respondent, Ms. Mary Torkornoo motion not related to the ratification at Exhibit 333. There is no notice at Exhibit 333 showing any schedule for ratification hearing.

132. The Requirements of due process enunciated by this Court *supra* were clearly misplaced by both district court and Fourth Circuit. First, "[p]rocedural due

---

[37] *Greene v. McElroy*, 360 U.S. 474, 496 (1959), *quoted with approval in Goldberg v. Kelly*, 397 U.S. 254, 270 (1970).

[38] RECOMMENDATIONS AND REPORTS OF THE ADMINISTRATIVE CONFERENCE OF THE UNITED STATES 571 (1968-1970).

[39] *FMC v. Anglo-Canadian Shipping Co.*, 335 F.2d 255 (9th Cir. 1964).

[40] *Goldberg v. Kelly*, 397 U.S. 254, 271 (1970).

process rules are meant to protect persons not from the deprivation, but from the mistaken or unjustified deprivation of life, liberty, or property."[41]

133. However, it appears the district court's decision affirmed by the Fourth Circuit solely relied on procedural law [e.g. res judicata and Rooker-Feldman doctrines] to dismiss petitioner's lawsuit without showing any documentary factual proof in support as to whether the judicial officials and respondents acted within rule of law.

134. In absence of the documentary evidence such as well documented opinion from the state court justifying its intervention with a legal reasoning, the district court and the Fourth Circuit recent decision below have no standing. In support, petitioner cites Rule 41(b) of the Federal Rules of Civil Procedure, which provides a clear definition of "On the merits":

> "On the merits" refers to a judgment, decision, or ruling that a court will make based on the law, after hearing all of the relevant facts and evidence presented in court. Claim preclusion historically only referred to cases decided on the merits.

135. *Tellingly*, the State Court's granting of seven motions is not enough to proof that the action was actually litigated on the merit. Apparently, there was no trial on the merit, and as such Judge Callahan did not review any evidence objectively before dismissing the petitioner's civil action against respondents in the Montgomery County Circuit Court as suggested by the district court.

136. The rule of law governing extrinsic fraud was pronounced by the United States Supreme Court 140 years ago. In the oft-cited case of *United States v. Throckmorton*, 98 US 61, 65, 25 L.Ed. 93, 95 (1878), the Court held that:

> "In all cases, and many others which have been examined, relief has been granted on the grounds that **by some fraud practiced directly upon the party seeking against the judgment or decree, that party has been prevented from presenting all of his case to the court**. Id at 65. (emphasis added).

137. This Honorable Court on many occasions held that due process demands a fair and impartial hearing by a neutral and detached magistrate. *Gerstein v. Pugh*, 420 U.S. 103 (1975); *Ward v. Village of Monroevill*, 409 U.S. 57, 62 (1972). *"A right to an impartial judge is so basic to due process that courts can never treat its infraction as harmless error." Chapman v. California*, 386 U.S. 18, 23 (1967). "...the tribunals of the country shall not only be impartial in the controversies submitted to them but shall give assurance that they are impartial..." *Berger v. United States,* 255 U.S. 22, 35-6 (1921). Petitioner on numerous occasions was denied substantive justice in the Montgomery County Circuit Court.

---

[41] *Carey v. Piphus,* 435 U.S. 247, 259 (1978). "[P]rocedural due process rules are shaped by the risk of error inherent in the truth-finding process as applied to the generality of cases." *Mathews v. Eldridge*, 424 U.S. 319, 344 (1976).

138. *Telling*, the district court and the Fourth Circuit decisions in the appearances of partial tribunals, barriers and the lack of self-correction created by the state court directly contradict this Honorable Court precepts recognized under *Marchant v. Pennsylvania* R.R., 153 U.S. 380, 386 (1894) and *Hagar v. Reclamation Dist.,* 111 U.S. 701, 708 (1884) that:

> "Thus, where a litigant had the benefit of a full and fair trial in the state courts, and his rights are measured, not by laws made to affect him individually, but by general provisions of law applicable to all those in like condition, he is not deprived of property without due process of law, even if he can be regarded as deprived of his property by an adverse result."

139. The District Court's failed to take a judicial notice of the "palpable evidence" [Exhibits 1-70] material to petitioner's fraud or "collusion" charges against Helwig Esq., Monahan Esq., Ngole Esq. and Ms. Torkornoo before making its legal conclusions to dismiss the Second Amended Complaint and the Third Amended Injunctive Relief clearly undermines "collusion" or "fraud" exceptions to res judiciata precepts. The personal prejudices of Judge Callahan and Master Wisor toward petitioner gave way to the collusion and fraud. "Prejudice" is defined by *Cambridge* Dictionary as: *"Unfair and unreasonable opinion or feeling formed without enough thought or knowledge"*. Judge Callahan's own words is evidence of the same unjustifiable feelings about petitioner to derail justice [Exhibit 32 (pages 49-51)]: *"because you are very angry at your..." "I know what you want is retribution"*.

140. While "Collusion" is also defined as: *"Agreement, especially in secret for an illegal or dishonesty reason"*. Helwig's own words is evidence of the same "illegal or dishonesty reason" to derail justice in the appearance of *ex parte* communication hosted by Master Wisor in his chambers regarding the illegal proffer: [see Exhibit 25 (pages 19-20, 35-36)]: "*We tried to offer a proffer; he refused that. So then at the end of the day, unfortunately, the decision was made to call her and, therefore, she testified.*".

141. The proffer becomes illegal because it violates orders at App. 17 Exhibit 24 (page 3 ¶6), which also secretly allowed Helwig to act under "Child Advocate Attorney's" mandate [F.L. § 1-202(a)(l)(i)], not as "Best Interest Attorney's" mandate [F.L. § 1-202(a)(l)(ii)] to legitimize the minor child's feelings and wishes, which sources stem from Exhibits 16-21.

142. Whether Master Wisor's own direct statements with the notion that he did not know the sources of the child's demeanor [Exhibit 30 (pages 9, lines 18-19)] call into question his findings in which he admits Ms. Torkornoo is contemptible of court order [Exhibit 30 (pages 6-8] in light of his own admission that *"Plaintiff's Exhibit 10 is just the tip of the iceberg...."* regarding Ms. Torkornoo's effort to brainwash this particular child.

145. Judge Callahan's own statement contradicted Master Wisor's notion of not knowing the sources of the brainwashing. The illegal proffer offered, the *ex parte communication,* and the request to withdraw the contempt motion, the intentional presentation of the brainwashed testimony under oath, the master's own

misrepresentation to tamper with material evidence, and Judge Callahan legitimizing by affirming the entire misrepresentation of material facts [ECF Complaint *supra* ¶¶ 68-120, 135] interfering with Justice violate 18 U.S. Code § 1512 (b)[42].

146. On the contrary, the relevance evidence is showing that Master Wisor and Judge Callahan willfully set a different standard to deny petitioner full and fair trial in the state court. Petitioner's rights were measured by personal prejudice—by accepting false evidence from his adversaries to deny him full and fair trial: *"her doing her job resulted in Master Wisor have the evidence he needed to make the order... "*. The judge speculated the basis for the circuit court to accept unreliable evidence to make orders at Exhibits 33-34 was as follows: *"because you are very angry at your... "* "I know what you want is retribution" Exhibit 32 (pages 49-51).

147. Generally, the clearly erroneous standard governs findings of fact about the significance of documentary evidence. In this case the evidence is very significant and collateral because it was the basis of three court orders that deprived the petitioner's freedom, liberty, and property. The evidence shows "fraud, collusion, deception, and conflict of interest" and it "vitiates everything it touches".

148. In *Anderson v. Bessemer City*, 470 U.S. 564 (U.S. 1985), the court stated that if the district court's account of the evidence is plausible in light of the record viewed in its entirety, the court of appeals may not reverse it even though convinced that had it been sitting as the trier of fact, it would have weighed the evidence differently. The record clearly shows that the district court did not review the records because its decision was factually based on procedural grounds [Rooker-Feldman and res judicata].

149. Where there are two permissible views of the evidence, the fact finder's choice between them cannot be clearly erroneous. On the contrary, the documentary evidences reflects **not a single opinion** from the state court regarding the civil case on its fact findings. Neither the Fourth Circuit Court nor the district court produced from the public record to substantiate its opinions and findings. Petitioner is deprived of his fundamental rights. This holding is directly contrary to the Court's precepts recognizing that: to preserve *"both the appearance and reality of fairness . . . by ensuring that no person* [petitioner] *will be deprived of his interests in the absence of a proceeding in which he may present his case with assurance that the arbiter is not predisposed to find against him."* citing *Marshall v. Jerrico,* 446 U.S. 238, 242 (1980) and *Schweiker v. McClure*, 456 U.S. 188, 195 (1982). It is clear the lower courts decisions are clearly one sided to protect respondents' interest in violation of the Due Process Clause and the Equal Protection Clause.

---

[42] 18 U.S. Code § 1512 Tampering with a witness, victim, or an informant:
(b) Whoever knowingly uses intimidation, threatens, or corruptly persuades another person, or attempts to do so, or engages in misleading conduct toward another person, with intent to—
(1) influence, delay, or prevent the testimony of any person in an official proceeding;

(2) cause or induce any person to—
(A) withhold testimony, or withhold a record, document, or other object, from an official proceeding;
(B) alter, destroy, mutilate, or conceal an object with intent to impair the object's integrity or availability for use in an official proceeding;

150. Due process of law is [process which], following the forms of law, is appropriate to the case and just to the parties affected. It must be pursued in the ordinary mode prescribed by law; it must be adapted to the end to be attained; and whenever necessary to the protection of the parties, it must give them an opportunity to be heard respecting the justice of the judgment sought.

151. Any legal proceeding enforced by public authority, whether sanctioned by age or custom or newly devised in the discretion of the legislative power, which regards and preserves these principles of liberty and justice, must be held to be due process of law." Id. at 708; *Accord, Hurtado v. California,* 110 U.S. 516, 537 (1884). The district court and the Fourth Circuit failed to judicial notice of the documentary evidence produced in its entirety before reaching its legal conclusion to preserve these principles of liberty and justice in its decision process.

152. The Fourth Circuit Court decisions at App. 1 is constitutional because it failed to balance between equity and uniformity enunciated by this Honorable Court when the U. S. District, Greenbelt Division in Maryland deviated from this basic factual elements established to dismiss the petitioner's independent claim on May 6th, 2016, Rooker-Feldman doctrine at App. 4. The Fourth Circuit Court acted within the exceptions to both res judicata and Rooker-Feldman doctrines to vacate and remand the case back to the district court dismiss to further proceed on the complaint and the injunctive relief. Nothing has changed here to warrant the Fourth Circuit Court's action.

153. The same state judicial official [Judge Callahan] who created the "road block" to open the "flood gate" for respondents to cause petitioner's legal injuries in the family law cases in the first place by colluding with respondents to interfere with petitioner's important relationship with his minor children, freedom, liberty, happiness, and property is the same judge who continue to create the "road block" and barrier to his equal justice in the civil case at the state level is relying on Exhibit 2 and enforced it with Exhibit 81.

154. The state judge refused to modify petitioner's child support after one his children emancipated in May 2018. The same judge refused to enforce Monahan to pay the petitioner his proceeds from the sale of the formerly marital real property. The same judge refused to enforce the monetary judgment in attorney fees granted in petitioner's favor against Ms. Torkornoo. The same judge repeatedly refused to hold Ms. Torkornoo in contempt for her refusal to obey court orders to allow petitioner see his children.

155. The Federal Court of Appeals for the Tenth Circuit clearly states that *"finding of fact is clearly erroneous if it is without factual support in the record or if, after a review of all the evidence, we are left with the definite and firm conviction that a mistake has been made."* citing *In re Davidovich*, 901 F.2d 1533, 1536 (10th Cir. 1990). The Fourth Circuit Court's failure to take judicial notice of the documentary evidence produced by the petitioner in support of the complaint warrants a review of this petition.

156. The Fourth Circuit decision failed to show any risk of procedural errors the petitioner's independent claims presented before affirming the district court's decision [at App. 1-2]. In absence of the documentary evidence such as the state court's opinion regarding suggestions made in the districts court's holdings that "The State Case,

however, *was dismissed after consideration of 'the entire record' and after Judge Callahan granted seven Motions to Dismiss"*, justifying the state court's intervention with a valid legal reason, the district court and the Fourth Circuit recent decision is erroneous standard. In support, petitioner cites Rule 41(b) of the Federal Rules of Civil Procedure.

157. The Fourth Circuit Court and the district court decisions [App. 1-2] are erroneous standard at App. 1-2 on the application of preclusions and jurisdictional doctrines [res judicata and Rooker-Feldman] without due process of law contrary to precepts under in which the Court [Supreme Court] held that "[p]rocedural due process rules are meant to protect persons not from the deprivation, but from the mistaken or unjustified deprivation of life, liberty, or property"[43]. However, the lower courts actions are not sustainable because of misconstrued issue preclusion and jurisdictional doctrines applied without substance explicitly written opinion by Judge Cynthia Callahan of her findings and legal reasoning on disposition of the state court's civil case no. 378782V.

158. The palpable evidence available on record which triggers the exception reflect "fraud, collusion, deception and conflict of interest" were ignored by both the district court and the Fourth Circuit Court. Here, the Fourth Circuit's holdings conflict with its previous precepts under *Resolute Insurance Co. v. North Carolina,* 18.397 F.2d 586 (4th Cir. 1968) *"that there can be an exception to res judicata based upon fraud, deception, accident, or mistake." Also see* Page 98 U. S. 66 under *United States v. Throckmorton*, 98 U.S. 61 (1878):

> "The maxim that fraud vitiates every proceeding must be taken, like other general maxims, to apply to cases where proof of fraud is admissible. But where the same matter has been actually tried, or so in issue that it might have been tried, it is not again admissible; the party is estopped to set up such fraud because the judgment is the highest evidence, and cannot be contradicted."

159. Petitioner who had no benefit of a full and fair trial in the state court's civil case no. 378782V in the appearance Judge Callahan to remove Judge Sharon Burrell from the case, intended to measure his rights by laws made to affect him individually, to break his family apart and deprive him of his financial interests and cover up misdeeds of respondents, not by general provisions of law applicable to all those in like condition even without exception to Mr. Tahir who had protective order extended against him for his unjust aggression. Judge Cynthia Callahan protected respondents' interests with adverse judgments to deprive petitioner of his freedom, liberty, and property without due process of law.

160. Fourth Circuit Court and district court avoided numerous admissible evidences to undermine the legal injuries caused in the appearances of frauds committed to deprive his rights. Apparently, the Second Amended Complaint and the Third Amended Injunctive Relief solely attributed the petitioner's legal injuries which include loss of emotional contact with his children, loss of emotional bond resulting to emotional

---

[43] *Carey v. Piphus,* 435 U.S. 247, 259 (1978).

pain, emotional distress, mental anguish, sleeplessness, elevated blood pressure and financial loss, cruel and unusual punishment by respondents' misconducts. Petitioner is currently on four medications to treat and manage his health condition attributed to the harm caused him.

161. As set forth above, the Fourth Circuit Court decision at App. 1 reflects a new law unknown to equity where res judicata doctrines meant prevent mistake in procedural due process based on solid evidence without relying any documentary proof of adequacy of prior state court's proceedings, is misconstrued to undermine *cases where proof of fraud is admissible* to deprive a person of his freedom, liberty, or property in violation of the Constitution.

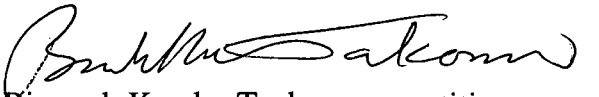
CONCLUSION

For all the above reasons, the Fourth Circuit Court's decision is erroneous standard and should be Vacated on factual and legal basis in light of precepts under *Mathews v. Eldridge*, 424 U.S. 319, 344 (1976), *Riehle v. Margolies*, 279 U.S. 218, 225 (1929), *Marshall v. Jerrico,* 446 U.S. 238, 242 (1980) and *Schweiker v. McClure*, 456 U.S. 188, 195 (1982) consistent with exceptions to preclusions defined in "Restatement (Second) of Judgments § 26(1)(d)" and precepts under *United States v. Throckmorton*, 98 U.S. 61 (1878) to vindicate the Fourteenth Amendment.

WHEREFORE, Petitioner humbly pray that:

A. The Honorable Court GRANT this Writ to REMAND the civil lawsuit back to the district court in Greenbelt, Maryland for a jury trial consistent with the Constitution.
B. The Honorable Court GRANT a Writ to restraint and remove the petitioner's cases from Judge Cynthia Callahan and Magistrate [*formerly known as* Master] Clark Wisor in the Montgomery County Circuit Court consistent with the Fourteenth Amendment to protect his civil rights.
C. The Honorable Court GRANT a Writ to enable petitioner reunite with his only minor child he had not seen or contacted since 2012 after being deprived years of his constitutional and fatherly rights and could not reunite with two of his children before they emancipated consistent with the Constitution.

Respectfully Submitted,



Bismark Kwaku Torkornoo, *petitioner*