ORIGINAL

IN THE
Supreme Court of The United States

K.S.,

Petitioner,

v.

CONTRA COSTA COUNTY CHILDREN FAMILY SERVICES BUREAU ET AL.,

Respondents.

On Writ of Certiorari to the California Supreme Court

PETITION FOR A WRIT OF CERTIORARI

K.S.
C/O LAW OFFICE OF Q.T. PHAM
7950 FOOTHILL BLVD. #16
ROSEVILLE, CA 95747
PH. 916-218-2872
EMAIL: QTPLAW@GMAIL.COM

QUESTIONS PRESENTED

1. Whether the application of California Welfare and Institution Code, in this case, violated petitioner's constitutional rights under the Fifth, Sixth and Fourteenth Amendments.

2. Whether the decision of the California Supreme Court in the Cynthia D. v. Superior Court is unconstitutional because it is in direct conflict with the U.S. Supreme Court precedent Santosky v. Kramer.

LIST OF PARTIES

All parties **do not** appear in the caption of the case on the cover page. A list of all parties to the proceeding in the court whose judgment is the subject of this petition is as follows:

1. Minor child Y.G.
2. Contra Costa Children and Family Services Bureau.
3. The State of California through its attorney general (because petitioner challenges the constitutionality of California Welfare and Institution Code and a California Supreme Court decision, *Cynthia D. v. Superior Court*, 5 Cal. 4th 242 (Cal. 1993) under 28 U. S. C. § 2403(b).
4. R.G., father of Y.G

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IN THE

SUPREME COURT OF THE UNITED STATES
PETITION FOR WRIT OF CERTIORARI

Petitioner respectfully prays that a writ of certiorari is issued to review the judgment below.

OPINIONS BELOW

The opinion of the highest state court to review the merits appears at Appendices E and F to this petition and are not published. These are denials of petitions for reviews of an appeals and a writ of habeas corpus denied by the First District Court of Appeal of California whose decisions appearing in Appendix C and Appendix D, respectively.

CONSTITUTIONAL PROVISIONS INVOLVED

The Fifth, Sixth and Fourteenth Amendments of the United States Constitution.

JURISDICTION

The date on which the highest state court decided petitioner's cases was September 26, 2018. Copies of those two decisions appear at Appendices E and F.

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

STATEMENT OF THE CASE

In January 2016, the Contra Costa County Children and Family Services Bureau ("DCFS" or "county") filed a dependency petition on behalf of petitioner's toddler son, then almost 16 months old.

In December 2015, petitioner had a dispute with her landlord over the lease of her residence in Moraga. The property was not compliant with Section 8 regulations. The landlord wanted to terminate the lease, but they did not want to return the deposit. The landlord's daughter, a dentist and a mandatory reporter, called DCFS, alleged that petitioner let the child roaming the street unsupervised. DCFS social worker Susan Porter visited and decided that the allegation was false because of the age of the child and the steep staircase he would have to go down to reach the street. The landlord then provoked an incident by cutting off electricity in a cold night and called the police to arrest petitioner when she knocked on his door to complain about the lack of heat. From this incident, the landlord obtained a restraining order against petitioner to force her out of her home, bypassing the normal eviction process.

Petitioner had occasionally seizures so she had an arrangement with a nanny to take care child whenever she felt that a seizure would be forthcoming. Because of the restraining order, she could not go back to her home. Petitioner had to ask the nanny to retrieve personal belongings from petitioner's residence. The landlord called the police again alleging that the nanny was trespassing. They came and demanded the nanny to let them enter petitioner's home to see if petitioner was there against the restraining order. The nanny refused to give them permission to enter. The police arrested the nanny using excessive force, but they did not find petitioner in the residence. The police then found out that the nanny's name was on the lease. They arrested the nanny, alleging that she possessed meth. However, the nanny was never charged. Petitioner's child was not at the scene of the arrest.

Porter found out about the arrest and a previous CPS case involving petitioner's two older children. Even though Porter thought that petitioner's child was well taken care of and bonded well with her and the nanny, DCFS started the petition anyway to make the child a dependent of the court.

DCFS alleged that petitioner "has failed to protect the child by leaving the child with an inappropriate caregiver and mother has a mental health diagnosis that continues to need treatment." At the detention hearing[1], the court detained the child and found that reasonable services were provided to avoid the detention.

On April 13, 2016, at the combined jurisdiction and disposition hearing, petitioner requested that the court appointed her a different attorney because she was not happy with her court-appointed attorney's lack of diligent in defending her against the county's allegations. The appointed attorney, Pamela Gagliani, attempted to coerce petitioner into taking a no-contest plea in exchange for receiving "reunification services" from the county. Gagliani told petitioner that if she did not plead no-contest, the county could bypass reunification services and take her child right away. Petitioner was also threatened with the imposition of a guardian ad litem. This would have meant that petitioner was deemed mentally incompetent. This would have negative implication to her parental fitness.

In the Marsden hearing, Contra Costa County Judge John Laettner[2] joined in with Gagliani to coerce petitioner to take the no-plea deal. The judge made statements implying that the county could

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[1] For an explanation of the various stages of a juvenile dependency proceeding in California, please refer to pages a33-34 of Appendix E.

[2] The California Commission for Judicial Performance has initiated a discipline proceeding against Laettner with nine allegations including those involving coercions of pleas and making prejudicial statements in criminal cases after they received complaints against by public defenders. These misconducts are similar to what he did in the underlying dependency case. See http://www.abajournal.com/news/article/california_judge_accused_of_sexual_harassment_spanning_nearly_a_decade/ and also https://www.law.com/therecorder/2018/09/19/contra-costa-judge-accused-of-sexual-harassment-improper-comments.

bypass the reunification service if petitioner refused to take the no-contest plea deal offered by the County and pushed by Gagliani. Under the double threats of bypassed service and the imposition of a guardian ad litem, petitioner pled no-contest, forfeiting her opportunity for a trial to challenge the county's allegations and the court jurisdiction over her toddler son. The trial court denied the Marsden motion by petitioner. See Appendix A.

The threat of bypass was made fraudulently on the basis that the County could bypass reunification services and take her toddler child immediately because petitioner had a previous dependency case involving other children. However, the facts of the case did not allow for a bypass under California Welfare and Institution Code §361.5 (b). Even though there was a previous CPS case, there was no failure of reunification service because petitioner transferred the custody of the two children to their father and the previous case was dismissed. The county had to provide reunification services in the new case.

At the time, petitioner's the child was a toddler about a year and a half old. California fast-tracks adoption of children younger than three years old under Welfare and Institution Code §361.5(a)(1)(B). The state only gave petitioner only six-month performance improvement plan, or "reunification services."

Along the process, at least three sets of case social workers, supervisors, and directors from the county child welfare agency were assigned to the case. During this period, persistent labor issues with DCFS resulted in a strike and mass exodus of social workers. One case social worker and her supervisor went AWOL on leave of absence for months.

Petitioner first had only one-hour visitation weekly with her toddler son. She had to attend parenting class and undergo drug testing. DCFS knew that she was on amphetamines and Prozac. They insisted on her staying with the psychotropic medication prescribed by her psychiatrist.

Petitioner complied with the requirements in the reunification

plan even though one case social worker tried to send petitioner to a parenting class at night in a dangerous neighborhood where she could not travel by public transit.

Petitioner then discovered that her son was abused and neglected in foster care. On a visit, she found him with dirty clothes, long hair, bite marks and sores from a foot and mouth disease infection. He had an ear infection and could not hear well. His ears were filled with earwax. The child was incommunicative because he suffered from separation trauma.

Petitioner complained to DCFS. Thereafter the county started a campaign of retaliation. They claimed that the child had delayed language skills and autism. Even though petitioner had signed a medical and education consent at the detention hearing, the social worker requested another medical consent for the child to be treated for autism. Petitioner gave another consent as requested. The case social worker Tandrea Thysell sent her an email thanking her for cooperation. Then DCFS set a hearing in which Thysell stated in court that petitioner refused to sign the medical consent. When petitioner's appointed counsel refused to defend her against this allegation, petitioner spoke up in the courtroom. Judge Laettner expelled petitioner from the courtroom and took away her medical and education rights. The county used this expulsion as evidence of mental health issues against petitioner in their briefs in response to petitioner's appeals. Miraculously, within a few months, the child received a diagnosis that he was cured of autism!

The visitation supervisors and social workers claimed in their status reports that petitioner endangered her child by letting him wander into the street, too close to a pond and an elevator. However, these damaging allegations were less than the full truth. Around the same time or later, the child received a medical examination where the doctor noted that he could barely walk. He could not sprint away from petitioner mother who was just feet away. Sometimes the child was controlled by a scarf. The "busy" street is actually a driveway in a parking lot of a county office where the speed limit is 15 mph, and

there are many stop signs. The child could not have been in any danger of falling into the pond and drowned because there is a chain link fence around the shore and the water is about a foot deep, even yards from the shoreline. The child did not try to run into the elevator. He played with the elevator buttons just as any curious children who are usually fascinated with button presses.

Petitioner was involved with interpersonal disputes with a neighbor. She also suffered from an incident where she was put on hold by the police for being in a confused mental state. In one incident, her drink was spiked by at a public event. In another incident, she checked herself into a hospital because of suicidal ideation. In another incident, she showed up at a boyfriend's home late at night in a confused state. R.G., the father of the child filed a restraining order against petitioner to stay away from him and the paternal grandmother. He then asked petitioner to show up at his mother's home to get the money he promised to give her for a rent deposit (so that she could improve her chance of getting the boy back with stable housing). He then called the police to arrest her for violating the restraining order. Later, the county criminal court dismissed the charge against petitioner because there was no service of process and the grandmother told the court that she had no issue with petitioner. At the contested hearing for termination of parental rights, the county counsel still put doubts on this and other dismissals of charges against petitioner. DCFS diligently monitored all police reports and use those incidents as evidence of mental health issues against petitioner in status reports to the superior court and briefs to the state court of appeal.

In 2017, the juvenile dependency court held contested hearings to terminated petitioner's visitations and then her parental rights. The county counsel reduced the whole case down to a diagnosis that petitioner had incurable personality disorders (histrionic and borderline). The county counsel overrode the recommendations by the county's own psychological evaluator (a student intern working under the license of a psychologist) and insisted that the court terminated

petitioner parental rights.

Petitioner had to file an appeal pro-per against the termination of her visit and the setting of a hearing to terminate her parental rights. She failed miserably because she did not know much about the appeal process. In September 2017, the dependency court held a contested hearing and terminated petitioner's parental rights. See Appendix B. Petitioner filed an appeal with the help of a appointed panel attorney. The counsel limited her argument to the "beneficial exception." This exception is almost always a losing argument. For the past 20 years or so, only a handful of appellants could obtain reversal of the termination of parental rights. For a young toddler, this argument is always a loser. The county always claims that the child has already bonded with the foster parents.

The counsel knew of another case law, In re. Joaquin C., 15 Cal. App. 5th 537 (2017) but chose not to raise it. This case law requires that the state court must have more evidence than just mental illness to obtain jurisdiction over the child. The state must prove causation and have evidence of existing "serious physical harms or illness" and a "substantial risk" of such harm or illness.

In early 2018, while the above appeal was pending, petitioner obtained pro-bono help from another attorney for a writ of habeas corpus after the panel attorney did not want to take any action on the ineffective assistance of the trial counsel and the coercion of the no-contest plea. The new attorney quickly determined the root cause of petitioner "incurable personal disorders" after seeing the long list psychotropic medication given to her by her psychiatrist. Petitioner was taking **seven** psychotropic medications. Petitioner obtained confirmation his finding with two experts (a pharmacologist and a psychologist) that the amphetamines and Prozac must have interacted causing seizures and suicidal ideations. Another medication, Ambien could have been the cause of mental confusion and disorientation. These medications could also exacerbate the side effects of pain-killers given petitioner when she was hospitalized for a cut from broken glass. Petitioner's psychiatrist withheld information about the side

effects of multiple psychotropic medications. The county social workers, counsels and psychology intern knew about the prescribed mediation (at lease amphetamines and Prozac). They even required her to stay on the medication.

Petitioner later found out that at the same time, the same trial judge at the hearing for the termination of visitations and parental rights and the same minor counsel were prosecuting another mother for psychotropic overmedication of her child. In petitioner's case, they never mentioning anything about possible side-effects of psychotropic medication being the root cause of petitioner's "personality disorders."

Around the middle of 2017, because of a pregnancy, petitioner went off the psychotropic medications. All the psychological issues and "interpersonal" conflicts disappeared.

In the writ of habeas corpus, petitioner raised the above facts about the coerced plea, the fabrication of evidence and perjury by the social workers and the psychotropic medications and her recovery. Petitioner requested that the state court of appeal considered both the appeal and the writ of habeas corpus together.

The court of appeal refused petitioner's request to have the writ of habeas corpus counsel appear at the oral argument. The state court of appeal denied both the appeal (see Appendix C) and the writ of habeas corpus (see Appendix D). Because of appellate protocols, the appeal attorney did not want to bring up any facts at oral argument about the discovery of the cause of the incurable "personality disorders" theory by the county.

The court of appeal gave one reason for the denial of the writ of habeas corpus: the writ of habeas corpus is procedural barred because the jurisdictional time (60 days after the entry of the order) to challenge the trial court's jurisdiction order has passed.

Petitioner then filed two petitions of review with the California Supreme Court in July and August of 2018. In September 2018, after learning of the Commission for Judicial Performance's action against Judge Laettner petitioner attempted unsuccessfully to file a judicial

notice of the action. Two days later, on September 26, 2018, the California Supreme Court denied both petitions. See Appendix E and Appendix F. No reason was given for the denial.

REASONS FOR GRANTING THE PETITION

1. As applied, California dependency statutory schema under the Welfare and Institution Code and case laws violated petitioner's constitutional rights under the Fifth, Sixth and Fourteenth Amendments.

Title IV-E of the Social Security Act provides generous financial incentive for state and local government to take children from parents, put them up in foster care or adoption. California received billions of dollars in federal money ($2.4 billion in 2014[3]). The federal money goes to maintain the bureaucracy, staff salaries, and the state dependency system. California received from $5,000 to $8,000 for each successful adoption. This is in addition to reimbursement for administrative costs, etc. The incentive for the county level child protective services to target parents with young children easily adoptable is high. Child welfare, in this case, Contra Costa County DCFS, will initiate a petition to the state court, skipping over the federal requirements for reasonable services to prevent removal. All they need to do is to make up a prima facie case, and the dependency judges will rubber stamp the detention with a finding of reasonable services provided to parents to prevent the removal of the child.

On the pretext of public policy getting children out of foster care as soon as possible, California Welfare and Institution Code limited the timeline for parents of young children to 6 months. A couple of continuations of the jurisdiction hearing shortened this period making it even more difficult to successfully complete the reunification plan.

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[3] See https://www.childtrends.org/wp-content/uploads/2016/10/Child-Welfare-Financing-SFY2014_California.pdf

Violations of due process under the Fourteenth Amendment.

California accords social workers special exception to the rule of inadmissibility of hearsay. All hearsay that is contained in the "social study" (any written report provided by the social worker to the court and all parties) is admissible at a jurisdictional hearing so long as the social worker/preparer is made available for cross-examination and parties have an opportunity to subpoena and cross-examine the witnesses whose statements are contained in the report. Welfare and Institution § 355(b); see *In re Malinda S.*, 51 Cal.3d 368, 382–383 (Cal. 1990). At all hearings after jurisdiction, the social study is admissible regardless of the availability of the preparer for cross-examination. See *Andrea L. v. Superior Court*, 64 Cal.App.4th 1377, 1387 (Cal. Ct. App. 1998); *In re Corey A.*, 227 Cal.App.3d 339, 346–347 (Cal. Ct. App. 1991).

In Costa Costa County as well as other CPS agencies, social workers are hired with little real-life experience and thereafter provided with little training. They have to cope with heavy caseloads, hundreds of case a year. They are given little time to find ways to help families to prevent removal of children. In the petitioner's case, there was a constant turnover of social workers and even directors of DCFS. In this case as in most of the other cases, with pressure from above to terminate parental rights for federal incentive money, social workers will take shortcuts, lies, commit perjury, fabricate evidence against parents.

In the oral argument hearing for the case *Hardwick v. Cnty. Of Orange*, 844 F.3d 1112 (9th Cir. 2017), the justices in the Ninth Circuit were astounded at the length the State of California underwent to defend two social workers who lied to deprive a mother of her children.[4]

It is probably a career suicide for a dependency attorney to bring up perjury complaint against a lying social worker. His or her clients from now on will be marked for retaliation. Most likely, the attorney

[4] See https://www.ca9.uscourts.gov/media/view_video.php?pk_vid=0000010323

will draw ire from the dependency judge.

Parents are given very little time to visit their children. The county will make excuses of lack of staffs to create lengthy separation or to cancel visits. As a result, dependent children suffer separation trauma. They will feel abandoned and then they are coached into blaming the parents for the separation, rightly or wrongly. Any adverse reactions by the child during and after visits will be construed against the parents. Then the reactions will be used as evidence of detriment to justify termination of visitations or parental rights. It does not matter that the government tried their best to create the initial separation trauma and instability which could last a lifetime in adverse childhood experiences for the children. This happened in this case. See also the opinion of the court of appeal in Appendix E.

Litigant parents in California dependency proceedings are also statutory limits on discovery. They are not allowed to propound common discovery such as request for admissions, interrogatories, or make depositions. For Contra Costa County, parents are limited to get the social worker's case notes, the child's medical, educational, parent's drug test results, police reports and very little else.

Violation of the Fifth and Sixth Amendment Right to Effective Counsel.

Indigent parents are appointed counsels who are paid very little (e.g., about $65 a case a month in Contra Costa, upon information and belief). As a result, appointed counsels must carry large caseloads. In this case, petitioner's appointed counsel had about 125 ongoing cases. To challenge jurisdiction or the social worker's status report, it would take time to prepare and conduct trials. The temptation is great to take shortcuts, to throw your clients under the bus and acquiesce to the trial judge's decision. This happened to petitioner when her attorney colluded with the trial judge to force her to plead no-contest or when the attorney did not do much to counter social worker Thysell's perjury about the medical consent. It takes very little time to lie, but it

takes a lot of time, efforts and skills to impeach.

Parents are left alone in their interaction with the social workers one whose main functions is to gather derogatory and negative evidence against parents for use in their status reports. The State of California gives social workers a license to lie through a hearsay exception, and they take advantage of this allowance to overwhelm to defense with lies and fabrication of evidence.

2. The justifications for lowering the burden of proof by the government to terminate parental rights under the California Supreme Court case *Cynthia D. v. Superior Court* is not valid because the system is rigged against parents and children. The U.S. Supreme Court should find the Cynthia D decision unconstitutional because it is in direct conflict with the U.S. Supreme Court precedent *Santosky v. Kramer*.

In *Santosky v. Kramer*, 455 U.S. 745 (1982) the U.S. Supreme Court found that the "fair preponderance of the evidence" standard was inconsistent with due process because the private interest in parental rights affected was substantial and the countervailing government interest favoring the preponderance standard was comparatively slight. The court held that a clear and convincing standard adequately conveyed to the factfinder the level of subjective certainty about this factual conclusion necessary to satisfy due process, and that determination of the precise burden equal to or greater than that standard was a matter of state law properly left to state legislatures and state courts. The Santosky court held that application of at least "clear and convincing evidence" standard of proof to parental unfitness is required by the Fourteenth Amendment.

By the early 1990s, forty-nine states and the District of Columbia had integrated the clear and convincing burden into their parental rights termination schemes.[5] The California legislature

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[5] *Unpacking the Package Theory: Why California's Statutory Schema for Terminating Parental Rights in Dependency Child Proceedings Violates, the Due Process Rights of*

moved in the opposite direction and enacted a new statutory scheme that lowered the burden of proof. In 1993, the California Supreme Court decided in *Cynthia D. v. Superior Court*, 5 Cal. 4th 242 (Cal. 1993), that Santosky does not apply because the hearing terminating the parental rights follows a series of hearings (detention, jurisdiction, disposition, periodic reviews, termination of services, etc.) which by themselves guarantee that there is a low risk of an erroneous decision under the second prong of the *Mathews v. Eldridge*, 425 U.S. 319 (1976): "By the time termination is possible under our dependency statutes the danger to the child from parental unfitness is so well established that there is no longer "reason to believe that positive, nurturing parent-child relationships exist" and " By the time dependency proceedings have reached the stage of a section 366.26 hearing, there have been multiple specific findings of parental unfitness." *Cynthia D* at p. 253.

In Footnote 9, Santosky at 757, the court rejects the package theory put up by the respondent New York State: "Indeed, we would rewrite our precedents were we to excuse a constitutional defective standard of proof based on an amorphous assessment of the "cumulative effect" of state procedures." Cynthia D is therefore in direct conflict with Santosky.

Under California Welfare and Institution Code §366.26, at the last stage of a dependency proceeding where parental rights are terminated, the main (and mostly only) consideration only for adoption will be "by a clear and convincing standard, that it is likely the child will be adopted, the court shall terminate parental rights and order the child placed for adoption." There are a few exceptions against termination of parental rights under subsection (c)(1) such as the child living in a stable and permanent environment with a relative, a finding of detriment to the child when the parent has maintained regular visitation and the child would be benefit from continuing the

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Parents as Defined by the United States Supreme Court in Santosky v. Kramer, Konrad S. Lee and Matthew I. Thue, UC Davis Journal of Juvenile Law & Policy. See also https://jjlp.law.ucdavis.edu/archives/vol-13-no-1/Lee.pdf

relationship or the child over the age of 11 objecting to the termination, consideration for sibling relationship. The beneficial parent-child relationship exception seldom is a winning argument, especially in the when there is an easily adoptable a young toddler[6].

Justice Kennard dissented to the majority (Cynthia D, page 257 et. seq.) with the observation of the reality of the State v. ordinary parent:

> I now turn to the second factor of the test set forth in Mathews v. Eldridge, supra, 424 U.S. at page 335 [47 L.Ed.2d at pages 33-34]: the risk that using the "preponderance of the evidence" standard in the California juvenile dependency scheme may lead to an erroneous deprivation of parental rights. In Santosky v. Kramer, supra, 455 U.S. at page 761 [71 L.Ed.2d at pages 611-612], the United States Supreme Court held that the prospect for an erroneous deprivation of parental rights based on proof by a preponderance of the evidence, the standard adopted by the New York Family Court Act, was "significant." In part, the high court's conclusion rested on the state's *superior ability to assemble its case and the potential for cultural or class bias against the parents who, in most termination proceedings, are "poor, uneducated, or members of minority groups."* (Id. at pp. 763-764 [71 L.Ed.2d at pp. 612-615].)
> Although California's juvenile dependency procedures for terminating parental rights differ in certain respects from the procedures under the New York Family Court Act, *those differences do not appreciably diminish the potential risk of making an erroneous determination on the critical question under the California juvenile dependency scheme: whether the child should be returned to the parent(s).* When termination of parental rights is at issue under the California dependency statutes, the child will always be a dependent of the court and not in parental custody. This situation tends to magnify the state's ability to marshall its case. Moreover, the potential for class or cultural bias in a decision that will result in freeing a child for adoption by a family with greater resources than the

[6] Easily adoptable just as puppies and kittens from animal shelters.

natural parents is no less acute in California than in New York. [Emphases by italics added.]
Cynthia D. v. Superior Court, 5 Cal. 4th 242, 263-64 (Cal. 1993)

These concerns hold true the trial court for this case. Petitioner is a Muslim American, a visible minority, a victim of domestic violence with limited resources to fight back.

On one hand, the county limited its resource to provide reasonable service, to hire, train, retain, supervised, pay and retain good social workers. Porter, the social worker who initiated the case, has a history of domestic violence, assault and setting up her ex-husband for DUI to gain custody advantage. Social worker Thysell lacked cultural sensitivities and sympathy to a mother being separated from her toddler son. One visitation supervisor mistakenly thought that petitioner laid out a towel for a Muslim prayer when she in fact put out the towel on the lawn for a picnic with her son. The supervisor claimed that petitioner bent over and failed to monitor her son.

On the other hand, the county will spend asymmetric greater resources to set up their case against the parents. For federal incentive money, they are relentless in taking children from parents for adoption or for foster care, even when there is no provable danger, neglect or abuse.

In this case, as well as in most other indigent case, the appointed counsel colluded with the county and the trial judge to coerce petitioner into a no-plea contest, forfeiting her rights to confront the false allegations by the county in their detention petition.

The California dependency system is like a roach motel. They checked you in, and there is not much you could do to check out. The county marshaled its resources, as Justice Kennard feared, to build a case against petitioner with tried and true tactics, provocations and fabricated evidence.

No-one, in petitioner's case, bothered to ask what kinds of psychotropic medications prescribed to petitioner by her psychiatrist. How could they did not know when they were prosecuting another case at the same time on the issue of psychotropic medication and its side-

effects?

When someone found out about the root cause of the alleged incurable personality disorders, the county counsels for the appeal did not step forward to present to the court of appeal the exculpatory evidence. The court of appeal denied the writ of habeas corpus relying on the limit by *In re Carrie M.*, 90 Cal.App.4th 530, 533 (Cal.Ct.App. 2001) to only claims of ineffective counsel tied to the order still within the appealable jurisdictional time (60 days from the issuance of the order). The trial court denied the Marsden hearing. Petitioner was stuck with an attorney who insisted on the invalid no-contest plea. The court coerced her and gave her misleading legal advices. There is no possible way for another attorney with knowledge of bypass to learn of the facts. The transcript for the Marsden hearing was sealed. The full extent of the judicial coercion and misleading legal advices was not known until the habeas corpus attorney insisted on getting the transcript unsealed. The limitation did not allow petitioner to present exculpatory evidence (the psychotropic over-medications) and the change of circumstances (petitioner recovered fully after getting off the psychotropic medication, and there was no incurable personality disorder as diagnosed and alleged by the county counsel and believed by the trial judge).

Then in addition to the short timeline for the reunification plan and the DCFS social workers and visitation supervisors piled on the case records with exaggerations, fabricated evidence to confirm their biases against petitioner. The records were so polluted with falsehoods and damaging facts that most appellate attorneys would just give up. Even if someone had tried, the court of appeal, under the blinder of reviewing protocols, will defer to the trial judge's findings and conclusions and will not look outside the records or even consider the late discovery of the root cause of petitioner's mental health issue.

In short, we have here an example of injustice where a toddler who should never been taken away but was taken from a mother with mental health issues that could be resolved with reasonable services. The county bending on the outset to take the child from adoption so

they can get their federal incentive money.

Justice Kennard's dissent matches with the reality of California dependency system. The other justices from the California Supreme Court were out of touch. They made a conclusory statement about the low risk of erroneous decisions without any real statistical studies, or in legal terms, clear and convincing evidence. Every years tens of thousands of California children and parents are separated under a blatant unconstitutional scheme.

The Supreme Court should declare unconstitutional the California dependency statutory scheme and the Cynthia D ruling.

CONCLUSION

Petitioner's case is not an isolated occurrence. It is only one of many examples of egregious violations of Californian families, children, and parents. Indigents, minorities, parents, and children with disabilities, victims of domestic violence are targeted and victimized by heartless bureaucrats and people who swore to defend the Constitution.

These cases do not come to the attention of the United Supreme Court because few wants to rock the boats. The system is so rigged against families. Victims do not have the knowledge and resources to fight the injustices on tens of thousands of California residents every year.

California politicians were in great outrage in when immigrant children were separated by the Trump Administration. However, when it comes to their own citizens, they turn a blind eye, for profits, no less.

Petitioner would like to have her son back, and the Supreme Court scrutinizes constitutional violations by California dependency systems for all the victims.

WHEREFORE, petitioner respectfully requests that the petition for a writ of certiorari should be granted.

Date: May 13, 2018

Respectfully submitted,

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K.S., petitioner.