ORIGINAL

App. No. 18-8918

In the Supreme Court of the United States

DAVID WILEY, PETITIONER

v.

JENNIFER WILEY, RESPONDENT.

ON PETITION FOR A WRIT OF CERTIORARI
BASED ON JUDGMENT OF THE APPELLATE COURT OF WASHINGTON STATE

PETITION FOR A WRIT OF CERTIORARI

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QUESTIONS PRESENTED. RULE 14 - 1 (A)

I have listed 5 questions hereunder that fall under 3 criteria listed as (i) through (iii). The criteria are some of the clauses listed in Rule 10 of your court that you consider when making decisions whether to grant or deny Certiorari applications. Questions 1 falls under criteria (i) and (iii); question 2 falls under criteria (i) and (ii); and question 3 falls under criteria (ii) and (iii).

Criteria

i). Rule 10 (c) *a state court [having] decided an important question of federal law that has not been, but should be, settled by this Court;*

ii). Rule 10 (b) *a state court of last resort having decided an important federal question in a way that conflicts with the decision of [several] United States courts of appeal, the United States Supreme Court and actually its own prior rulings as well;*

iii). Rule 10 (a) *state court of last resort has so far departed from the accepted and usual course of judicial proceedings, [and has] sanctioned such a departure by a lower court, as to call for an exercise of this Court's supervisory power;*

Questions Presented

1. Is the Fundamental Right to the Parent-Child relationship at stake during the dissolution process?
2. Do State Court Judges have the legal discretion to make prejudicial determinations as to the best interests of a child?
3. Does the levying of Child Support to apply to all non-custodial Parents violate the U.S. Constitutional prohibition on Bills of Attainder?

Additional Questions Presented for Consideration:

4. Does a trial court judge have the authority to admit evidence not authorization by law and over an objection of a litigant?
5. Does Due Process require that our lower courts make findings of fact regarding testimony of a petitioner-witness who admits having knowingly made false statements under oath?

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

David Wiley and Jennifer Wiley were married in the State of Oregon in February 2004. Over the Course of over 11 years they had three children and moved to the State of Washington for better opportunities. David has worked in Quality Assurance, notably for the Aerospace industry for approximately the last ten years. Over the last three years he has defended himself from a series of damaging allegations and the loss of both real property and essential rights.

Respondent, Jennifer Wiley, has malicious contempt toward David Wiley and has used the Courts and bureaucracies of Washington State to damage him. By her own admission she petitioned for restrictions on David Wiley which had no basis in fact and have been the cause for considerable emotional, psychological and financial damage. Jennifer works part time as an employee of the State of Washington.

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WHAT EXCEPTIONS CAN A STATE CREATE TO THE FUNDAMENTAL RIGHT TO THE PARENT-CHILD RELATIONSHIP? BY WHAT AUTHORITY DO OUR STATE COURT SYSTEMS DENY PARENTS STATUTORY DUE PROCESS UNDER THE GUISE OF A JUDGE'S DISCRETION OF WHAT IS THE BEST INTERESTS OF A MINOR? HOW DOES THE CONSTITUTION ALLOW A FIT PARENT AND CHILD TO BE FORCEFULLY SEPARATED BY THE STATE WITHOUT ANY FREEDOM OF ASSOCIATION? HOW IS IT THAT AT TRIAL A RESPONDENT FORFEITS ALL HIS PROPERTY WITHOUT ANY FINDING OF DAMAGES OR CRIMINAL WRONGDOING? DO MINORS STILL HAVE CONSTITUTIONAL RIGHTS OR DO DISSOLUTION PROCEEDINGS CAUSE THOSE RIGHTS TO BE FORFEIT?

This Certiorari is about financial corruption of State and County Court systems with respect to the rights of Parents and also particularly the Rights of children to the fundamental rights guaranteed under the U.S. constitution. This case started as false allegations of child abuse (officially withdrawn by the accuser, the respondent, under oath during divorce trial), became a second case alleging rape (officially withdrawn by the accuser, the respondent under oath at trial), and domestic violence. These allegations were all shown or confessed to be false or without merit. Now it is about whether a fundamental right to child and Parent being together with only essential interference or if State governments have discretion to ignore the wishes and bonds of Parent and Child.

Wealth and property are the least of things one loses in a Family Court, because families are forcibly separated against their will causing severe distress to and devastation of each member forcibly separated.

Furthermore the Parent who is forcefully deprived of custody in this manner is also deprived of property under color of law in a manner which directly financially benefits the Judges of the State of Washington. However, other State Courts have a similar financial interest in Federal Title IV-D and IV-E funding. The State of Washington has no limit on what or how much property can be seized for Child Support and applies no maximum amount owed per month. I have already been held in Contempt of this Child Support order for not agreeing to pay more than my monthly income, despite the fact that I did not have the ability to pay.

Your lower courts are enriching themselves at the expense of all of us. Family law has become an over $60 billion industry experiencing over 2000% growth in the last twenty years. Lawyers and State Judges become rich while families become broken and destitute. In the County where my case occurred open fraud in cases involving minors goes unaddressed[29] State bar associations even go so far as to illegally lobby to oppose shared parenting bills because of their financial interest[31].

If you accept my case you will see that fraud is openly rewarded with money and custody of children in the State Courts. You will see State Courts acting lawlessly acting on little more than Judges and Commissioners private biases and personal opinions, rather than testimony. Financial interest has

compelled a war on the constitutional rights of private citizens. **Fathers like myself who challenge it are bankrupted and threatened with jail.** Attorneys are afraid to speak out, given that filing a complaint can be a fast way to being disbarred. Children's' lives are literally sold and spoken about as "#CashForKids". As the American public knows through movies and documentaries and hardly a family in the USA that encounters them hasn't been devastated by Family Court injustice (full disclosure I was credited in the documentary The Red Pill detailing abuse of Fathers). Millions of Americans have lost all faith in our Court system seeing how it systemically abuses Parents and Children.

The parties in Family Court are making decisions one might expect from people facing overwhelming oppression. Often they will give in to despair and commit suicide at epidemic rates[30] or, increasingly, take things into their own hands with violence.[26] All of us see the signs of Societal decay related to broken families all around us.

According to 2011 U.S. Census Bureau data 1 in 3 children live in homes without their biological fathers. How well are our State Courts acting in "the best interests of the children"? These single mother homes produce 80% of Convicted Rapists[33]. Fatherless homes account for 70% of Juveniles in State institutions[34]. It isn't just circumstantial as according to U.S. D.H.H.S. 90% of Runaway Children are running from Fatherless homes. Of fatalities in single parent households the children's Mothers account for 70.8% of such deaths[32]. Is there a clearer sign our Courts are frequently not choosing the

child's best interests? Leaving elected Judges and Commissioners to decide which home is best for our children is literally killing them. "Most American children suffer too much mother and too little father"[3]

Therefore, through this Certiorari, I ask that you address the main questions asked in the application. Please also take this as an opportunity to address the broken family law situation of our country.

RELEVANT OPINIONS. RULE 14 – 1 (D)

The ruling of the Washington State Court of Appeals, Division 1 is attached as Appendix B. **The ruling of the Supreme court of Washington State on the Petition for Discretionary Review which was rendered on November 29, 2018 is attached as Appendix A. This is the governing adjudication for calculating the 90-day period.** The ruling of the Superior court of Snohomish county in Washington State, which is the base case, is attached as Appendix E.

JURISDICTION RULE 14 – 1 (E)

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

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

1. The first, fifth, ninth and fourteenth amendments of the US constitution.

2. Article I, Section 9, clause 3 and Article I, Section 10 Clause 1 of the Constitution.

I am not providing the above constitutional and statutory provisions as they are very basic and readily available.

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

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

I, the Petitioner, David Wiley, the Respondent Jennifer Wiley are the listed participants. On November 28th, 2018 the Supreme Court of Washington filed order and notified the parties that Petition for Review was denied (Appendix A). This begins the count of time for filing with the U.S. Supreme Court per rule 13.1.

The key first question in this Petition for Certiorari did not arise in trial but as the reason for denial in the Court of Appeals (See Appendix B pages 5 and 6).

"On this basis, he argues that the trial court erred in failing to establish the validity of the statements Jennifer made to the parenting evaluator. He contends that the error deprived him of due process and his fundamental liberty interest in retaining custody of his

children [...] David has not made the required showing to permit appellate review. First, he has not demonstrated that the alleged error is of constitutional dimension. Unlike termination proceedings, the fundamental parental liberty interest is not at stake in a dissolution proceeding. King v. King, 162 Wn.2d 378, 386-87, 174 P.3d 659 (2007)." (Appendix B, Page 5)

"Moreover, the record contains no support for David's claim of error. Contrary to David's assertion, the trial court did not rule that Jennifer made statements at trial that contradicted earlier sworn statements at the DVPO hearing." (Appendix B, page 6)

In his decision this is what the Trial Judge had to say:

"The evidence before the commissioner, which the Court of Appeals unsurprisingly called substantial, was her statement under penalty of perjury that David placed bullet-riddled targets in front of the closet, In front of her closet.
The evidence that came in front of me was that the targets were not in front of the door but half inside and half out and, furthermore, were loosely folded." (RP 176-177)

"And on this point too, the evidence before the commissioner was quite different from what actually came out at trial, because in her petition, the petitioner alleged that the respondent slapped their son and that the son said so to the school nurse, at least that is an easy Inference to be drawn from the materials in front of the commissioner.

At trial, the school nurse actually testified. She said she saw no marks and that the child never said any such thing about what happened outside the mother's presence and that the mother, upon being told there was no disclosure, came in and directed the child to show the nurse what daddy did and that the child then slapped the nurse across the face, whereupon the mother explained to the surprised nurse that she wanted the nurse to see what the father did." (RP 177-178)

If the Appellate Court had accepted consolidated review of the record it would have seen the contradictory statements but it refused to (Appendix C).

Having made these findings the Trial Court issued no orders related to them. It did not vacate prior Judgments and financial damages. There was no referral for Perjury. There was no penalty in any form, and the case was

decided in Petitioner Jennifer Wiley's prevailing favor. I was found to be a fit parent by the same Court, based on the contradictions in the records. Just as the Trial Court Judge denied the Evaluator's admission that she did not review all the statutory factors for child placement, the Appellate Court also stated that the Trial Judge didn't make any findings of contradictory testimony, contrary to the Trial Court Judge's findings on transcript. The question of fraud was found to be irrelevant because the Court claimed no Fundamental Liberty is violated of either the Parent-Child relationship nor a Due Process right to proceedings without Fraud.

During trial I (the Petitioner) called for my daughters then age ten and eleven to testify (RP 18-23) as allowed by Washington State law (RCW 5.60.020), case law, and in accordance with the relevant statutory factors (RCW 26.09.187) for determining custody and residence. Without observing the witnesses per Washington State law (RCW 5.60.020), the Trial Judge decided that J.W. and R.W. were not allowed to appear in Court to declare if they wanted to testify.

The Appellate Court ruled "David asserts that the children have a right to testify, the record does not demonstrate that the children actually wanted to do so" and "There is no authority for the proposition that children have a statutory, constitutional, or international treaty right to express their preferences by testifying in court. And given that there is no evidence that Jennifer's testimony was fraudulent, there is no basis for David's claim to prejudice."

In his ruling the Trial Judge stated that "I'm going to tell you that justice in regard to a parenting plan is regularly, often and, perhaps in this case, beside the point." and "It is the children's best interests that the mother be the custodial parent, in large part, based on factor 3, each parent's past and potential for future performance."

The Parenting Evaluator made clear that she did not ask the children about their wishes (RP 260-261) or about their bond with each parent (RP 273). Jennifer's attorney complained that the children wished Court "went well for Daddy" (RP 26), but their testimony was not permitted and their wishes not taken into account per statutes RCW 26.09.187(3)(a), RCW 5.60 and RCW 26.09.220. The Parenting Evaluator did admit though that due to divorce proceedings the children were being alienated from the bonds of their paternal family (RP 283-284). The Evaluator did not recognize providing financial support for the children as being equal in parenting functions to attending to the daily needs of the child (RCW 26.09.004(2)) (RP 274-274). There was even concern expressed by the Evaluator about the kids being with their Mom and not their Dad (RP 268-281). However, she considered primary caretaking to being a stay at home parent (RP 305) and had no knowledge of how caretaking was done by either parent when the children were in school (RP 306). Furthermore, the Trial Judge himself stated that the Evaluator was not an expert on the statutory factor (RCW 26.09.187(3)(a)(iii) and RCW 26.09.004(2)(f)) of providing for the children financially (RP 182-183).

Despite these admissions by Trial Judge, he found in reverse that all factors were taken into account (RP 182-183). Despite the Evaluator saying she did not take these factors into account, the Appellate opinion concluded she had (Appendix B, page 10). Then the Appellate Court deferred "to the trier of fact" (Appendix B, page 10). They concluded that the Judge (not the Parents) applied the "best interests of the child" standard appropriately.

The Trial Judge's closing statements were not recorded by the transcriptionist. No record exists of the discussion on Child Support. The issue was raised but a record that does not exist cannot be supplied. Neither could an indigent Pro Se afford a full transcript. The Court presumed the Child Support statutes to be constitutional and did not address Bill of Attainder at all in its decision (Appendix B, page 11).

During the initial Petition for dissolution I was accused of child abuse and child sexual abuse, but Jennifer testified at trial that she did not consider me a child abuser and thought I was, in fact, a good parent. Later a Domestic Violence Protection Order was filed and granted against me Ex Parte, which rendered me homeless. In a hearing where no rules of evidence applied I was restrained from my home, and incurred a financial damage that kept me homeless. The Appellate court decided that restraint based on hearsay evidence, and that an uneven distribution of time to argue did not violate due process and that I failed to identify contradictory statements (Appendix B). During the Domestic Violence Protection Order hearing I was also accused of Rape but at Trial Jennifer claimed this allegation was created by her

previous attorney and was not her claim. No criminal charges or, to my knowledge, police reports were ever filed regarding any of these allegations. When I appealed again, they refused to consolidate the record for review where contradictory statements were identified. On review once again I ask for the record of this case to be consolidated.

ARGUMENTS AMPLIFYING THE REASONS RELIED ON FOR ALLOWANCE OF THE WRIT

In this part of the application, I provide the questions, the criteria that I claim they fulfill, and arguments in support thereof, as per rule 10 of your court.

SECTION 1 QUESTION

Is the Fundamental Right to the Parent-Child relationship at stake during the dissolution process?

SECTION 1 CRITERIA

A state court having decided an important question of federal law that has not been, but should be, settled by this Court, or has decided an important federal question in a way that conflicts with relevant decisions of this Court.

SECTION 1 ARGUMENTS

The State of Washington has taken a patently absurd position that no fundamental rights to the Parent-Child Relationship are at stake during

divorce, despite the State's ability to render one parent non-custodial and unable to make critical choices regarding a child, and can force parent and child to live apart without consideration of the consent of either.

Under this section, I raise the matter of the fundamental right of the Parent-Child Relationship. This Court in its decision for Troxel v. Granville, 530 U.S. 57 (2000) reversed the State Courts of Washington State declaring there was a fundamental right to the Parent-Child Relationship and that fit parents rather than Judges determine "the best interests of the child".

> "*the Court has concluded that choices to enter into and maintain certain intimate human relationships must be secured against undue intrusion by the State because of the role of such relationships in safeguarding the individual freedom that is central to our constitutional scheme. In this respect, freedom of association receives protection as a fundamental element of personal liberty... In particular, when the State interferes with individuals' selection of those with whom they wish to join in a common endeavor, freedom of association in both of its forms may be implicated.*" Roberts v. United States Jaycees, 468 U.S. 609 (1984).

Our Federal Courts have stated repeatedly, families have a *"**Parents and children have a well-elaborated constitutional right to live together without governmental interference.** That right is an essential Liberty interest protected by the Fourteenth Amendment's guarantee that*

parents and children will not be separated by the state without due process of law except in an emergency."

Wallis v. Spencer, 202 F.3d 1126, 1136 (9th Cir. 2000); accord

Kirkpatrick v. City. of Washoe, 843 F.3d 784, 789 (9th Cir. 2016) (en banc);

Burke v. City. of Alameda, 586 F.3d 725, 731 (9th Cir. 2009);

Rogers v. City. of San Joaquin, 487 F.3d 1288, 1294 (9th Cir. 2007);

Mabe v. San Bernardino Cty., 237 F.3d 1101, 1107 (9th Cir. 2001);

Ram v. Rubin, 118 F.3d 1306, 1310 (9th Cir. 1997).

Children have a constitutional right to live with their parents without government interference. Brokaw v. Mercer County (7th Cir. 2000)

"*The private, fundamental liberty interest involved in retaining custody of one's child and the integrity of one's family is of the greatest importance."*

Weller v. Dept. of Social Services for Baltimore (4th Cir. 1990)

"*The forced separation of parent from child, even for a short time (in this case 18 hours); represent a serious infringement upon the rights of both."*

J.B. v. Washington County (10th Cir. 1997).

The Appellate decision denied issues because it declared there was no Fundamental Liberty interest in the Parent-Child relationship. Quoting in relevant part from the decision of the Washington State Court of Appeals, Division 1:

> *David has not made the required showing to permit appellate review. First, he has not demonstrated that the alleged error is of constitutional dimension. Unlike termination proceedings, the fundamental parental liberty interest is not at stake in a dissolution*

proceeding. King v. King, 162 Wn.2d 378, 386-87, 174 P.3d 659 (2007). (Appendix B, page 5)

The court did not terminate David's parental rights. His fundamental parental liberty interest was not infringed (Appendix B, page 6)

Is it Coincidence that Troxel v. Granville was settled by this Supreme Court against Washington State and then Washington State carved out Family Law Dissolutions as an exception? The King decision did not even consider this Court's decision in Troxel v. Granville before carving out a huge exception which does not meet the Judicial test of Strict scrutiny. Strict scrutiny of a State's need to restrain our Rights to freely associate as a family must be applied. It appears to be the policy of Washington State that so long as a Child has one Parent remaining in their life, then no Rights have been deprived of any party despite our long standing Freedoms of Association, Due Process and Right to the Parent-Child relationship. Are our familial relationships really subject to unequal division of the State without the consent of the parties separated?

In Proceedings and as a Matter of Right both Parties and both Parents are equal. Why then should any Court divide access to children unequally? What compelling government interest dictates government allocating children as it sees fit? **It is time for this Court to return to its decision in Troxel v. Granville**

"While this Court has not yet had occasion to elucidate the nature of a child's liberty interests in preserving established familial or family-like bonds, 491 U.S., at 130 (reserving the question), it seems to me extremely likely that, to the extent parents and families have fundamental liberty interests in preserving such intimate relationships, so, too, do children have these interests, and so, too, must their interests be balanced in the equation. At a minimum, our prior cases recognizing that children are, generally speaking, constitutionally protected actors require that this Court reject any suggestion that when it comes to parental rights, children are so much chattel." TROXEL et vir. v. GRANVILLE (2000) No. 99-138.

In addition to the right to the Parent-Child relationship that has already been found in the 9th and 14th amendments I would also argue the 1st amendment applies. Is not voluntarily forming a family an expression of the 1st amendment right to peaceably assemble? Who on Earth would not hold the right to peacefully form a parent and child family unit not to be even more sacred than all the rights which come later in the bill of rights? **Who in the offices of our Supreme Court doesn't hold the right to peaceably live with our loved ones in the highest regard?** Yet thus far there has been no federal protection for children that face loss of a Parent due to State family court systems. There is urgent need for our Federal Supreme Court to reassert that minors have Rights, even during proceedings between their own Parents.

Washington State is not pretending these exceptions are narrowly tailored to preserve rights and all our first amendment rights are thoroughly oppressed. Therefore, the Washington State Supreme Court so far departed from the accepted and usual course of judicial proceedings, [and has] sanctioned such a departure by a lower court, as to call for an exercise of this Court's supervisory power. Also, this case exemplifies an issue which is a federal question that can only be addressed by your court.

SECTION 2 QUESTION

Do State Court Judges have the legal discretion to make prejudicial determinations as to the best interests of a child?

SECTION 2 CRITERIA

A State court of last resort has so far departed from the accepted and usual course of judicial proceedings, [and has] sanctioned such a departure by a lower court, as to call for an exercise of this Court's supervisory power;

SECTION 2 ARGUMENTS

The Trial Judge in this case made this determination without allowing the child witnesses to presented and observed before him. The decision based strictly on his personal opinion of the appropriateness of having

minors be witness to their own wishes, bonds, and experiences of facts without citation to any authority.

Our States have by and large developed a Winner-take-all system to divorce. One parent walks away with the joint property, the vast majority of access and decisions regarding the child, and the future income of the other parent as a matter of course. Even in Criminal proceedings the stakes are not so high, yet we afford them a higher standard of evidence and protection, even though they don't owe their future income to victimless crimes, nor are their rights restricted by anything resembling an ad hoc "Parenting Plan" in their interactions with fellow citizens.

The Appellate Court stated "There is no authority for the proposition that children have a statutory, constitutional, or international treaty right to express their preferences by testifying in court. And given that there is no evidence that Jennifer's testimony was fraudulent, there is no basis for David's claim to prejudice." This spits in the face of Washington State law which states "**Every person** of sound mind and discretion, except as hereinafter provided, may be a witness in any action, or proceeding." (RCW 5.60.020, emphasis added) I assert there no authority for State Judges to deny parent and child, both, 1st amendment right to Petition the Government for Redress of Grievances and of 14th amendment right to Due Process. Due Process which the Washington State legislature has made clear that our Courts **shall** take the wishes and bonds of minors into account. (RCW 26.09.187(3)(a)

The Fourteenth Amendment provides that no State shall "*deprive any person of life, liberty, or property, without due process of law.*" *We have long recognized that the Amendment's Due Process Clause, like its Fifth Amendment counterpart, "guarantees more than fair process.*" Washington v. Glucksberg, 521 U. S. 702, 719 (1997). *The Clause also includes a substantive component that "provides heightened protection against government interference with certain fundamental rights and liberty interests."* Id., at 720; see also Reno v. Flores, 507 U. S. 292, 301-302 (1993).

What kind of an idiotic doctrine is this 'best interests of child' doctrine? Since times immemorial, parents have been taking care of their children, strangers DO NOT. Is a judge or a lawyer or a court investigator thinking about the best interests of my child? or their own personal best interests, Judicial responsibilities and the expectations of their peers? Our Democracy has not developed to where elected Jurists can determine the best interests of children better than a Parent and Child can themselves.

Jura naturae sunt immutabilia.

The laws of nature are immutable. In mammals parents care for their young, and their offspring depend on them. When a lion is eliminated from the equation, his cubs are immediately preyed upon by every predator.

How many times in a day, do you think about my children, or any other particular child in our "Family" Courts? I miss my children **every day** we remain forcefully separated. How many times in a day to you think about your children versus your finances? Is a jurist more likely to care about the

interests of those impacted by their decision, or about their own interests? How much less will they consider the interests of those who are not even brought before them? How could they even know what their interests are without hearing them?

Sometimes there are emergency situations when the state needs to step in, but that sometimes happens one in a million. Those are situations where there are established and verifiable precedents of abuse which even the child recognizes. More diligence needs to be given to those one in million acts, when a parent is alleged to be incapable, unwilling or incompetent to take care of his children than even when awarding a death sentence to an adult. Forceful involuntary separation of parent and child is performed as a normal business in our country! The act is brutal and inhuman, yet is done in the so-called 'best interest of child.' The family law in the US has become a fraud and a joke. It has been a Hollywood trope that kids and their dads cannot receive Justice from our Courts at least since Robin Williams starred in the movie Mrs. Doubtfire. Sadly Robin Williams took his own life after the California Court system placed him in a desperate and depressed situation.

In Washington State anyone of sound mind may testify (RCW 5.60.020) and there is no lower age limit. Case law has already determined that child under 10 are not statutorily incompent, and may testify. Froehlich, 96 Wn.2d 301, 635 P.2d 127 (1981). "*Guidelines for the trial court in reaching its determination presume that the court has examined the child, observed his manner, intelligence, and memory.*" Laudermilk v. Carpenter, 78 Wn.2d

92, 457 P.2d 1004, 469 P.2d 547 (1969); State v. Allen, 70 Wn.2d 690, 424 P.2d 1021 (1967). "*Children aged 9 and 11 years were of sufficient age to express intelligent desires, and court was entitled to take these desires into consideration in proceeding to modify divorce decree transferring their custody from mother to father.*" Habich v. Habich (1954) 44 Wash.2d 195, 266 P.2d 346.

Can a Judge tell a minor who is a victim of rape that testifying may be too traumatizing for them and they shouldn't, even though the criminal may go free? Can a minor be prohibited from testifying against Foster Care abuse because of the personal opinions of a Judge? There is no Constitutional or Statutory provision giving them this power in Washington State.

In this case, an Appellate Court has decided that a Judge's personal, presupposed opinion of the best interests of a child overrule that of a Fit Parent in trial proceedings. Additionally, they disregard the opinions of a child who is not given an opportunity to exercise their right to speak or petition their government under the 1st amendment. **Furthermore the power of the State has been held Supreme over the Rights of the citizenry without quoting a single statutory or constitutional authority**. Even a Pro Se litigant should be empowered by Due Process over a Judge's personal opinion when the quoted Statutes and Constitutional Rights are on their side. The State Courts determined that a minor's testimony, whether of love or abuse, may be rendered irrelevant by a Judge's prejudicial opinion. **The Trial Court even heard (RP 265) the Evaluator's report of how J.W.**

discussed suicide and running away from one parent, but the Court had no concern.

Legibus sumptis desinentibus, lege naturae utendumm est.

Furthermore Children under the age of 18 are not property to be divided or awarded as damages in a Civil Court. They are human beings and citizens endowed with their own Rights which even responsible parents are merely caretakers of. Moreover, do not children have the same Rights as their Parents? Planned Parenthood v. Danforth, 428 U.S. 52 (1976). All our Courts should be acting to preserve and protect rights, and our lower Courts should not be seeking divide and distribute those Rights. In the absence of findings of criminal harm or abuse if there is one party that can divide a child's relationship with their parents unequally then it should be the child according to their own Rights and not the whim of a politically elected Judge.

In Washington State is does not matter if a girl is 17 and wants to escape her mother's abusive boyfriend to her dad. They have no rights. Washington State even goes so far as to jail children who run away from abuse (by a relative or in foster care) to another parent or relative whom they seek protection with.[28] **As in my case, it doesn't matter if children are suicidal and running away from one Parent (RP 265)**; they have no rights and it is not relevant to the decision of our State Courts. Minors are treated as chattel by the State. It is not only a great departure from the decisions of this Court, but our children are literally dying because of state governments forcing them away from loving, protective Parents against their

will. Furthermore, demanding proof that a minor wants to testify before they can testify is not only self-defeating without admitting hearsay, it denies the minor what may be their only safe venue to speak to abuse. A minor may be living in a dangerous situation where the reasons for testifying are not obvious and honest expression can be subject to retaliation. When no investigator or attorney is given to a child, how can they seek the protection of the courts? Often they are endangered when they cannot leave the home the State has placed them in to live with their chosen parent(s). To prejudicially prohibit their testimony when called is tantamount to declaring irrelevant any abuse they may be suffering.

The stakes are very high in Washington State and other states. There is no age at which a child is allowed to choose to live with a parent. The Court's decree is permanent and never subject to any rights or opinions of the child after the trial is complete. The requirements for modification are steep, and even abuse is nearly impossible to prove when a minor is denied the right to be heard by the court.

Divorces, and more importantly, the plight of children as a result of divorces, are no doubt a matter of grave public concern. Additionally, the state has inconsistently decided an important question of federal law that has not been, but should be, settled by this court. **The only pattern seems to be that when a Court's Title IV funding is at risk then a minor cannot testify, but when the Court has no funding at stake then minors testifying is acceptable.** I hope your court will take my case that

exemplifies lawless Judicial overreach, fraud upon the Court and a war upon Constitutional Rights of society's most vulnerable.

SECTION 3 QUESTION

Does the levying of Child Support to apply to all non-custodial Parents violate the U.S. Constitutional prohibition on Bills of Attainder?

SECTION 3 CRITERIA

A state court having decided an important question of Constitutional law that has not been, but should be, settled by this Court;

SECTION 3 ARGUMENTS

Under this section, I raise the matter of this court ruling on the question of attainder because:

a) State Courts and Judges have a financial conflict of interest in hearing these cases

b) Prohibition of Bills of Attainder in our Constitution has largely been abandoned in enforcement

c) Nullification of property rights is determined legislatively in Court rather than findings of Fact

d) That nullification is applied specifically to a class of people that is legislatively created and Judicially assigned

e) That assignment is done without conviction under criminal proceedings or even a finding of damages.

Article I, Section 9, Clause 3, is explicit: "No Bill of Attainder or ex post facto Law shall be passed." Section 10 expands the scope of the prohibition to state governments. These clauses appear in the body of Constitution, not in the appended Bill of Rights. This shows that the need of a fundamental safeguard against bills of attainder was plainer to the delegates than the bans on self-incrimination and illegal search and seizure forced on them by the states during ratification.

Attainder had a long history in English law, the law upon which Britain's colonies modeled theirs. In Shakespeare's chronicle of the rebellion, 2 Henry VI, Cade's associate Dick the Butcher announces his plans: "The first thing we do, let's kill all the lawyers." In life, it was the lawyers who had the last laugh: in 1451, a year after Cade's death, lawmakers passed a bill of attainder to seize his property and, consequently, through "corruption of the blood," to disinherit his heirs.

Bills of Attainder outlaw people or persons, they can convict persons who violated no laws at all. Forfeiture followed with all their property seized by the Crown. Today our State Child Support system works the exact same way.

Our State Family Courts are a huge financial industry. The movie Divorce Corp put the figure at $50 billion but in the decade since, it is estimated to be over a $60 billion industry today. An Attorney from another

field of practice once joked with me that "Family law attorneys give the other 5% of attorneys a bad name." Those who want to practice a honorable law profession in property or civil rights are far outnumbered by those who unethically make a very rich living at the expense of destroyed families.

Just as disturbing, is the perverse financial incentives that drive them to such questionable actions. It starts with the fact that States par for Child Support programs with services fees. It costs them nothing to run the program. Then the Federal government gains more income tax when working parents can no longer claim their children as a tax deduction. The worst part though is TANF Title IV-D (Child Support) which directly places millions of dollars into State and County treasuries, available directly to the Courts and Judges themselves, as a reward for increasing the amount of Child Support collected. Each State then passes its own laws to collect Child Support and collect millions, sometimes hundreds of millions, of dollars in Title IV funding.

> *"The requirement that a State operate its child support program in "substantial compliance" with Title IV-D was not intended to benefit individual children and custodial parents, and therefore it does not constitute a federal right...."* [Blessing, supra, 520 U.S. at 343, 117 S. Ct. at 1361, 17 L. Ed. 2d at 584.] (1997)

> *As we explained in Pennhurst State School and Hospital v. Halderman, 451 U. S. 1 (1981), such an agreement is "in the nature of a contract," id., at 17: The State promises to provide certain services to private individuals, in exchange for which the Federal Government promises to give the State funds. In contract law, when such an arrangement is made (A promises to pay B money, in exchange for which B promises to provide services to C), the person who receives the benefit of the exchange of promises between the two others (C) is called a third-party beneficiary. Until relatively recent times, the*

*third-party beneficiary was generally regarded as a stranger to the contract, and could not sue upon it; that is to say, if, in the example given above, B broke his promise and did not provide services to C, the only person who could enforce the promise in court was the other party 350*350 to the contract, A. See 1 W. Story, A Treatise on the Law of Contracts 549-550 (4th ed. 1856).* Blessing, supra, 520 U.S. at 351

To support this Washington State legislature created a volume of laws which make Joint Custody a rarity, and subjects every "non-custodial Parent" to pay Child Support per RCW 26.09.100. If a parent is unable to afford any amount of Child Support for any reason (whether incarcerated, unemployed, or held hostage the inability to pay is no excuse under the Bradley Amendment) then their entire property becomes forfeit to the State under Washington State law RCW 26.18.055. No retroactive forgiveness of debt is allowed Bradley Amendment Public law 99-509 42 U.S.C. § 666(a)(9)(c). A Trial Court Judge in contempt proceedings even went so far as to say that even if Bill Gates paid a million dollars to Space Camp for my children, then I would owe 75% of that amount to the mother, and incur all the penalties therein for my inability to pay. Additionally we both lose financial incentive to further ourselves as the amount is income based. The more I earn, the more I lose, and the more she earns, the less she gets from me. The amount garnished is not even income tax deductible and it is tax free to the beneficiary. To quote the movie War Games "the only way to win is not to play," and increasingly Americans are avoiding the legal landmine of marriage and children, to the detriment of Society as a whole. Furthermore Snohomish County is well known for its Fraud with the GALs, and the

program supervisor well known for taking bribes.[1-2] Nationally our Family law system is known by the hashtag #KidsforCash.

Furthermore because it is typically fathers who are the income earner it is fathers who generally are targeted for this abuse. Thus in my opinion the statistical anomaly according to the U.S. Census Bureau that only 17.8% of Custodial Single Parents are fathers. A statistic that has increased largely thanks to women increasingly becoming the primary income earner. This becomes a violation of the 14th amendment right to equal due process... but **the same state courts we must petition for redress are the financial beneficiaries of this Attainder and Forfeiture**. Parents support their children in so many essential ways beyond financially. If finances were all that mattered then we could tax the general populace and do away with Parents raising children at all. Yet I've not heard of one successful civilization which has tried to do so.

When drawn into Title IV funded Courts, both Parties, the Lawyers, and the Judge are all looking at one of the litigants for financial benefit. Everyone in the Court room has a financial interest in living at the expense of the Pro Se litigant. **The Right to an Impartial Trial is violated.** More importantly the Sixth amendment doesn't apply because we're not even accused of a crime in the first place! This is the essence of Attainder that I am not found Guilty or even accused of a crime, such as Family nonsupport (RCW 26.20.035), but simply sentenced to Forfeiture of property via Child Support for being an involved father.

While financially disabled from hiring legal Representation, and facing a self-interested State Court, the support-ordered-parent also faces a stiff litany of penalties. Passports (42 U.S.C. 652 (k)), Drivers licenses (RCW 48.22.140), and even professional licenses (RCW 74.20A.020, 74.20A.320-330) are commonly suspended for inability to pay. Lengthy and repeat prisons sentences may occur for debts they cannot get ahead of.

I never invoked the 4th amendment, yet the Appellate decision states that it is constitutional to forfeit my wealth by Child Support, citing cases that it is constitutional under the 4th amendment. What State Courts refuse to address is how can forfeiture of wealth for being a "non-custodial Parent" not be an Unconstitutional Bill of Attainder? By my review of case law, the U.S. Supreme Court has invalidated laws under the Attainder clause on only five occasions. Sadly, this has not included such horrific Attainders such as Japanese Internment or Miscegenation crimes. I ask now if a Parent's property can be forfeit for simply being a Parent in absence of any findings related to family non-support.

The States have a rightful interest in levying Child Support where a parent has failed their duties and harmed their children. Damages can be found and crimes convicted for what someone has done or failed to do. There is a wrongful interest in levying Child Support just because a State can extort someone for being a parent.

The Appellate Court cited "The State has a well-established compelling interest in the welfare of children and the protection of their fundamental

right to support. Johnson, 96 Wn.2d at 263." What they don't state is that this interest is far from a benevolent one. The state interest is in inflating the treasury, growing the bureaucracy, expanding regulated industries. It is not in maintaining the Parent-Child relationship. The State has a division of Child Support enforcement but there is no agency that helps to make sure a child is seeing their Parents. The State's interest in children and "child support" is financially perverse, and against the actual interests of the children themselves. Children benefit most from the natural order of parentage.

During the drafting of my Petition this Supreme Court just made a landmark decision in Timbs v. Indiana 586 U.S. (2019) to limit asset forfeiture in criminal cases to statutory limits. However, in Civil proceedings there are still no limits. I want to remind our Courts that the greatest threat to our Liberties has been our Civil Courts. Where we are not afforded the many protections of our Criminal procedure. People can lose everything and be detained simply for government labels like "colored" or "nissei" or "non-custodial Parent". All of these are an example of a legislative bill of attainder which convicts and forfeits people's property based on an identity, rather than their actions.

So this is a question of constitutional law but also a matter of great importance to the public. The purpose of prohibiting a Bill of Attainder is so that Justice is focused on what people have done and not who they are. While there may be a need for Child Support where parents have been found

to abandon their financial obligations towards their children, there should be no automatic forfeiture of property just because someone is a parent.

SECTION 4 QUESTION

Does a trial court judge have the authority to admit evidence not authorization by law and over an objection of a litigant?

SECTION 4 CRITERIA

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

Additionally, state court having left undecided the question of Judicial authority in a way that conflicts with the decision of United States court of appeals, its own rulings and rulings of this court.

SECTION 4 ARGUMENTS

Under this section, I raise the the matter of this court ruling on the question of Judicial Authority under “the best interests of the child”.

The Appellate Court stated

> *We disagree with David. RCW 26.12.175(b) provides that "[t]tle guardian ad litem shall file his or her report at least sixty days prior to trial." This statute does not govern parenting plan reports. The trial court nevertheless addressed David's motion as if the statute did apply*

Indeed the terminology "Parenting Plan Report" does not appear in the statutes of Washington State and the Appellate Court did not cite a single authority indicating it does. In the absence of Constitutional and Legislative authority, are the State Courts' powers now limitless over the citizens of the United States? This alone is so preposterous that it is grounds for summary Judgment and vacating the orders of the lower court.

I'm only a Pro Se, but I know we are a nation of laws where the authority to do something must be cited during proceedings. We are not a Nation of elected Tyrants who can do whatever they want by simply inventing a new word to pretend an activity isn't forbidden. Noting that the statute forbids an activity and then simply renaming the activity is a semantic game we don't let school children get away with. How, then, can the lower Courts deny due Process by simply renaming Court Appointed Special Advocates (CASA) to Parenting Evaluators and renaming their reports to "Parenting Plan Reports"?

Why must the Court have this report if even the opposing party wasn't willing to reschedule trial to meet the 60 day requirement? A Judge should no more mandate what evidence any side presents than a baseball umpire should throw the first pitch or a basketball referee toss the ball to one team to start the game. The 60 day requirement allows for discovery of false and fraudulent information in the report and a rebuttal.

SECTION 5 QUESTION

Does Due Process require that our lower courts make findings of fact regarding testimony of a petitioner-witness who admits having knowingly made false statements under oath?

SECTION 5 CRITERIA

The state court of last resort has so far departed from the accepted and usual course of judicial proceedings, [and has] sanctioned such a departure by a lower court, as to call for an exercise of this court's supervisory power. Additionally, state court having left undecided the question of voidness of a judgment in a way that conflicts with the decision of united states court of appeals, its own rulings and rulings of this court.

SECTION 5 ARGUMENTS

Under this section, I raise the matter of this court ruling on the question of whether Due Process requires Courts make findings of fact when fraud or perjury is alleged.

If granted review by our Supreme Court I will not be arguing this obvious point of law. If the Court will not take up the prior serious questions of injustice in our lower Courts then I hope you will at least see fit to grant me summary judgment on this argument. That Oaths to tell the truth in Court are not relevant to our review system is a symptom of a failed Judicial system, but it is not the cause.

Veritatem qui non libere pronunciat, proditor est veritatis.

"In the criminal law context, ***the deprivation of liberty based on fabricated evidence is a violation of a person's constitutional right to due process."*** See, e.g., Miller v. Pate, 386 U.S. 1, 7, 87 S. Ct. 785, 17 L. Ed. 2d 690 (1967) (noting that "the Fourteenth Amendment cannot tolerate a state criminal conviction obtained by the knowing use of false evidence"); Washington v. Wilmore, 407 F.3d 274, 283 (4th Cir. 2005) (holding that there is a "constitutional right not to be deprived of liberty as a result of the fabrication of evidence by an investigating officer"); Limone v. Condon, 372 F.3d 39, 44-45 (1st Cir. 2004) (describing the fundamental concept "that those charged with upholding the law are prohibited from deliberately fabricating evidence"); Zahrey v. Coffey, 221 F.3d 342, 344 (2d Cir. 2000) (holding "that there is a constitutional right not to be deprived of liberty as a result of the fabrication of evidence by a government officer acting in an investigatory capacity"). ***We conclude that this due process right applies with equal force in a civil proceeding****, such as the administrative adjudication in this case, because a pharmacist's professional and business licenses are property interests protected by the due process clause.* Cf. Ongom v. Dep't of Health, 159 Wn.2d 132, 139, 148 P.3d 1029 (2006) (holding that a nurse, as with a medical doctor, has a protected property interest in a professional license). Jones v. State, 170 Wash.2d 338, 242 P.3d 825, 831-32 (2010) *"when a party lies to the court and his adversary intentionally, repeatedly, and about issues that are central to the*

truth-finding process, it can fairly be said that he has forfeited his right to have his claim decided on the merits." McMunn, 191 F.Supp.2d 440 (2002)

Our judicial system generally relies on litigants to tell the truth and participate in discovery in good faith. Cf. United States v. Turns, 198 F.3d 584, 587-88 (6th Cir. 2000) ("***Our system of justice relies, in large part, on the theory that when a person takes the witness stand and swears to tell the truth, that he or she will in fact do so.***"); United States v. Leon-Reyes, 177 F.3d 816, 823 (9th Cir.1999) ("*our [criminal]* ***justice system relies on witnesses telling the truth***"); Doe, 847 F.2d at 63 (attorney has an ethical duty to disclose a fraud upon the court of which he knows); Solar Turbines, Inc. v. United States, 14 Cl.Ct. 551, 553 (1988) ("***our system of justice generally relies upon the basic honesty of most individuals, harsh sanctions for perjury, and a panoply of rights concerning discovery and cross-examination***").

Thus, when a party lies to the court and his adversary intentionally, repeatedly, and about issues that are central to the truth-finding process, it can fairly be said that he has forfeited his right to have his claim decided on the merits. This is the essence of a fraud upon the court.

[*"The Supreme Court has held that dismissal of the defendants' motion to strike is appropriate, and indeed necessary, when the defendant commits fraud upon the court."*- Hazel-Atlas Glass Co. v. Hartford-Empire Co., 322 U.S. 238, 64 S.Ct. 997 (1944)...4,6,9,13,14.

The Appellate Court found perjury and fraud were frivolous to this case because my rights were not abridged. Is not Due process always a right? Is there not a fundamental right to Freedom of Association and the Parent-Child relationship? Is there not a fundamental right to retaining our own property?

I want the Court to understand that the acceptance of obvious Fraud is not a cause but a symptom of the prior issues presented in this case. Our system of Justice is based on the idea that when made to testify people will testify honestly because of penalty. When someone can freely give false testimony with consequence for personal gain then our entire system of Justice falls apart. I want the Court to recognize that you have more at stake in this than I do. Because when the American people wake up to the reality that neither statutory authority, nor constitutional authority, nor even telling the truth matter in our lower courts, then they will abandon the Court system and take matters into their hands. The Public Trust and Confidence in our Court system thus lost cannot be easily restored.

MATTER OF PUBLIC INTEREST

No matter how the government or Title IV-D supporters try to spin the purpose of the child support program, it is a welfare recovery program. Even though the name and the rhetoric used with the program implies that child support is only in business for the best interest of the children, it is a business that is in operation to generate money for the government and private companies.

Since the implementation of Title IV-D and the Bradley Amendment and the Clinton Act, fathers have been regulated to generally one right regarding their children. The right to be a visitor every other weekend. The right to be alienated. The obligation to pay child support and or alimony upon penalty of violence. It was a father running in fear of a Child Support warrant being shot in the back by a cop which started the Black Lives Matter movement. It is the right of every citizen to retain their own property after Court unless there are findings of Criminal wrong doing or findings of damages and not to be looted for State treasuries.

I am here to defend the Right of Children to have two fit loving parents in their lives against the States who are denying it. **This is a subject of grave national concern.** Hollywood has spent decades making movies like Mrs. Doubtfire, Liar, Liar, Divorce Corp., and The Red Pill about the dishonesty and family destruction that is rampant in our Family court system. See Appendix D for notable entries the Court should be aware of.[1-27] Doubtless you already are aware of many. **Are you willing to save the reputation of your own profession before it is too late?**

CONCLUSION

Saying there is no Fundamental Right to the Parent-Child Relationship during dissolution proceedings is like saying there is no Right to Free Speech regarding political elections. It is preposterous and renders the Declaration of

that Right hollow and meaningless. It is when a State meddles with a Right that it is most important to create protections around that Right!

Washington State Courts claim I have no Liberty interest in living with my children more than 4 nights a month. It claims I have no Liberty interest in having legal custody to make decisions for my children. It claims we do not have a Freedom of Association right to live together of our own free will until the children reach the age of majority. It claims I do not have the right to spend my own income as I see fit to provide for my children but must surrender it to Jennifer with no obligation for her spend it on the children. It is an absurdity that if not restrained soon will consume the rest of our society. State Judicial determination of family composition is not in the general welfare nor is it preserving the equal rights of parent and child. It is greed

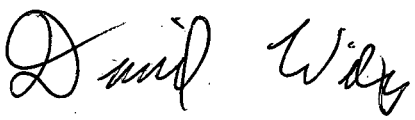
The law of Washington State makes all my property forfeit because I am a non-custodial parent who cannot afford whatever amount they impute to me. The Court claims I have no Due Process rights to trial proceedings which follow the rules of the legislature and that a Judge has total control over which witnesses can be called and if evidence can be submitted without statutory approval. That witnesses can make contradictory statements of a criminal nature without examination. That it can subject me to any number or nature of prior restraints (speech, residency, travel, visitation, property) so long as they are in a “Parenting Plan”.

In short it appears to me that my State is at war with the 9th Amendment rights of Parents as well as any and all Constitutional Rights that a minor might possess. So I ask this Court, what is the limit? What can government not do, and what fundamental liberties do I have at all in the context of being a parent? What absurdity is it when a liberty is not at stake though the Court feels free to restrict its exercise to only 4 nights a month? Which other Fundamental Rights can be so restricted in the time of their exercise? I am questioning the absurdity that familiar freedom of association and my property rights are not an essential liberty recognized by an overly intrusive State. Please accept these issues should be addressed. Otherwise, summary Judgment should be granted for failure to make findings of fraud.

I request, for the above and foregoing reasons, the petition for writ of certiorari be granted. For the sake of all the abused children given no voice in family Court proceedings I ask for review. I also request that my motions for leave to proceed in forma pauperis and consolidation of the record on review be granted for reasons contained therein. In the alternative, this Court should permit me to amend and file my brief as per Rule 33 of your court within sixty (60) days.

DATED: April 16, 2019

Respectfully,



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