No. _____

# In The
# Supreme Court of the United States

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FERNANDO GABRIEL IRAZU,

*Petitioner,*

vs.

MARGARITA OLIVA SAINZ DE AJA,

*Respondent.*

◆

**On Petition For Writ Of Certiorari To The Appellate Court Of The State Of Connecticut**

◆

## PETITION FOR WRIT OF CERTIORARI

◆

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## QUESTIONS PRESENTED

This is a protected speech as well as parental and property rights case addressing jurisdictional issues of constitutional nature through a civil restraining order from the State of Connecticut, also impacting the ability to exercise the right to bear arms nationally. This case relates back to substantive family proceedings in which international private law and constitutional law intersect, already analyzed through a *Petition for Writ of Certiorari* dated 4/15/2019 (Docket No. 18-1376). Although the topic under review was presented in such petition,[1] the final ruling from local courts was pending at the time. The petition herein further embarks on the constitutional impact of such restraining order in light of the Petitioner's rights to due process and to be timely heard, as a father and citizen of the United States, in the context of abuse of process, vexatious actions, and his unequal treatment under the law.

**1.** Is it constitutional for the State of Connecticut to issue a civil restraining order with nationwide reach and under federal punishment, including an absolute ban on the possession of firearms across State lines?

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[1] "**4.** Did the lower court ignore the constitutional claims posed by the Petitioner as well as all records, facts, and applicable law in this case, including undisputed evidence proving abuse of process, false criminal charges and illegitimate advancement of civil claims, *a spurious civil restraining order with nationwide reach under federal punishment*, the curtailment of this party's parental and property rights, unethical and criminal conduct, as well as lack of proper counsel, police brutality, harassment, and persecution through state-related institutions?" (italics added).

**QUESTIONS PRESENTED** – Continued

**2.** Did the lower court further infringe the Petitioner's parental and property rights as well as due process by upholding a civil restraining order in the midst of substantive family proceedings?

**3.** Did the lower court infringe the Petitioner's first and second amendment rights by upholding a civil restraining based on *"hate and anger"* speech?

**4**. As a whole, did the lower court further infringe the Petitioner's fundamental rights by applying the law in a biased, partial and unequal fashion?

## LIST OF PARTIES

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## LIST OF PROCEEDINGS DIRECTLY RELATED TO THIS CASE

(i) *Irazu, Fernando Gabriel v. Oliva Sainz de Aja, Margarita*, Docket No. 18-1376, *Petition for Writ of Certiorari* before the Court of 4/15/2019 regarding (iii), (iv) and (v) below. The ruling from the Appellate Court of the State of Connecticut of 4/23/2019 per (ii) below is addressed in the petition herein.

(ii) *Margarita O. v. Fernando I*, AC 42118, Appellate Court of the State of Connecticut, dated 4/23/2019, affirming and overruling in part a civil restraining order per (iii) and (iv) below *(Alvord, Lavine and Elgo, J)*. Petition for Certification denied on 5/22/2019.

(iii) *Oliva Sainz de Aja, Margarita v. Irazu, Fernando Gabriel,* AC 41455, AC 41598 (consolidated under AC 41455) and AC 42118, Appellate Court of the State of Connecticut *(Alvord, Lavine and Elgo, J)*, dated 2/12/2019, affirming rulings on motion for contempt and order, fraud, custody and financial remedies, abuse of process and ancillary of 3/2/2018 and 5/14/2018 *(Heller, J);* request for magistrate disqualification and transfer of proceedings to federal venue of 4/24/2018 *(Genuario, J*); as well as civil restraining order of 9/12/2018 *(Truglia, J)*, Superior District Court of Stamford/Norwalk. Petition for Certification denied on 3/13/2019.

**LIST OF PROCEEDINGS DIRECTLY RELATED TO THIS CASE** – Continued

(iv) *Oliva Sainz de Aja, Margarita v. Irazu, Fernando Gabriel*, FST-FA-18-4031046-S, Superior District Court of Stamford/Norwalk, State of Connecticut, dated, on civil restraining order petitioned on 8/29/2018 (denied, *Sommer, J)* and granted on 9/12/2018 *(Truglia J).*

(v) *Oliva Sainz de Aja, Margarita v. Irazu, Zubillaga Fernando Gabriel*, No. 758D/16, Juzgado de Primera Instancia No. 3, Granada, Spain, fraudulent contentious divorce process of 6/17/2016, declared null and void on 6/29/2017, and *exequatur* proceedings of US divorce decree per (i) and (iii) above as well as (viii) below.[2]

(vi) *Irazu, Fernando Gabriel v. Oliva Sainz de Aja, Margarita,* Docket No. 12-1014, *Petition for Writ of Certiorari* before the Court dated 2/12/2013 and denied 4/15/2013, in connection with judgment from the Appellate Court of the State of Connecticut of 11/13/2012 on motion of contempt to court and ancillary (AC 34364) *(Beach, Robinson and Alvord, J)*, relating back to ruling of 7/29/2011 and 2/17/2012 from the Superior District Court of Stamford/Norwalk *(Wenzel, J)* as well as (vii) and (viii) below. Petition for Certification denied on 12/18/2010.

[2] Appendices Q, R.

## LIST OF PROCEEDINGS DIRECTLY RELATED TO THIS CASE – Continued

(vii) *Cavallo, Victor v. Irazu, Fernando Gabriel*, FBT-CV-11-6021140-S, Superior District Court of Bridgeport, State of Connecticut, filed on 7/29/2011, judgment *in absentia* on legal fees award dated 12/10/2013 *(Rush, J)*.[3]

(viii) *Oliva Sainz de Aja, Margarita v. Irazu, Fernando Gabriel*, FST-FA-09-4017497-S, Superior District Court of Stamford/Norwalk, State of Connecticut, Orders of Marital Dissolution *(Malone, J)* and Memorandum of Decision dated 9/2/2010

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[3] Attorney Victor Cavallo represented the Petitioner in the divorce proceedings after criminal charges were filed against him on 11/9/2009. Attorney Cavallo refused to settle the case after the Respondent placed herself in technical contempt to court due to financial maneuvers, and withdrew from it prior to the divorce trial –therefore, this party's *pro se* role– because of issues related to the Greenwich Police Department in Connecticut, among others. On 7/29/2011, the Respondent pursued a motion for contempt and the district court mandated Attorney Cavallo to appear as party counsel. The Petitioner was erroneously declared in contempt to court for non-existent debts under *in situ* threats of incarceration, and on 2/17/2012 the officiating judge *(Wenzel, J)* advised this party to appeal his own ruling. On such same day, 7/29/2011, Attorney Cavallo filed summons against the Petitioner dated 6/13/2011 claiming unpaid legal fees, and on 8/3/2011 served the Petitioner within the courthouse. The Petitioner was in Argentina when the trial took place, and judgment *in absentia* was rendered on 12/10/2013. See *Petition for Writ of Certiorari,* 2/12/2013, No. 12-1014. During 2018, Attorney Eugene Riccio, Counsel to the Connecticut Statewide Grievance Committee, fully cleared Attorney Cavallo of any unethical misdeeds, *in re, Attorney Grievance Complaint # 17-0693; Irazu v. Cavallo.*

**LIST OF PROCEEDINGS DIRECTLY RELATED TO THIS CASE** – Continued

*(Harrigan, J),* Order # 153 dated 11/22/2009 *(Malone, J),* and Stipulation dated 10/6/2016 *(Tindill, J).*

(ix) *State of Connecticut v. Irazu, Fernando Gabriel,* CRO-90168728-S, Superior District Court of Stamford/Norwalk, State of Connecticut, charges of threatening in the second degree and disorderly conduct from 11/9/2009, unsubstantiated and disposed on 12/7/2010 *(Comeford, J; Malone, J; other).*[4]

(x) *State of Connecticut v. Irazu, Fernando Gabriel*, Department of Children and Families from the State of Connecticut, allegations of children neglect from 1/8/2009, unsubstantiated and disposed on 2/20/2009 (*Moore, E*).[5]

(xi) *State of Connecticut v. Irazu, Fernando Gabriel*, CRO-90165772-S, Superior District Court of Stamford/Norwalk, State of Connecticut, charges of assault in the third degree, threatening, and disorderly conduct from 1/12/2009, case dismissed on 4/8/2009 *(Malone, J).*[6]

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[4] Appendix J.
[5] Appendix K, id. 4.
[6] Id 4.

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# IN THE SUPREME COURT OF THE UNITED STATES

## PETITION FOR WRIT OF CERTIORARI

The petitioner respectfully prays for a writ of certiorari issue to review the judgment from the State courts below.

## STATE COURT OPINIONS

A copy of the decision of the Supreme Court of the State of Connecticut denying the Petition for Certification (PSC 18-0441) from the ruling of the local Appellate Court (AC 42118) *(Alvord, Lavine and Elgo, J)* is dated 5/22/2019, unpublished, and appears as Appendix A.

A copy of the decision of the Supreme Court of the State of Connecticut denying the Petition for Certification (PSC 18-0347) from the substantive rulings of the local Appellate Court (AC 41455 and AC 41598) *(Alvord, Lavine and Elgo, J)* is dated 3/13/2019, unpublished, and appears as Appendix B.

A copy of the decision of the Appellate Court *(Alvord, Lavine and Elgo, J)* affirming the district court rulings related to AC 41455 *(Heller, J),* AC 41598 *(Genuario, J),* and AC 42118 *(Truglia, J)*[9] is dated 2/12/2019, published (187 Conn. App. 902), and appears as Appendix C.

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[9] Post-denial of the Petition for Certification by the local Supreme Court of 3/13/2019, the Appellate Court issued a new ruling as to AC 42118 *(Truglia, J),* which is addressed herein.

A copy of the decision of the Appellate Court *(Alvord, Lavine and Elgo, J)* amending its prior ruling as to the civil restraining order under review (AC 42118) is dated 4/23/2019, published (189 Conn. App. 448), and appears as Appendix D.

A copy of the decision of the district court *(Truglia, J)* granting the civil restraining order under review is dated 9/12/2018, and appears as Appendix E.

A copy of the decision of the district court *(Truglia, J)* denying some of the Respondent's motions for order (vexatious action, abuse of process, monetary sanctions, legal fees and expenses) is dated 4/25/2019, and appears as Appendix O.

## JURISDICTION

The jurisdiction of this Court is invoked under 28 U.S.C. § 1257 on a timely basis per final State courts' ruling above.

## CONSTITUTIONAL AND STATUTORY PROVISIONS[10]

First, Second, Fourth, Fifth, Sixth, Eight, Ninth, Tenth, and Fourteenth Amendments, US Constitution.

Article I, Section 8; Article IV, Sections 1 and 2, US Constitution.

Connecticut General Statutes § 46b-15(a).

Connecticut General Statutes § 45a-717.

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[10] Appendix U.

18 U.S. Code § § 2265, 2262.

Rules 65 and 37 of the Federal Rules of Civil Procedure.

28 U.S. Code § 1927.

## STATEMENT OF THE CASE

**1. District Court's Hearing and Ruling**. On 8/29/2018, while awaiting for oral arguments before the local Appellate Court regarding substantive family proceedings, the Respondent pursued an *ex parte* petition for relief from abuse at the Superior District Court of Stamford/Norwalk. Although the Respondent's request was denied on that date *(Sommer, J),* it was later granted from the bench as a one-year civil restraining order based on what the district court construed, at a hearing last 9/12/2018, as a single *"implied threat"* that turned into a recent pattern of threatening out of the translated Spanish words *"injustices are paid"* –an incomplete written exchange–, which were coupled with her *in situ* subjective feelings as well as considerations related to the First Selectman of the Town of Greenwich, Mr. Peter Tesei, and illegalities endured by the Petitioner there *(Truglia, J*).[11]

**2. Connecticut General Statutes § 46b-15(a), Connecticut Law, Nationwide Reach and Federal Punishment.** Connecticut General Statutes

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[11] Appendices F, G; *Appendix to the Defendant-Appellant's Brief,* A 115-463, AC 42118, cross-referenced per *Appendix to Motion to Consolidate and Order,* 9/24/2018, AC 41455, and *Communication to the Court*, 10/1/2018, AC 42118 / AC 41455, Appellate Court; among others.

§ 46b-15(a) provides for a civil restraining order to be granted upon a continuous threat of present physical pain or injury, or a pattern of threatening that intentionally places or attempts to place another person in fear of imminent serious physical injury.[12] Connecticut law explicitly excludes subjective feelings from the applicant side as long as they cannot be truthful, in line with reality, and/or bear any correlation with the objective conduct of the other party.[13] Local law also expressly rejects the idea of adding elements not precisely included in the statutory language,[14] including past behavior, similar orders, and ancillary.[15] Per the facts of the case and applicable law, the Petitioner contends his written words do not fall within Connecticut General Statutes § 46b-15(a).[16] Moreover, the standard form for this type of orders in Connecticut incorporates a boilerplate provision of nationwide reach under federal punishment, also extensive to the prohibition to possess firearms.[17]

**3. Appellate Process and Ruling.** The Petitioner appealed this judgment, and last 2/7/2019

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[12] Appendix U.

[10] *In re, Putnam v. Kennedy*, 104 Conn. App. 26, 34, 932 A.2d 434 (2007).

[14] *In re, Krustyna W. v. Janusz W.,* 127 Conn. App. 586, 590, 14 A.3d 483 (2011); *Jordan M. v. Darric M.*, 168 Conn. App. 314, 319, 146 A.3d 1041 (2016).

[15] *In re, Rosemarie B-F. v. Curtis P.*, 133 Conn. App. 472, 477, 38 A.3d 138 (2012); *Gail R. v. Bubbico*, 968 A.2.d 464, 114 Conn. App. 43 (2009).

[16] As a principle of law, the Court held that "[i]n statutory interpretation disputes, a court's proper starting point lies in a careful examination of the ordinary meaning and structure of the law itself.", *in re, Food Marketing Institute v. Argus Leader Media, DBA Argues Leader*, 588 U.S. (2019).

[17] 18 U.S. Code § § 2265, 2262; Appendix U.

the Appellate Court affirmed all outstanding rulings from the district court, including the restraining order under review. However, after the Petitioner filed a Petition for Certification before the local Supreme Court last 2/11/2019, the Appellate Court *sua sponte* reversed its decision as to the latter. More than two months later, on 4/23/2019, the Appellate Court affirmed the order related to the Respondent and overruled an exception regarding children, all upon further proceedings. Nobody had ever petitioned for children to be included in any restraining order.

**4. Terms of the Order Before and After Appeal**.[18] This restraining order prohibits the Petitioner to be within 100 yards of the Respondent at all times, including her places of residence and employment, as well as harassing, abusing, threatening, following, stalking, and/or interfering with the Respondent nationally. Two of the three children of the couple reside with the Respondent, one minor and one of legal age. Prior to the Appellate Court's ruling, the Petitioner was allowed to be in the Respondent's presence, as an exception, if both of those children were to be jointly with her.

**5. Summary Party-Objections**. The Petitioner argued the spurious nature of this restraining order[19] based on the lack of grounds under applicable normative and case law, timing, context, third-party interests, defamation, overall ulterior goals, protected speech and considerations foreign to the safety of the parties, including abuse of process,[20]

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[18] Appendices C, D.

[19] Id. 11.

[20] The Court understood that malicious abuse of process is a tort "committed when the actor employs legal process in a manner

vexatious lawsuit, illegitimate advancement of civil claims, and various unethical and/or criminal conduct.[21] On appeal, this party especially objected the crafting of the aforementioned exception since nobody had requested for children to be included in any order, and the inability to review the written partial exchanges admitted by the Respondent, to question her under oath and to submit relevant evidence proving his case –this evidence was nonetheless submitted to the Appellate Court and is therefore available to the Court.[22] It must be also noted that the commanding case argued by the Appellate Court in its ruling relates to stalking,[23] something never claimed by anybody.

**6. Considerations Affecting Children**. The Petitioner timely alerted the Appellate Court of life-threatening issues affecting his minor daughter and of the upcoming high school graduation of his son, in writing and/or during oral arguments,[24] and requested a stay without success.[25] This overall topic had also

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technically correct, but for a wrongful and malicious purpose to attain an unjustifiable end" … succinctly, the tort is the "perversion" of legal process.", *in re, Wheeldin v. Wheeler*, 373 U.S. 647 (1963).

[21] Id. 11.

[22] Id. 11. Apart from due process rights, the Court has guaranteed *pro se* litigants the right to have courts liberally construe their pleadings and to allow them to offer proof of their sayings, *in re, Haines v. Kerner*, 404 U.S. 519 (1972).

[23] *In re, Princess Q. H. v. Robert H.*, 150 Conn. App. 105, 89 A.3d 896 (2014).

[24] Id. 11; *Oral Arguments* of 1/22/2019, AC 41455 (AC 41598) / AC 42118, Appellate Court.

[25] *Motion to Impose Stay*, 1/24/2019 (denied 1/28/2019), AC 42118, Appellate Court.

been put forward before the district court prior to and during the respective hearing.[26]

**7. Practical Impact of the Appellate Court's Ruling**. The Appellate Court mandated further proceedings to consider whether a restraining order was needed –eventually, including children– subject to the Respondent's feelings, which in fact gave room to the initial ruling. As a consequence, the impact of this decision is even worse than the one from the district court, considering that the Petitioner was at the very least able to participate in key events of his children's lives if both of them were to be present with the Respondent. Nowadays, the Petitioner cannot take part in any of those events irrespective of the circumstances if the Respondent happens to be there. Unsuccessfully, the Petitioner approached the Respondent to redress this misdeed.

**8. Concrete Damage: Hospitalization of Minor Child and High School Graduation Ceremony**. On 8/29/2019, the same day the Respondent petitioned for this order, she embarked on a process that brought the couple's minor daughter from unilaterally appointed therapists and psychiatrists to her hospitalization.[27] The Petitioner was informed *post-facto* and/or on the run of all of these decisions and events, without being able to participate in any of those relevant decisions and meetings before medical professionals and school officials jointly with the Respondent and/or his daughter, much less to pick

[26] Id. 11.
[27] Appendix H.

her up from the family residence to go for coffee or take her to the hospital.[28]

On 3/27/2019, the Petitioner drove from New York City for almost two hours at the Respondent's invitation to see his minor daughter during some neurological testing at a hospital in Connecticut, only for the Respondent to tell him upon his arrival via text message that she didn't feel comfortable leaving her alone. Therefore, the Petitioner was prompted to abandon the premises due to the risk of violating the restraining order in the presence of police officers and/or public-related officials.

On 5/22/2019, the couple's son graduated from high school with distinction.[29] Since the premises were not larger than 100 yards –a standard gymnasium–, the Petitioner could not take part in such unique event in his son's life. In light of the prior, on 5/19/2019, the Petitioner had driven for six hours from Massachusetts to Connecticut to have a picture taken with his son at one of his prom-related events. Upon getting to the indicated location in Greenwich, the Petitioner was denied access.

**9. Connecticut Law Regarding Technical Violations of Restraining or Protective Orders**. Please note that if the Petitioner had insisted on seeing his minor daughter or son, justifiably complained, and/or participated in those events where the Respondent was present, he would have technically violated the restraining order and subjected himself to felony charges. In fact, last 5/13/2019 the Petitioner was threatened in writing by the Respondent for

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[28] Id. 11 and 27.
[29] Appendix I.

detailing the situation his minor daughter is going through. In particular, the Petitioner addressed this concern with the district court.[30] Case law confirms the State of Connecticut has sentenced people as felons for technical violations of restraining or protective orders, without any mitigating circumstances and no third-party claims.[31]

**10. Underlying Background: Political and Third-Party Interests**; **Unequal Treatment Under the Law**. Marital dissolution proceedings were triggered in early 2009 with criminal allegations and defamation of all sorts. The Petitioner endured two illegal arrests, police brutality, harassment, invasion of privacy, and various other illegalities from State-related institutions and individuals.[32] Without success, the Respondent jointly with local police attempted to arrest the Petitioner for alleged violations of a past spurious protective order.[33] Although those underlying criminal allegations were dismissed,

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[30] Appendix F.

[31] Although presented as a case of double jeopardy, some key facts *in re, Gary Bernacki Sr. v. State of Connecticut*, *Petition for a Writ of Certiorari*, US Supreme Court (No. 12-759) (denied 4/15/2013), serve to address this issue. Mr. Bernacki, a resident of Connecticut, was subject to a dubious restraining order during a contentious divorce. He possessed two antique guns from WWII inherited from his father, which he intended to pass onto his own son. The State discovered such fact, indicted him for criminal possession of a firearm and for violating the protective order, and he was convicted on both counts without mitigating factors and no third-party allegations.

[32] *Miranda v. Arizona,* 384 U.S. 436 (1966); *Graham v. Connor,* 490 U.S. 386 (1989); *Malley v. Briggs,* 475 U.S. 335 (1986); *Cuyler v. Sullivan* 446 U.S. 335 (1980); *Burdeau v. McDowell,* 256 U.S. 465 (1921); *Walder v. Unites States,* 347 U.S. 62 (1954); *Klopfer v. North Carolina*, 386 U.S. 213 (1967).

[33] Id. 11.

unsubstantiated and/or discarded, the criminal proceedings were protracted in time affecting this party's good name, reputation, and ultimately profession as well as patrimony. Based on the literal advice from the divorce trial judge *(Harrigan, J),* the Petitioner *pro se* got his record fully expunged.[34] However, as a US citizen he was compelled by the State Attorney to relocate to his country of origin Argentina,[35] and deemed as someone capable of suing his own town and the State of Connecticut.

In fact, the Petitioner had legally warned the Greenwich Police Department because of those misdeeds –also putting on notice the State and the presiding judge (*Malone, J).*[36] The Petitioner has not sued anybody in his entire life, needless to say within this process of almost ten uninterrupted years, but he was categorized as a potential liability at the local level. The First Selectman of the Town of Greenwich, Mr. Peter Tesei, is a neighbor and acquaintance of the Respondent, and he happens to live within 100 yards of her residence –in the past, the couple's oldest daughter worked as a nanny for Mr. and Mrs. Tesei's children. Such overall fact was entertained during the hearing to grant the restraining order under review *(Truglia, J).*[37] Moreover, the officiating judge in the substantive family proceedings *(Heller, J)* is also a resident of Greenwich, Connecticut. The Petitioner addressed his unequal treatment under the same law per *Petition for Writ of Certiorari* dated 4/15/2019.

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[34] Appendices J, K, L.
[35] *In re, Ng Fung Ho v. White*, 259 U.S. 276 (1922); *Sessions v. Dimaya*, 584 U.S. (2018).
[36] Appendix N.
[37] Appendix F.

**11. Request for Relief from Abuse: Defamation and Illegitimate Advancement of Civil Claims**. In her petition for relief from abuse,[38] the Respondent stated that she had resorted to the Greenwich Police Department and the domestic abuse office of the local YWCA, and argued that she felt threatened by the Petitioner mainly because he was mentally unbalanced, an individual with a violent and criminal past, as well as someone incapable of sustaining steady employment. Such defamation, ignored by the Appellate Court upon its mandated duty to scrutinize all fillings and record –available both in writing and electronically–,[39] was deemed as such via neuropsychological studies surrendered at various times to the local judiciary –even court-mandated–: the Petitioner was technically categorized as non-violent, a person who poses no risk to himself or anybody else, and more than ten years serve to prove this asseveration.[40] In addition, the Petitioner had been a highly successful professional up to the point in which these proceedings impacted his ability to generate income and find suitable employment.[41] Moreover, similar falsehoods were used by the Respondent to obtain an *ex parte* restraining order after filing for divorce and upon financial disagreements on 10/6/2009 –a police report of 10/5/2009 corroborates it–, with the objective of keeping the Petitioner out of the family residence.[42] Right before the pertinent hearing, the Respondent agreed to lift such order via a Stipulation for the Petitioner to have access to his little children,

[38] Appendix E.
[39] Id. 11.
[40] Id. 11.
[41] Id. 11.
[42] Id. 24, 43.

all in exchange for her retaining exclusive residence of the family home *pendente lite*.[43]

The Petitioner has claimed before the court system on numerous occasions that his life has been literally destroyed within and outside the judiciary due to such uncivil approach, including the relationship with his children.[44] In this regard, the Appellate Court did quote the Petitioner's words correctly: the public proceedings with private ramifications conducted by the Respondent *"destroyed his life."* To conclude regarding defamation, on record, the Respondent's counsel, Attorney Kevin Collins, somehow accused the Petitioner of being an Argentinean Nazi or anti-Semite –considering several judges and public officials in these proceedings were of Jewish extraction–,[45] and of trying to extrapolate the illegal background of this case

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[43] Appendix M.

[44] *Petition for Writ of Certiorari*, 4/15/2019, No. 18-1376, pages 19, footnote 55.

[45] "COLLINS: … if one reads In Re Martin-Tragona, one case almost the repetitiveness of this; everybody is against me because of what I am. In In Re Martin-Tragona the basis was everything involved is Jewish; the judge is Jewish; the bankruptcy trustee is Jewish, the clerk is Jewish, the lawyers are Jewish … And now this is where we get to where we can't allow for any reason someone like Mr. Irazu to come in to this court and claim that somehow, *Judge Heller* is against him because he is a Caucasian male, a naturalized U.S. citizen pursuant to, quote unquote, extraordinary abilities under U.S. immigration laws. Born in Buenos Aires, Argentina, South American -- COURT: I did -- I read it. COLLINS: … I think *Judge Heller* was a model, a model of neutrality. And when the other side –somebody's ultimately not going to win. And just because you don't win doesn't mean that the judge is against you; it means you didn't carry your burden or you didn't have a good case coming in.", Representation of Attorney Kevin Collins, *Hearing before Judge Genuario*, 4/23/2018, pages 44, lines 3-10, 14-22; 48, 6-12; id. 24.

for presumable ulterior litigation goals.[46] As a sheer fact, there is a proven pattern on the part of the Respondent of advancing civil interests illegitimately.

**12. Abuse of Process, Vexatious Actions, and Recent Developments**. On 4/15/2019, the same date the Petitioner filed an interconnected *Petition for Writ of Certiorari* before the Court on the main proceedings, the Respondent appeared at the district court *(Truglia, J)* to argue motions for monetary sanctions against him under the banner of vexatious lawsuit, abuse of process, fees, and related expenses. Such pleadings restated a motion filed last 4/5/2017, with the goal of precluding the Petitioner from ever making his case before the legal system.[47]

It is clear the motivation of the other side was to ignite litigation under the premise the Petitioner was going to afford its cost, after having paid long-lasting contentious proceedings that could have been avoided via private mediation.[48] In the end, the couple's children suffered the emotional and financial toll of this inappropriate behavior.

On 4/25/2019, the magistrate who ruled on the restraining order under consideration *(Truglia, J)* denied the Respondent's motions after reviewing all records, as well as indicated that none of the filings and allegations made by the Petitioner were repetitive, frivolous and/or vexatious, even if some of them in the

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[46] *Petition for Writ of Certiorari*, 4/15/2019, No. 18-1376, pages 14-15, footnotes 40-44.
[47] Appendix P.
[48] 28 U.S. Code § 1927; Rule 37 of the Federal Rules of Civil Procedure; Appendix U.

opinion of the court might have not shown proper form.[49]

On 5/22/2019, due to the express request of a Spanish court, the Petitioner was put on notice of a subsequent *exequatur* of the US divorce judgment initiated by the Respondent last 7/31/2018,[50] which was finally registered on 7/4/2019. This is the same tribunal that ruled on the nullity of a concealed and fraudulent divorce process triggered by the Respondent in Spain during 2016, as carefully entertained in the *Petition for Writ of Certiorari* before the Court dated 4/15/2019. As much as such fraudulent action, this recent request was concealed for almost a year, and the other party obviated to submit the US marriage certificate of the parties, among others. In this setting, it is worth highlighting that on 6/29/2017 the Spanish court addressed the Petitioner's request for *exequatur*[51] and dismissal of such divorce proceedings as follows:

> "….the acknowledgment of such judgment [US divorce decree of the parties from the Superior District Court of Stamford/Norwalk, Connecticut] in our country requires to seek the *exequatur* proceeding, which can be recognized; so the party cannot go to the Spanish courts to admit a new application of divorce knowing that she was divorced by a final judgment, in a process also initiated at her request; it is thus coming to apply *"sensu contrario"* article 85 of

[49] Appendix O.
[50] Appendix S and T.
[51] Appendix Q.

the CC in the sense that it is not possible to dissolve an inexistent marriage."[52]

## REASONS FOR GRANTING THE PETITION

### 1. State and Federal Jurisdictional Issues: Nature of a Restraining Order; Mootness; Unequal Standards Across States; Nationwide Reach and Federal Punishment; and Lack of Constitutional Authority.

Restraining or protective orders are not an ordinary measure, despite their exponential growth especially within family proceedings.[53] The impact of this type of legal shelter is not the same when family relations, home ownership, and ancillary are at stake. It is an entirely different scenario when compared to an individual who has no personal interests of such relevance. All in all, despite different studies confirming that restraining or protective orders do not necessarily protect.[54]

In principle, a restraining order restricts the freedom and mobility of a person, with the capacity to disrupt parental and property rights as well as the ability to exercise second amendment rights and self-defense, while at the same time exposing the one subject to it to potential criminal charges and negative consequences at the professional level. This is why a restraining or protective order is never a moot issue

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[52] Appendix R.

[53] *Report on Restraining Orders and Civil Protection Orders*, State of Connecticut, Judicial Branch, Calendar Year 2017, 4/1/2018.

[54] Christopher Benitez, Dale McNiel, and Renee Binder, *Do Protective Orders Protect?*, The Journal of the American Academy of Psychiatry and the Law, Volume 38, Number 3, (2010), pages 376-85.

irrespective of its temporary nature,[55] and needless to say when its constitutional validity at large is put into question as in the present case.

From the perspective of the local judge called to rule on the matter, the dynamics seem to be quite pernicious because granting a restraining or protective order could somehow be seen as a safe bet in a volatile scenario like divorce proceedings. If a crime were to ensue or happen, at the very least the legal system would be judged as having taken the necessary steps to prevent it by granting a petition for relief from abuse, instead of supposedly having cleared the way by denying it. Notwithstanding, under these circumstances, it is seemingly unclear per current forensics whether a measure of this sort could either prompt or preclude a crime.[56] In this context, the one called to defend himself is inherently placed in a not so favorable light to plead for his case.

As a result, it is then of utmost importance to carefully ponder the implications of granting a restraining or protective order within family proceedings, in particular when it could to be used as a deceitful sword and not a truthful shield.[57] The Petitioner argues this is the frame of the present case, validated throughout time by the record and with serious negative consequences on the wellbeing of

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[55] *In re*, *Putnam v. Kennedy*, 279 Conn. 162, 900 A.2d 1256 (2006).
[56] Id. 53, 54.
[57] David H. Taylor, *Ex Parte Domestic Violence Orders of Protection: How Easing Access to Judicial Process Has Eased the Possibility for Abuse of the Process,* 18 Kansas Journal of Law & Public Policy 83 (2008); Stop Abusive & Violent Envt's, *Special Report: The Use and Abuse of Domestic Restraining Orders* (Feb. 2011).

minor children. Apart from the fact the restraining order under review, as further elaborated below, was granted and affirmed for political, ideological and other considerations foreign to the safety of the parties.[58] The factors weighted in such ruling do not pass the litmus test of a balanced course of action according to due process.[59]

From a jurisdictional perspective, the Petitioner contends the State of Connecticut lacks constitutional authority to impose a nationwide restraining order under federal punishment. Please note the parties are *de facto* residents of two different states, and have been apart for more than ten years with minimal interaction and no incidents of any nature. As much as territorial and subject-matter jurisdiction, personal jurisdiction is not an unlimited concept. At the federal level, Rule 65 of the Federal Rules of Civil Procedure only contemplates temporary measures of such sort under extraordinary circumstances absent in this case.[60]

In this regard, the transitory legal nature of a restraining order with the capacity to severely impact

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[58] *In re*, *Masterpiece Cakeshop v. Colorado Civil Rights Commission*, 584 U.S. (2018); *Del Marcelle v. Brown County Corp. (contrario sensu),* 680 F.3d 887 (7th Cir. 2012).

[59] In order to determine when certain process is due, the Court has set a balancing test that requires evaluating the private interest at stake, the government interest, and the risk of erroneous determination, which based on the facts of and ruling in this case cannot be reasonably validated, *in re, Mathews v. Eldridge*, 424 U.S. 319 (1976).

[60] It should be noted that if the core proceedings had been transferred to federal venue, as requested by the Petitioner (*Petition for Writ of Certiorari* of 4/15/2019, No. 18-1376), the local restraining order would have not automatically lapsed, indicating two distinct spheres of jurisdictional domain, *in re, Granny Goose Foods, Inc. v. Teamsters*, 415 U.S. 423 (1974).

fundamental rights is relevant. It can be argued that a restraining order is an open-ended ruling due to the possibility of its renewal and a subsequent judgment if their terms are violated. In this sense, the underlying conduct does not have absolute close-ended legal implications like being born, getting married or divorced, as well as dying. In any of those cases, the legal fact that any of such acts took place in one State has no bearing in their validity in another one as well as internationally.

However, different States hold dissimilar normative and judicial standards to grant this sort of legal shield, as much as local criminal activity is also subject to local views of public order. Such standards might range from subjective appreciations and inconvenience[61] to truthful objective reasons, and often times some of those lax thresholds not only inflict grave damage on fundamental rights but also set the stage and measure to deem a restraining order violated –a judicial step that also varies from State to State as well as when compared to federal courts.

Please note this is not a case of double jeopardy based on the old Latin maxim of *non bis in idem,*[62] rather one of constitutional authority at inception regardless of the possibility of being subject to various local and federal charges and judgments for the same

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[61] *In re, Marriage of Evilsuzor v. Sweeney* (abusive speech), 237 Cal. App. 4th 1215 (2015); *Hogue v. Hogue* (cyber abuse), 16 Cal. App. 5th 833 (2017); *Nevarez v. Tonna* (past proven behavior), 227 Cal. App. 4th 774 (2014); *Burquet v. Brumbaugh* (disturbing the peace), 223 Cal. App. 4th 1140 (2014).

[62] The Petitioner was exonerated twice in proceedings alleging threatening, and he was never charged with violating any restraining and/or protective order; id. 33.

conduct in various States, yet exclusively out of normative and judicial standards emanating from one single State –in this case, the State of Connecticut.

The Petitioner contends the State of Connecticut, from a legislative and judicial standpoint, cannot impose its criminal code on the entire nation as much as it cannot impose its temporary restraining orders that entail potential criminal charges in the same way and under federal punishment. The State of Connecticut cannot impersonate the federal government through its own legislative activity and judicial standards in every single other State of the country, and invoking federal legislation in such attempt does not change the outcome.[63]

Regarding the intra-State impact of federal legislation itself, it should be noted that the Court deemed unconstitutional various provisions of the expired *Violence Against Women Act (VAWA)* because they surpassed congressional power under the Commerce Clause and Section 5 of the Fourteenth Amendment.[64] For the sake of constitutional coherence, a single State cannot fill those shoes under similar premises via the Full Faith and Credit Clause and under U.S. Code § 2265. To be precise, this provision only addresses protective orders, not civil restraining orders –as VAWA did.

Indeed, certain local legislative effort cannot assume federal legislative authority, which is nonetheless subject to uneven local normative and judicial standards across the nation. The State of

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[63] Id. 17.

[64] *In re, United States v. Morrison*, 529 U.S. 598 (2000); *United State v. Lopez*, 514 U.S. 549 (1995).

Connecticut does not have constitutional authority to regulate potential criminal behavior of individuals subject to civil restraining orders outside its borders, under standards only applicable within its territory and upon federal enforcement. Such role and powers are outside the boundaries of the Full Faith and Credit Clause, do remain within the borders of each State per the Tenth Amendment, and cannot be validated through the Commerce Clause as it applies to the federal government.[65]

**2. Strict Scrutiny and Fundamental Rights: *de facto* Termination of Parental Rights and Impact on Property Rights.**

Pursuant to *Petition for Writ of Certiorari* before the Court dated 4/15/2019, the Petitioner argued the final ruling from *Justices Alvord, Lavine and Lego* had the practical outcome of *de facto* terminating the Petitioner's parental rights through a *status quo* of contempt to court and fraud by the Respondent, and not via the proper normative step per Connecticut General Statutes § 45a-717.[66] Please note both the district court and the Respondent deemed the Petitioner a loving parent and an outstanding father, respectively.[67]

The present ruling carries serious violations of this party's due process as a result of his unequal treatment under the law insofar fundamental rights.[68]

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[65] Id. 16, 17, 58, 60, 62, 64, Appendix U.

[66] Connecticut General Statutes § 45a-717; Appendix U.

[67] *Petition for Writ of Certiorari*, 4/15/2019, No. 18-1376, page 4, footnotes 2-3.

[68] *In re, Santosky v. Kramer*, 455 U.S. 745 (1982); *Meyer* v. *Nebraska,* 262 U.S. 390, 399, 401 (1923); *Pierce v. Society of Sisters,* 268 U.S. 510, 535 (1925); *May v. Anderson*, 345 U.S. 528

In the opinion of the Court, parental rights are of fundamental nature –intrinsically pegged to the concept of human dignity–, and, as such, their infringement calls for strict scrutiny.[69] Furthermore, such a judgment denied any financial relief, which also curtails this party's ability to exercise his parental rights, inspect his property, and enjoy the fruit of his working effort. Decimating the Petitioner's financial resources with decade-long litigation, as an informal retaliatory measure via the appeasement of local courts, is not proper.[70]

Regarding the civil restraining order under review, the judgment from the Appellate Court is summarized in its last paragraph as follows:

> "The judgment is reversed only as to the order requiring the defendant to stay 100 yards away from the plaintiff with an exception when both children are present, and *the case is remanded for a new hearing with respect to any order of protection, if proven necessary by the plaintiff, in situations where the defendant seeks interaction*

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(1952); *Armstrong v. Manzo*, 380 U.S. 545 (1965); *Stanley v. Illinois*, 405, U.S. 645, 651 (1972); *Wisconsin v. Yoder*, 406 U.S. 205, 232 (1972); *Quilloin v. Walcott*, 434 U.S. 246, 255 (1978); *Parham v. J. R.*, 442, U.S 584, 602 (1979); *Washington v. Glucksberg*, 521 U.S. 702, 720 (1997); *Troxel v. Granville*, 530 U.S. 57 (2000); *Chafin v. Chafin,* 133 U.S. 1017, 185 (2013).

[69] "…I would apply strict scrutiny to infringements of fundamental rights.", (Thomas, J., concurring).", *in re, Troxel v. Granville*, 530 U.S. 57 (2000).

[70] The Court recently rebuked court-related measures disproportionally impacting one's patrimony, even in the case of convicted felons under the Eight Amendment, *in re, Timbs v. Indiana*, 586 U.S. (2019).

> *with his children and the plaintiff is present.* The judgment is affirmed in all other respects."[71]

In simple terms, the Appellate Court left in the hands of the Respondent, following the threshold applied by the district court or not, the capacity to determine whether this party could exercise his parental rights in matters of life and death of his daughter as well as a unique event in the life of his son like high school graduation, all of which this tribunal was entirely aware of. Regardless of the aforesaid, the Petitioner did approach the Respondent to reverse this unjust situation without success.

It is this party's belief that whether a restraining order is necessary cannot be left to the subjective feelings and sayings of any given applicant, much less on fabricated and/or manipulated written exchanges for the occasion,[72] while violating this party's fundamental rights and severely affecting children. This is not what a restraining order is required for, and this is not why a restraining order is sought after in the first place.

The ruling under review has acted as the last nail in a coffin that extirpates the Petitioner's parental rights in a not so indirect fashion, considering that nobody asked for children to be included in any restraining order, and it thus represents a substantive matter of law in conflict with settled precedents from the Court.[73]

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[71] Italics added. This ruling refers to *"any order of protection"* and not of a *"civil restraining order",* in fact the only one granted by the district court.
[72] Id. 11.
[73] Id. 69, 69, 70, 76.

**3. Protected Speech; Ability to Exercise the Right to Bear Arms; and Political and Ideological Considerations.**

The Appellate Court typified the partially out-of-context protected speech of the Petitioner, based on the shared Christian beliefs of the parties,[74] as follows:

> "In the present case, *although the defendant did, in his communications to the plaintiff, refer back to the parties' legal proceedings and his religious beliefs,* the defendant also expressed, untethered, his negative feelings, of *hatred and anger*, toward the plaintiff. Moreover, he repeatedly emphasized, at length, how he felt that the plaintiff had *"completely destroyed his life"* and was to blame for the hardships he was facing. Thus, in light of the lengthy, repetitive and hostile nature of the defendant's communications, and the trial court's ability to supplement the written exhibits with its observation of the demeanor of the parties at the hearing, the trial court reasonably could have concluded that the defendant's written threatening communications constituted a pattern of threatening." [75]

It must be stated that the underlying reasons in the district court's ruling are unrelated to what the Appellate Court might lubricate in terms of reasonableness. Per above the district court clearly stated the grounds, and no other considerations in a few minutes of colloquy were taken into account to

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[74] Id. 11; *Petition for Writ of Certiorari,* 4/15/2019, No. 18-1376, page 7, footnote 11.
[75] Italics added.

grant such order. The Appellate Court attempts to recreate what the district court might have thought about it, including the demeanor of the parties –verified by the Appellate Court itself during oral arguments–,[76] when it was plainly stated.[77]

Although it is evident that there is no concrete or direct threat of any nature placing the Respondent's life at any risk,[78] something also acknowledged by the district court on record,[79] the Appellate Court puts forward as a magic trick the concept of *"hatred and anger"* only to argue in footnote 1 that this party did not properly brief his claims of protected speech. In other words, this tribunal equates hateful speech –as construed in this ruling, not even one single implied threat as understood by the district court– to the statutory requirement of a continuous threat or pattern of threatening intentionally placing the Respondent in imminent risk of physical harm; and simultaneously denies the Petitioner his right to claim his words are protected speech within a co-parenting

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[76] *In re, Byars v. U.S.* (constitutional violations via circuitous and indirect methods), 273 US 28 (1927).

[77] Appendix F.

[78] The Petitioner's words never entailed any concrete or true threat, fighting words, obscenity, and/or incitement. See Paul T. Crane, *"True Threats" and the Issue of Intent*, 92 Va. L. Rev. 1225 (2006); Leigh Noffsinger, *Wanted Posters, Bulletproof Vests, and the First Amendment: Distinguishing True Threats from Coercive Political Advocacy*, 74 Wash. L. Rev. 1209 (1999); Jennifer E. Rothman, *Freedom of Speech and True Threats*, 25 Harv. J.L. & Pub. Pol'y 283 (2001).

[79] "COURT: …the issue directly before the Court right now, which is whether there has been a recent pattern of threatening by you with respect to her. I agree with you that there have been no direct threats, but I do find that the applicant has carried the burden of proof that she has been subjected to a recent pattern of threats..." *(Truglia, J*), 9/12/2018, Appendix F.

context after having distinctively claimed so.[80] Please note the parties have a duty to dialogue and confer regarding their children per court orders,[81] which was the roadmap agreed by them and reflected in those orders. It is no mystery that the Respondent's violation of all co-parenting duties has hurt children and generated deep frustration in this party.[82] Indeed, there is no subject-matter jurisdiction.

Based on all of the aforesaid, it is neither reasonable for the Petitioner to have intentionally launched a true threat nor for the Respondent to argue that she actually received one,[83] and much less that the *Brandenburg* test has been verified herein.[84] What is clear from the record, however, is the Respondent's desire to have been threatened and to claim so for a variety of illegitimate reasons.[85] Please also note that there is nothing new in the Petitioner alleging his life has been completely destroyed through the actions triggered by the Respondent. He "*publicly*" addressed the impact of these proceedings either in writing or verbally at the divorce trial of 2010 and before the district court in 2011, at the appellate level in 2012, before the Court in 2013, again at the district court level in 2016, 2017 and 2018, once more at the appellate level in 2018 and 2019, as well as before the

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[80] In Connecticut an issue is subject to review if it was "distinctly raised at trial or arouse subsequent to the trial."*, in re, State v. Rogers,* 199 Conn. 453, 460, 508, A.2d 11 (1986); id. 11.

[81] *Petition for Writ of Certiorari,* 4/15/2019, No. 18-1376, Appendices D, F.

[82] Id. 11.

[83] *In re, Watts v. United States*, 394 U.S. 705 (1969); *NAACP v. Claiborne Hardware*, 458 U.S. 886 (1982); *Virginia v. Black*, 538 U.S. 343 (2003); *Elonis v. United States*, 575 U.S. (2015).

[84] *In re, Brandenburg v. Ohio*, 395 U.S. 444 (1969).

[85] Id. 11; Appendix F, footnote, A-34-35.

Court in 2019. In 2017, the Petitioner even pondered on record *(Heller, J)* the possibility of the parties *"hating each other"* because of the damage inflicted on children.[86] And the Court has long held that subjective emotions of any given audience are never content neutral to judge one's potential liability.[87]

As a result, the critical question is why saying in a public forum those decade-long truths that also engulf people other than the Respondent suddenly represent –in the midst of appellate proceedings– a continuous threat or pattern of threatening that places the Respondent's life at risk? Certainly, there is no reasonable explanation if it were not for public-motivated defamation and ulterior motives, the desire to distance the Petitioner from his children and their community as well as to expose this party to spurious criminal charges out of a protective or restraining order via entrapment –a proven pattern exercised in the past–, the Respondent's potential relocation to Spain with still a minor child, and the explicit goal of not allowing this party to pass by Greenwich First Selectman's residence –located at the end of a *cull de sac* less than 100 yards from the Respondent's home–, all in the midst of a legal process reiterating the illegal background of this case. None of these facts, effectively

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[86] "IRAZU: This is the process - - […] -- in which we might end up, as I am feeling right now, *hating each other*. The only bridge we were [supposed] to maintain was the one she didn't cross, which was co-parenting." (italics added), *Hearing before Judge Heller*, 2/28/2017, page 91; id. 11.

[87] As a principle of law, the Court has refused to impose liability because some speech in question may have an adverse emotional impact on the audience under the premise that any given listener's "reaction to speech is not a content neutral basis for regulation.", *in re, Forsyth Cnty. v. Nationalist Movement*, 505 U.S. 123, 134 (1992).

entertained by the district court *(Truglia, J)* as well as briefed and argued before the Appellate Court,[88] are mentioned in the ruling under review.

As quoted by the Appellate Court, some relevant passages refer to third-parties. Per above, these claims are neither new and were also made by the Petitioner before the judiciary in the past, and the Appellate Court cannot factor in the Petitioner's public appreciation of third-party's behaviors, including identity politics and various others,[89] when dealing with statutory grounds related to a continuous threat and/or a pattern of threatening which must intentionally place or attempt to place the Respondent's life at risk.

Justified in terms of a negative appreciation of the Respondent's behavior, the Petitioner did clarify that she has done everything possible for him to hate her. Yet, the Petitioner does not hate the Respondent and he did not say so. Please note that the one in particular displaying *"intemperate and disrespectful"* language has been the Respondent, as expressly ruled by the district court in the substantive proceedings *(Heller, J),* which were also reviewed by *Justices Alvord, Lavine, and Elgo.*[90] The Petitioner had also raised this issue before the district court without

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[88] Id. 11.

[89] The Court has stated that "a function of free speech under our system of government is to invite dispute. It may indeed best serve its high purpose when it induces a condition of unrest, creates dissatisfaction with conditions as they are, or even stirs people to *anger*.", *in re*, *Terminiello v. Chicago,* 337 U.S. 1 (1949).

[90] *Petition for Writ of Certiorari,* 4/15/2019, No. 18-1376, Appendices B, C.

success (*Truglia, J)*,[91] and the Appellate Court obviated any reference to the other party's behavior.

As part of his protected speech, the Petitioner does claim the right to be disliked and/or hated by others, because it allows him to be who he is and express his own anthropological, religious, and political beliefs without having to undergo fabricated restraining orders and/or being arrested for it.[92] Protected speech is never considered friendly for the very same reason that the latter does not need to be protected at any level. This is why others might deem protected speech offensive and hateful, and the Court has sheltered it without constraints either verbally or through other forms of expression.[93] In this sense, a restraining order is not designed to operate as thought control under the sword of criminal charges, with the goal of changing one's conscience, views and/or reality itself, as if it were to put a gag on the Petitioner because of truthful public statements in-and-out of the legal system and the exercising of his fundamental rights might prove unpleasant or inconvenient to others.[94]

Regarding the Petitioner having said that *"injustices are paid"* in the context of the parties' shared religious beliefs, parenting and achieving

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[91] Id. 11.

[92] "… If there be time to expose through discussion the falsehood and fallacies, to avert the evil by the processes of education, the remedy to be applied is more speech, not enforced silence. Only an emergency can justify repression. Such must be the rule if authority is to be reconciled with freedom." (Brandeis, J), *in re, Whitney v. California,* 274 U.S. 357 (1927).

[93] *In re, Snyder v. Phelps,* 562 U.S. 443 (2011); *Texas v. Johnson*, 491 U.S. 397 (1989); among others.

[94] *In re, Lane v. Franks*, 573 U.S. (2014); id. 90, 11.

justice within the legal system,[95] as well as counting on eternal justice after a Christian gathering of men within the public forum of a Church, where each one of them provides a life testimony and all pray together,[96] it is worth addressing the issue of hate and anger as good human passions to revert injustices, an attitude unrelated to violence, threats and alike.

Indeed, under the Christian faith Our Lord Jesus Christ displayed at different times the perfect passions of hate and anger,[97] as the aversion to something evil or repugnant, with the consequential strength of spirit to overcome a grave injustice. Modern Christian anthropology and scholastic theology are unanimous on this subject-matter.[98] If there were no passions

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[95] "I love judges, and I love courts. They are my ideals, that typify on earth what we shall meet hereafter in heaven under a just God", Mason, William Howard Taft, in III The Justices of the Supreme Court 1789-1978 2105 (L. Friedman and F. Israel ed. 1980), quoted in Scalia, Antonin, *Originalism: The Lesser Evil*, 57 U. Cin. L. Rev. 849 (1989).

[96] Id. 11.

[97] HATE (as passion): "Then Jesus saith to him: Begone Satan, for it is written, The Lord thy God shalt thou adore, and him only shalt thou serve. Then the devil left him; and behold angels came and ministered to him." (Matthew 4: 10-11). ANGER: "And looking round on them with anger, being grieved by their blindness of their hearts, he saith to the man: 'Stretch forth thy hand.'" [man with a withered hand] (Mark 3: 5); among others, Holy Bible, Douay-Rheims.

[98] "If we leave the tepid atmosphere of a moral theology mistrustful of all passion to enter the more realistic and bracing climate of the *Summa Theologica*, we find, surprisingly, that the *passio* of anger is defended rather than condemned. … […] … Wrath is the strength to attack the repugnant; the power of anger is actually the power of resistance in the soul ... understood as the passionate desire for just retribution of injustice.", Josef Pieper, "*The Four Cardinal Virtues: Prudence, Justice, Fortitude, and Temperance*.", 146, 193, Harcourt, Brace & World, Inc.

prompted by hate and anger to overcome evil deeds it is hard to imagine how contemplative dispositions alone could make a better world. In the case of the Petitioner, the complete destruction of his life and the damage inflicted on his children and his relationship with them are not indifferent to his dearest affections and priorities.

From a legal standpoint, potential feelings of *"hatred and anger"* –as solely construed by the Appellate Court– are not statutory grounds for a restraining order. As mentioned, the Petitioner accepts the possibility of being hated for his beliefs, as long as he could rely on his right to self-defense upon third-party criminal behavior directed at him and/or his dear ones. Although the Petitioner does not possess firearms, he is now precluded from doing so nationally per U.S. Code § 2262.[99]

As a result of the aforesaid, the constitutional issues related to protected speech and the right to bear arms conform a substantive matter of law in conflict with settled precedents from the Court.[100]

**4. Unequal Treatment Under the Law: Lack of Due Process and Right to be Timely Heard; Abuse of Process, Vexatious Lawsuit, and Illegitimate Advancement of Civil Claims.[101]**

The Petitioner argued before the Court his unequal treatment under the law by offering objective evidence per *Petition for Writ of Certiorari* dated

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[99] *In re, District of Columbia v. Heller*, 554 U.S. 570 (2008).
[100] Id. 76, 83, 84, 87, 89, 92, 93, 94, 99.
[101] Id. 11, 20, 24, 44, 45, 46, 48.

4/15/2019. The Appellate Court's ruling can also be scrutinized in a similar objective fashion:

> "On appeal, the defendant claims that, with respect to this hearing, the trial court violated his right to due process. Specifically, he argues that (1) "[he] was not allowed to ponder the veracity, accuracy and completeness of the exhibits admitted by the . . . court, which gave no consideration to the context, timing of the allegation, history of the case, fraud, deceit, false allegations, defamation, and falsehoods of all sorts by the plaintiff," (2) "[he] could not submit any evidence to make his case . . . or to question the [plaintiff] under oath," (3) "[j]udgment was rendered from the bench without proper analysis of [his] timely provided prehearing memorandum," and (4) "[he] was not allowed to review and compare [the plaintiff's] Spanish-English translation . . . and did not even receive copies of the exhibits." The defendant's contentions, however, are not supported by the record."
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> "The defendant did not dispute the fact of the arrests." […] "On appeal, the defendant claims that the court erred by ignoring "the plaintiff's [pattern of] advancing civil claims illegally…" There is, however, nothing in the record to support this claim."

The aforementioned statements are clearly erroneous pursuant to the record and evidence available to the Appellate Court,[102] as follows:

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[102] Id. 11, 24.

(i) On 10/1/2009, the divorce proceedings were triggered and supported by two illegal arrests and criminal processes for the occasion, based on false criminal charges that were unsubstantiated, dismissed, and/or discarded.[103] The Petitioner claimed such approach was geared at extorting civil benefits, including constant threats, and the Respondent acknowledged it under oath at the divorce trial.[104]

(ii) The Petitioner disputed the fact of his illegal arrests to the point of being legally entitled to claim that they never took place.[105]

(iii) On 10/6/2009, the Respondent pursued an *ex parte* restraining order to retain sole residence of the family home *pendente lite*.[106]

(iv) During 2009 and 2010 the Respondent and the Greenwich Police Department attempted to arrest the Petitioner for violations of a protective order by seeking conflict around custody issues.[107]

(v) On 11/22/2010, post-compliance with all financial orders in excess, the district court sequestered $27,000 of the Petitioner's property and modified the $1,000,000 life insurance policy of the parties in favor of the Respondent *(Malone, J)*.[108]

(vi) On 7/29/2011, the Petitioner was declared in contempt to court under *in situ* threats of

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[103] Id. 34.
[104] Id. 11.
[105] Id. 34.
[106] Appendix M; id. 24.
[107] Id. 24.
[108] *Petition for Writ of Certiorari*, 4/15/2019, No. 18-1376, Appendix E.

incarceration for non-existent debts, only for the officiating magistrate to later advise this party to appeal his own ruling *(Wenzel, J)*.[109]

(vii) During 2012 and 2013 the Petitioner faced further litigation[110] and on-going threats of criminal nature, among several other hardships.[111]

(viii) On 5/7/2014, the Petitioner established a *Child Support Obligations Trust* (paying $250,000),[112] based on a budget produced by the other side, but in 2015 he was sued by the Respondent for child support, welfare, and educational support orders.

(ix) On 6/10/2016, the Petitioner executed a Stipulation that relieved him of monetary claims of any nature whatsoever (paying $400,000) *(Tindill, J)*,[113] but a week later he was sued by the Respondent for contentious divorce (financial benefits and custody orders) in Spain, a fraudulent action that was concealed for a year and later declared null upon this party's request and *exequatur*.[114]

(x) On 12/15/2016, the Petitioner pursued justice, but the process was unethically delayed *(Colin,*

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[109] *Petition for Writ of Certiorari*, 2/12/2013, No. 12-10140, Appendix D.
[110] Id. 3.
[111] Id. 3, 11.
[112] *Child Support Obligations Trust* of 5/7/2014 (#202-203), FST-FA-09-4017497-S, Superior District of Stamford/Norwalk.
[113] *Petition for Writ of Certiorari*, 4/15/2019, No. 18-1376, Appendix D.
[114] Id. 2.

*J; Heller, J)* and judgment was rendered on 3/2/2018 and 5/14/2018 *(Heller, J).*[115]

(xi) On 9/12/2018, the Respondent obtained the restraining order under review, and based on official transcripts the district court rushed to judgment after a colloquy with the parties and a hearing tainted by due process issues *(Truglia, J).*[116] There was no real opportunity for the Petitioner to question the Respondent under oath and/or to submit evidence –fully available to the Appellate Court.[117]

(xii) On 2/12/2019, the Appellate Court rendered judgment on any and all proceedings *(Alvord, Lavine, Elgo, J).*[118] All defamatory allegations had also been proven at this level.[119]

(xiii) On 4/15/2019, the Respondent pursued motions against the Petitioner for vexatious lawsuit, abuse of process, sanctions, fees and ancillary, which were denied by the district court *(Truglia, J).*[120]

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[115] *Petition for Writ of Certiorari*, 4/15/2019, No. 18-1376, Appendix C.
[116] Id. 11, 59, 117.
[117] Holding a hearing does not necessarily mean due process requirements are met under applicable normative (18 U.S. Code § 2265) and case law: not only a hearing is required to issue protective orders (the outcome was a civil restraining order, outside such normative text), *in re*, *Connecticut v. Doehr*, 501 U.S. 1 (1991), but also the meaningful and timely opportunity to be truthfully heard and to be able to offer proof of one's sayings, *in re, Boddie v. Connecticut,* 401 U.S. 371 (1971), *Jenkins v. McKeithen*, 395 U.S. 411 (1969), id 20, 22.
[118] Appendices B, C.
[119] Id. 11.
[120] Appendices O, P.

(xiv) On 4/23/2019, the Appellate Court issued a new judgment as to the restraining order after this party's *Petition for Writ of Certiorari* of 4/15/2019.

The record before the Appellate Court vouches for this party's sayings, even when its judgment states otherwise with an unequal tone, standard, and measure against settled precedents of the Court.[121]

## CONCLUSION

The Petitioner pleads the Court to admit this *Petition for Writ of Certiorari*.

Respectfully submitted on July 18, 2019.

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[121] Id. 16, 20, 22, 58, 76; *in re*, *Yick Wo v. Hopkins*, 118 U.S. 356 (1886); *Murchison*, 349 U.S. 133, 136 (1950); *Caperton v. A.T. Massey Coal* Co, 556 U.S. 868 (2009).