

19-5707 ORIGINAL

Supreme Court, U.S.  
FILED

AUG 08 2019

OFFICE OF THE CLERK

IN THE

SUPREME COURT OF THE UNITED STATES

Sidney Jack Narciso-PETITIONER

VS.

Ex-Officio Judge Melody Walker, et al -RESPONDENTS

ON PETITION FOR A WRIT OF CERTIORARI

FROM: ALABAMA SUPREME COURT

PETITION FOR WRIT OF CERTIORARI

Sid J Narciso

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Oxford, AL 36203

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## QUESTIONS PRESENTED

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1) Biggest Question is how the Unified Judicial System including the Judicial Inquiry Commission can deny a citizen any and ALL review, appeal, and Extraordinary Petitions for redress of Rights Violations.

- a. Petition for Writ of Mandamus was never reviewed nor addressed.
- b. Appeal denied for inability to afford court transcripts; even after saying I could make payments.
- c. Denied request for Certiorari, mediation, and order of Remand by Alabama Supreme Court
- d. Denied intervention of Judicial Inquiry Commission because judge's boss is on that committee too.

2) Should federally funded Legal Services Alabama (LSA) and Legal services Corp (LSC) provide legal assistance for the other party when other party is represented with blank check Federal funding under THE LEGAL SERVICES ACT? When both parties are indigent and each is eligible; such representation unsurps the Rules of Equality in the Judicial process and Negates DUE PROCESS un-fairly.

- a. Where there's the need for a Guardian Ad-Litem to protect a child; Shouldn't the Legal Services Act be amended to provide such when both parties are indigent?
- b. Shouldn't Federal assistance be available to provide the cost of court transcripts to indigent party for an appeal; especially when severe consequences occurred under rights deprivation of losing parental rights? The Legal Service Act should assist in JUSTICE FOR ALL.

3) Can Alabama Court of Civil Appeals just deny any justice and redress just because an appealing party can't afford the record? Even after offering to make payments, Court of Appeals denied any and all recourse.

- 4) Can the Court of Civil appeals just decide to call a Petition of Mandamus an Appeal no matter how many objections? Can the court of Appeals deny rights of extraordinary writs just because party can't pre-pay for the record? If party has no money; can the court of appeals proceed with record in original form of audio recording before denying any redress?
- 5) Did judge Melody Walker have any jurisdiction with her simultaneous legal obligation to recuse due to FBI investigations of felony crimes?
- 6) Did judge Melody Walker have any jurisdiction with her simultaneous legal obligation to recuse due to conflicts of interests; personal and financial due to lawsuits at beginning of case.?
- 7) Where am I to get Due Process? Alabama Court of Appeals tried form of extortion; requiring \$1500 of transcripts before they would involve themselves in a Mandamus petition and/or an appeal.

I never had a Trial and my parental rights were taken away and I haven't been able to get a second chance for Due Process nor been able to regain some custody and visitation.

### **LIST OF PARTIES**

All parties DO NOT APPEAR in the caption of the case on the cover page. Here is a list of all parties to the proceeding in the court whose judgment is the subject of this petition:

**Ex-officio** judge Melody Brooks Walker, Cleburne County Court

120 Vickery St., Heflin, AL 36264

Circuit Clerk Warren G. Sarrell,

120 Vickery St., Heflin, AL 36264

Judge Ryan Robertson,

120 Vickery St., Heflin, AL 36264

Current and previous District Attorney,

120 Vickery St., Heflin, AL 36264

Presiding Judge Bryan Howell, -----also on **Judicial Discipline Council**

25W 11<sup>th</sup> st. #240, Anniston, AL 36201

Highland Health Systems.- Mickey turner

Circuit Clerk –Warren G. Sarrell 3<sup>rd</sup>

120 Vickery st.r.m 202,Heflin AL 36264

Highland Health Systems-Mickey Turner

331 East 8<sup>th</sup> st ; Anniston, 36202

Highland Health Systems.- Rebecca Howell-director

Highland Health Systems.- Michael Smith

Health Systems.- Jim in Heflin office

**Cleburne County DHR**

732 Oxford St

Heflin,AL 36264

Marsha Busby-director

Stacy Jackson social worker

**Cleburne county Sheriff Dept and Jail**

140 Lambert Dr.

Heflin,AL 36264

Sheriff Greene and jail staff

Jail staff2/08/17 thru 2/13/18

**Legal Services Alabama, et al**

1820 7<sup>th</sup> Ave. North, suite 200

Birmingham, AL 35203

Christopher McCary-staff atty.

Debra Henson-director LSA

Michael Forton-director LSA

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**Plaintiff:** Sidney Jack Narciso being a resident of Oxford, Alabama, father of H, ex-husband to Sandria Narciso, Having graduated Auburn University after courses of Engineering and Building Science had a 27 year career of construction engineering and management. Brings this Petition for a writ of CERTIORI IN THE SUPREME COURT OF THE UNITED STATES.

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**APPENDIX B**-Alabama Court Of Civil Appeals ruling-Dismissed Rehearing

And ALABAMA COURT OF CIVIL APPEALS FILINGS

**APPENDIX C- ALABAMA SUPREME COURT FILING**

**APPENDIX D- original MANDAMUS PETITION**

Tables of AUTHORITIES CITED

STATUTES AND RULES

28US1983 deprivation of rights under color of law

42US1988 right to attorney

18US241conspiracy

18US242color of law

18USC3571-denial provisions of constitution

18USC1621purjury

18USC3571 violation of oath

18USC872

18USC912-impersonation of judge

18USC 1001 false documents

18USC 1963 racketeering

18USC 1622subornating purjury

## Related Cases

**YickWo vs HOPKINS 118US.356** when law appears fair; but administered with a FIST; its discriminatory and BIAS. Law and court procedures that are "fair on their faces" but administered "with an evil eye or a heavy hand is discriminatory and violates the equal protection clause of the 14<sup>th</sup> amendment.

**WARD351so2d571** Court transcripts were provided in case where punishment was severe; ie, risk of incarceration is just as bad as losing son. I offered to make payments and still denied REDRESS. And DUE PROCESS.

**Bullock vs United States 763F.2d 1115** Fraud is where the court or a member is corrupted or influence is attempted or where the judge has not performed his /her function, thus where the impartial functions of the court HAVE BEEN DIRECTLY CORRUPTED.

**-INFORMA PAUPERIS Rule 24; Ala. R.App. P** – says party may proceed **without pre-payment** of fees. Sid Narciso offered to make payments to Alabama Court of Appeals; still denied Due-Process..

**Aetna Life Ins. Co. v.Lavoie 475 US 813 1986**—mere Probability of judge bias requires Recusal in order not to deny due process and fairness. Especially when there is a pending suit on an indistinguishable claim; judge must recuse. Must recuse if there is a pecuniary interest.

**1139 Mayberry v. Pennsylvania 400 US.455.464(1971)** judge can't hear a case case where she's been stung by remarks.

**Murchison 349 US 133,136(1955 )** Must recuse even if there is probability of bias.

**Holmes v.South Carolina,547 US 319** evidence of third party guilt CAN NOT BE excluded if there is strong forensic evidence establishing defendants culpability.

**McCulloh v. Maryland 1819** established federal governments implied powers over states.

This court must fix Legal services Alabama to insure everyone eligible for legal assistance gets legal assistance. Justice for all like Legal Services Act 1974 was intended.

**Marbury v. Madison**- The supreme court has the authority and right to declare a law unconstitutional.

**Gideon v. Wainright,1963**- famous case establishing right to an attorney to indigent defendants. 5<sup>th</sup> and 6<sup>th</sup> amendments require government to pay for attorney if a person can't.

Originally you were only entitled to attorney for capital crimes.

2000 inmates were released because they were denied due-process.

My sentence of being denied my son is worse than a jail sentence and should be ordered to have counsel to preserve this extreme consequence. Times have changed; people weren't losing children because of judges.

**Miranda v. Arizona**- importance to be advised of your rights.

In court we don't have police telling us and judges don't advise us in civil case.

**Roe v.Wade,1973** Supreme court ruled citizens have rights to privacy under the 14<sup>th</sup> amendment to decide if a baby lives. Conversely a parent should determine whether they can parent their child or not. NOT A STATE COURT JUDGE.

**Obergefell v. Hodges**- If the Supreme court can DEFY GOD'S LAWS and say that same sex marriage is RIGHT of choice in the United States; they are so powerful; they can do anything to please the peoples of our Country. The Supreme Court can grant attorney assistance to poor citizens facing loss of children.

**Brown vs. Board of Education 1954**-Most Important case. Times have changed; Equal rights should apply to fathers which are not getting equal treatment in our American Family Court systems. We fathers are separated but not Equal in the courts. If this court can grant Homosexuals with rights; Fathers across our Nation should be granted Equal rights under the 14<sup>th</sup> Amendment.

**Santoskey v. Kramer 455 US745(1982)**

**Young vs young 59SW.3d23(mo.App.2001)**

**Scott vs.scott,147S.W.3d 887(mo.App.2004)**

**Murphy vs. Carron, 536 SW2d30,32(Mo.banc 1976)**

## **OPINIONS BELOW**

**The opinion of the highest state court to review the merits appears at Appendix A-**

**Alabama Supreme court Denial of May 10,2019**

## **JURISDICTION**

The jurisdiction of this case is invoked under 28 US. § 1254(1)

The date on which the highest state court decided my case was May 10, 2019. A copy of that decision appears at APPENDIX A-

Less than 90 days since denial.

A timely petition for re-hearing was denied on the following date and a copy of the order denying Rehearing appears at APPENDIX C

The jurisdiction of this Court is invoked under 28 US. § 1257(a)

## **CONSTITUTIONAL AND STATUTORY PROVISIONS INVOLVED**

**United States Constitution**- all but particularly 14<sup>th</sup> Amendment

**18US241** Conspiracy against rights

**18US242** Color of law violations

**18USC912** Criminal impersonation of a judge

**Alabama codes 30-3-130 to 30-3-150 about custody**

## **STATEMENT OF THE CASE**

**I pray this court grants Writ or makes a summary opinion.**

**My minor son and I have been ripped apart 2years.**

Petitioner Sid Narciso has been denied any and all review of his case in small town of Cleburne County Alabama; specifically Heflin, Al. This is the same town where the NATIONALLY known case of "BABY HOLMS" case began in 2016. The newspapers reported this case; specifically that EX-OFFICIO **Judge Melody Walker** was involved in this conspiracy to deprive rights in this **Medical Kidnapping Case. Newspapers reported her as FORMER JUDGE OF CLEBURNE COUNTY.**

My case began when my case of contempt against my ex-wife was transferred to Cleburne County Alabama because the original court(Talladega) delayed hearings. I was trying to get my ex-wife to comply with any and all court orders.

My ex-wife's attorney Christopher McCary of LSA, wrote a pre-trial written contract to me to offset some of his clients contempt of court. We consummated contract by starting visitation again.

Because of impropriety in Cleburne court, Defendants stopped enforcing their own contract.

Plaintiff and father Sid Narciso has been denied visitation since; going on 2 years because of defendants' breach of contract and judge Walkers retaliatory prejudicial orders.

Judge Walker ordered a FIRST docket hearing to discuss venue and jurisdiction; but then bypassed it.

We had first hearing where Plaintiff presented ex-wife's contempt issues Pro-se 12/5/17.

Because attorney Chris McCary FALSELY accused me of being psychotic to judge; judge Walker suspended all my parental rights. Even though all medical evidence given her on first hearing date; Judge Walker contumaciously stripped father's rights.

Plaintiff Sid Narciso immediately accused judge Melody Walker of being Bias and prejudice and motioned to change venue and jurisdiction.

Judge Walker ordered a hearing to address set-aside motion; where Sid Narciso pleaded case why order should be set-aside; and why he should have temporary custody due his ex-wife's mental problems.

Ex-wife Sandria Narciso testified and said Mr Narciso is a good father. Defendants thru attorney Chris McCary began slandering Mr Narciso to the judge. Defendants committed fraud upon the court with perjury, falsified indigency application, and cut and pasted FACEBOOK postings which Judge Walker contumaciously admitted.

Since that day 12/19/17 Mr. Narciso sued Judge Walker for bias discrimination, failure to address venue and false jurisdiction. Plaintiff Sid Narciso motioned 8times for Judge Walker's sua-Sponte recusal since then.

Only other time plaintiff appeared again was Motion for MIS-TRIAL and NEW TRAIL. Plaintiff refused giving consent to proceed in Judge Walkers Court. Newspapers claimed Judge Walker to be "FORMER" judge.

News said Judge Walker was and Heflin DHR were being investigated by Federal Bureau of Investigation for felony charges of conspiracy and attempted conspiracy of MEDICAL KIDNAPPING associated with national "BABY HOLMS" case.

All attempts to change venue back, change jurisdiction, Recuse judge ;were DENIED.

Attempts to get redress from Judicial Inquiry Commission were unsuccessful since Judges boss is on that committee.

Mr Narciso contends that EX-OFFICIO Judge Walker NEVER had jurisdiction. Sandria Narciso did not meet residency requirements. Alabama Code 12-17-24.1 explicitly denies Cleburne County from having a circuit nor a family court. Judge Walker was elected as a DISTRICT JUDGE ONLY. Since her first orders; Judge Walker has changed her TITLE 3 times: District judge, Ex-Oficio judge, and even Circuit judge.

All requests to see her law license and Quo Warranto has been denied going on 2 years.

Mr. Narciso has a new lawsuit in Federal Court; Northern district cv1050CLN suing for Deprivation of rights under Title 28US §1983. Judge Walker is still retaliating and having illegal ex-parte hearings.

Plaintiff Sid Narciso is fearful for his life and scared of judge Melody Walker; as she has already incarcerated him once already illegally due to anger.

To this very day she is denying a STAY on the case. She denies striking orders without any jurisdiction. She denied Recusing 8/5/19. She is trying to get retaliation.

She presided over her last Recusal hearing and wouldn't continue Despite Hospital informing her I was having cardiac issues at the Emergency Room.

EVEN though original cause of case was ex-wife contempt; still no orders to stop her contempt. How bias is that. Judge Walker even let Sandra Narciso file frauded income statements without reprimand last week against objections.

I contend Every order was illegal without Jurisdiction.

See Alabama Supreme Court case and Alabama Court of Civil Appeals cases in Appendix

## **REASONS FOR GRANTING THE PETITION**

This petition is of **National importance** to the integrity of our judicial process and our rights under the Constitution for Due Process for all fathers trying to enforce their parental protected Rights . Inalienable rights to be a parent are being stripped away without courts affording fair trials and Due process. Legal Service Act 1974 doesn't work.

Federal tax money can't be used against pro-se fathers in court to overpower us who can't get legal assistance.

DUE-PROCESS is for everyone; In the Court we are all supposed to be EQUAL.

Appeals courts have to allow appeals to indigent FATHERS if they can't afford transcripts.

State Supreme Court of Alabama has to be reprimanded for not doing their job. **In approx. TWO years Alabama Supreme Court has not granted an appeal nor CERTIORARI to a Civil Domestic Relations case.**

I only asked for Certiorari to order; MEDIATION, ARBITRATION, REMAND, or OPPINION on LEGAL SERVICE ACT violations.

There has to be some way us poor fathers can appeal decisions and to have some legal assistance if our wives contracted with Legal Services first , who deny services based on conflict of interest. LSA or LSC could pay for independent lawyer if it's a conflict of interest.

**Judge Walker is working under Color of Law in Heflin,Alabama hurting families.**

## CONCLUSION

The petition for a writ should be granted.

Respectfully submitted,

Sidney Marcus

Date:

8/16/19