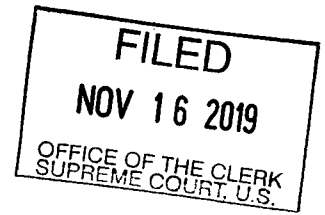


No. 19-6734

ORIGINAL



IN THE

SUPREME COURT OF THE UNITED STATES

Arthur Lopez – PETITIONER
(Your Name)

Cheryl Lopez vs. – RESPONDENT(S)

ON PETITION FOR A WRIT OF CERTIORARI TO

(NAME OF COURT THAT LAST RULED ON MERITS OF YOUR CASE)

PETITION FOR WRIT OF CERTIORARI

Arthur Lopez
(Your Name)

P.O. Box 13081
(Address)

Newport Beach, Ca 92658
(City, State, Zip Code)

949 467 0937
(Phone Number)

QUESTION(S) PRESENTED

- 1.) Should Male, Catholic-Christian Father of Mexican-Heritage and Hispanic-Latino Race who is permanently injured/disabled and unable to afford private counsel be afforded a Court Appointed Attorney in a Family Law Case where his Parental Rights have been deprived for approximately four years and where the State Court, by its own motion, has appointed minor's counsel, and, who has petitioned, and been granted, continued, complete alienation of Petitioner's Four Lovely Minor Children from their, not only Biological, but also Presumed, Father-Petitioner?
- 2.) Should Mexican-Heritage and Hispanic-Latino Race Minority, Male Father be provided the same protections and guarantees under the United States Constitution, including the Fourteenth Amendment, in "Parental Rights" Deprivation Cases involving his four minor children as White-Caucasian, Female Mother?

LIST OF PARTIES

- ☒ All parties appear in the caption of the case on the cover page.
- ☐ 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:

RELATED CASES

See following attachment / Itemization .

Related Cases :

15HM12251 - Superior Court of California, County of Orange
Harbor Justice Center - Newport Beach - Trial Court

16HM10451
M-18067 (G057987) - Superior Court of California, County of Orange - Santa Ana -
(Judge Cheri Pham) ^{Habeas Corpus} _{Habeas Corpus}
16D001283 - Superior Court of California, County of Orange
Lamoreaux Justice Center - Orange - Family Court

G054262 - California Court of Appeals 4th District, 3rd Div.
Santa Ana
↓ ↓
(See attached case detail)

G054361
G057379
G054626

G054770

G055004

G055199

G055356

G055448

G056017

G056216

G056467

G056564

G057060

G057239

G057278

+ G057462 +

G057649


G057773

G057987

G058069

Appellate Courts Case Information

4th Appellate District Division 3

Change court 

Court data last updated: 11/11/2019 01:49 PM

Case Summary

Trial Court Case:	16D001283
Court of Appeal Case:	G057462 —
Supreme Court Case:	S255865
Division:	
Case Caption:	Lopez v. Lopez
Case Type:	CV
Filing Date:	03/11/2019
Completion Date:	06/21/2019
Oral Argument Date/Time:	

Cross Referenced Cases:

G054262	Lopez v. Lopez
G054361	Lopez v. The Superior Court of Orange County
G054626	The People v. Lopez
G054770	Lopez v. The Superior Court of Orange County
G055004	Lopez v. Lopez
G055199	Lopez v. The Superior Court of Orange County et al.
G055356	Lopez v. Union Bank N.A. et al.
G055448	Lopez v. The Superior Court of Orange County
G056017	Lopez v. City of Santa Ana
G056216	Lopez v. The Superior Court of Orange County
G056467	The People v. Lopez
G056564	The People v. Lopez
G057060	The People v. Lopez
G057239	Lopez v. Lopez
G057278	Lopez v. Lopez
G057379	Lopez v. Lopez
G057649	Lopez v. Lopez
G057773	Lopez v. Lopez
G057987 —	— In re Arthur Lopez on Habeas Corpus
G058069	Lopez v. Lopez
G058521	Lopez v. Irvine Company LLC et al.

Click here to request automatic e-mail notifications about this case.

Related Cases-cont.#2:

E071093

- California Court of Appeals 4th District, Division 2
Riverside ↓ ↓ (See attached Case Detail)

E070899

E070663

E070307

E069559

S255865

- California Supreme Court (See attached Case Detail)
 ↓ ↓

S254047

S252084

S250265

S248959

S248949

S248943

S244235

S242910

S242335

S241477

S240272

S240134

┌ S244794
└ S248742 1S247603

Appellate Courts Case Information

4th Appellate District Division 2

[Change court ▼](#)

Court data last updated: 08/15/2019 12:11 PM

Case Summary

Trial Court Case: RIV1701781
Court of Appeal Case: **E069559**
Supreme Court Case: S250265
Division: Case Caption:
Arthur Lopez v. Cheryl Lopez
CV
11/22/2017
01/10/2019

Case Type:
Filing Date:
Completion Date:

Cross Referenced Cases:

<u>E070307</u>	Arthur Lopez v. Cheryl Lopez
<u>E070663</u>	Arthur Lopez v. Cheryl Lopez
<u>E070899</u>	Arthur Lopez v. Cheryl Lopez
<u>E071093</u>	Arthur Lopez v. Cheryl Lopez

[Click here](#) to request automatic e-mail notifications about this case.

<u>Supreme Court</u>	Court of Appeal	Trial Court
Case Number	Case Number	Case Number
<u>S255865</u> LOPEZ, MARRIAGE OF	G057462	16D001283
<u>S254047</u> PEOPLE v. LOPEZ	G057060	30-2016-00869605
<u>S252084</u> PEOPLE v. LOPEZ	G056467	15HM12251
<u>S252084</u> PEOPLE v. LOPEZ	G056467	30-2016-00833841
<u>S250265</u> LOPEZ v. LOPEZ	E069559	RIV1701781
<u>S248959</u> LOPEZ v. CA 4/2 (LOPEZ)		
<u>S248949</u> LOPEZ v. S.C. (PEOPLE)	G056216	30-2017-00953313
<u>S248943</u> LOPEZ v. CA 4/3 (LOPEZ)		
<u>S248742</u> LOPEZ v. S.C. (CITY OF SANTA ANA)		
<u>S247603</u> LOPEZ v. S.C. (CITY OF SANTA ANA)		
<u>S244794</u> LOPEZ v. UNION BANK	G055356	30-2012-00565803
<u>S244235</u> LOPEZ v. S.C. (PEOPLE)		
<u>S242910</u> LOPEZ v. S.C. (PEOPLE)		
<u>S242335</u> LOPEZ, MARRIAGE OF	G055004	16D001283
<u>S241477</u> LOPEZ v. S.C. (PEOPLE)	G054770	15HM12251
<u>S240272</u> LOPEZ v. S.C. (PEOPLE)	G054361	30-2016-00880306
<u>S240272</u> LOPEZ v. S.C. (PEOPLE)	G054361	15HM12251
<u>S240134</u> LOPEZ v. LOPEZ	G054262	16D001283

Related Cases, - Cont #3 :

30-2016-00833841

- Superior Court of California, County of Orange
Appellate Division - Santa Ana
↓ ↓

30-2016-00869605

30-2016-00880306

Related Cases Cont #4:

SACV 18-01835

United States District Court for the Central
District. Arthur Lopez v. California Court of Appeal
Manuel Ramirez

SACV 19-01143

Arthur Lopez v. Superior Court of California
County of Orange

SACV 17-02038

Arthur Lopez v. State of California,
et al

SACV 17-01466

* Arthur Lopez v. MUFJ Union Bank
*(also U.S. Court of Appeals for the 9th Circuit
Case # 18-55748 and
United States Supreme Court
Case # Pending)

Docket # 19A240

Arthur Lopez v. MUFJ Union Bank, NA.
United States Supreme Court

Docket

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APPENDIX B	California Court of Appeals 4 th District, 3 rd Division Case # L5057462 - April 16, 2019 Dismissal of Case
APPENDIX C	Superior Court of California, County of Orange Lamoreaux Justice Center - Case# 16D001283 March 11, 2019
APPENDIX D	California Statute Family Code § 7895 Mandating Appointment of Counsel for Indigent Parents and Free Transcripts
APPENDIX E	
APPENDIX F	

TABLE OF AUTHORITIES CITED

CASES

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* "See Attached Case Law"
Following

- United States Supreme Court
- 1) M.L.B. v. S.L.J. No. # 95-853
 - 2) Abley Gail Lassiter v. Dept. of S. Serv. of Durham Co, W.C.
No. 79-6423

STATUTES AND RULES

See Attached Following

OTHER

117 S.Ct. 555
 Supreme **Court** of the United States

M. L. B., Petitioner,

v.

S. L. J., Individually and as Next Friend of the Minor Children, S. L. J. and M. L. J., et ux.

No. 95-853.
 Argued Oct. 7, 1996.
 Decided Dec. 16, 1996.

Synopsis

Mississippi Chancery **Court** terminated mother's **parental rights**, and mother appealed. Appeal was thereafter dismissed because of mother's financial inability to comply with Mississippi statutes that required her to pay in advance record preparation fees estimated at \$2,352.36. Mississippi Supreme **Court** then denied mother's application to appeal in forma pauperis, and mother petitioned for writ of certiorari, which was granted, 116 S.Ct. 1349. The Supreme **Court**, Justice Ginsburg, held that Mississippi statutes in question violated equal protection and due process clauses of Fourteenth Amendment.

Reversed and remanded.

Justice Kennedy filed opinion concurring in judgment.

Chief Justice Rehnquist filed dissenting opinion.

Justice Thomas filed dissenting opinion in which Justice Scalia joined, and in which Chief Justice Rehnquist joined in part.

West Headnotes (6)

[Change View](#)

1 Constitutional Law

Choices about marriage, family life, and upbringing of children are among associational rights ranked as of basic importance in our society, rights sheltered by Fourteenth Amendment against State's unwarranted usurpation, disregard, or disrespect. U.S.C.A. Const.Amend. 14.

102 Cases that cite this headnote



92 Constitutional Law
 92XVI Freedom of Association
 92k1443 Familial association
 (Formerly 92k82(10))



92 Constitutional Law
 92XXVI Equal Protection
 92XXVI(E) Particular Issues and Applications
 92XXVI(E)16 Families and Children
 92k3735 In general
 (Formerly 92k225.1)



92 Constitutional Law
 92XXVII Due Process
 92XXVII(G) Particular Issues and Applications
 92XXVII(G)18 Families and Children

92k4382 Familial association, integrity, and
privacy in general
(Formerly 92k274(5))

2 Constitutional Law Infants

Mississippi statutes that conditioned indigent mother's right to appeal judgment terminating her **parentalrights** on prepayment of costs violated equal protection and due process clauses of Fourteenth Amendment; mother's parental termination appeal was to be treated as **Court** had treated petty offense appeals, and Mississippi could not withhold transcript mother needed to gain review of sufficiency of evidence to support termination. U.S.C.A. Const.Amend. 14; Code 1972, §§ 11-51-3, 11-51-29.

210 Cases that cite this headnote



92 Constitutional Law
92XXVI Equal Protection
92XXVI(B) Particular Classes
92XXVI(B)6 Poverty or Wealth; the Homeless
92k3228 **Court** and administrative costs or fees; assistance of counsel
(Formerly 92k225.1)



92 Constitutional Law
92XXVII Due Process
92XXVII(G) Particular Issues and Applications
92XXVII(G)18 Families and Children
92k4403.5 Removal or termination of **parentalrights**
(Formerly 92k4393, 92k274(5))



211 Infants
211I In General
211k1003 Constitutional, Statutory, and Regulatory Provisions
211k1006 Validity
211k1006(13) Dependent children
(Formerly 211k132)

3 Constitutional Law Infants

Due process alone did not require that Mississippi give indigent mother right to appeal from termination of her **parental rights**. U.S.C.A. Const.Amend. 14.

103 Cases that cite this headnote



92 Constitutional Law
92XXVII Due Process
92XXVII(G) Particular Issues and Applications
92XXVII(G)18 Families and Children
92k4403.5 Removal or termination of **parentalrights**
(Formerly 92k4393, 92k274(5))



211 Infants
211XIV Dependency, Permanent Custody, and Termination of Rights; Children in Need
211XIV(K) Appeal and Review
211k2374 Right of Review and Parties
211k2375 In general

(Formerly 211k242)

4 Criminal Law

Counsel at state expense in criminal case is constitutional requirement, even in the first instance, only when defendant faces time in confinement. U.S.C.A. Const.Amend. 14.

14 Cases that cite this headnote



110	Criminal Law
110XXXI	Counsel
110XXXI(B)	Right of Defendant to Counsel
110XXXI(B)1	In General
110k1711	Offenses, Tribunals, and Proceedings Involving Right to Counsel
110k1715	Penalty, potential or actual (Formerly 110k641.2(4))

5 Constitutional Law

When deprivation of parental status is at stake, counsel is sometimes part of process that is due. U.S.C.A. Const.Amend. 14.

29 Cases that cite this headnote



92	Constitutional Law
92XXVII	Due Process
92XXVII(G)	Particular Issues and Applications
92XXVII(G)18	Families and Children
92k4403.5	Removal or termination of parental rights (Formerly 92k4393, 92k274(5))

6 Costs**Infants**

Generally, fee requirements are examined only for rationality, and State's need for revenue to offset costs, in mine run of cases, satisfies rationality requirement; exceptions to that rule are fees that impede basic right to participate in political processes as voters and candidates, right of access to judicial processes in cases criminal or "quasi-criminal" in nature, and cases involving termination of **parental rights**. U.S.C.A. Const.Amend. 14.

97 Cases that cite this headnote

101 S.Ct. 2153
Supreme **Court** of the United States

Abby Gail LASSITER, Petitioner,

v.

DEPARTMENT OF SOCIAL SERVICES OF DURHAM COUNTY, NORTH CAROLINA.

No. 79-6423.
Argued Feb. 23, 1981.
Decided June 1, 1981.
Rehearing Denied Aug. 28, 1981.
See 453 U.S. 927, 102 S.Ct. 889.

Synopsis

The District **Court**, Durham County, Samuel F. Gantt, J., **terminated** a mother's **parental**rights and appeal was taken. The North Carolina **Court** of Appeals, Robert M. Martin, J., 43 N.C.App. 525, 259 S.E.2d 336 affirmed, and certiorari was granted. The Supreme **Court**, Justice Stewart, held that failure to **appoint** counsel for indigent **parents** in proceeding for **termination** of **parental** status did not deprive **parent** of due process in light of circumstances which included that petition contained no allegations upon which criminal charges could be based, no expert witnesses testified, case presented no specially troublesome points of law, and presence of counsel could not have made a determinative difference for petitioner; such decision does not imply that **appointment** of counsel is other than enlightened and wise.

Affirmed.

Chief Justice Burger filed concurring opinion.

Justice Blackmun filed a dissenting opinion in which Justice Brennan and Justice Marshall joined.

Justice Stevens filed dissenting opinion.

West Headnotes (15)

Change View

1 Constitutional Law

Due process has never been, and perhaps can never be, precisely defined. U.S.C.A.Const. Amend. 14.

47 Cases that cite this headnote



92

Constitutional Law

92XXVII

Due Process

92XXVII(B)

Protections Provided and Deprivations Prohibited in General

92k3875

Factors considered; flexibility and balancing

(Formerly 92k251)

2 Constitutional Law

Due process expresses requirement of fundamental fairness. U.S.C.A.Const. Amend. 14.

93 Cases that cite this headnote



92

Constitutional Law

92XXVII

Due Process

92XXVII(B)

Protections Provided and Deprivations Prohibited in General

92k3866

Fairness in general

(Formerly 92k251)

3 Constitutional Law

Applying the due process clause is an uncertain enterprise which must discover what fundamental fairness consists of in a particular situation by first considering any relevant precedents and then by assessing the several interests that are at stake. U.S.C.A.Const. Amend. 14.

155 Cases that cite this headnote



92	Constitutional Law
92XXVII	Due Process
92XXVII(B)	Protections Provided and Deprivations Prohibited in General
92k3875	Factors considered; flexibility and balancing (Formerly 92k252.5)

4 Trial

The preeminent generalization that emerges from United States Supreme Court's precedents on an indigent's right to **appointed** counsel is that such a right has been recognized to exist only where the litigant may lose his physical liberty if he loses the litigation. U.S.C.A.Const. Amend. 6, 14.

704 Cases that cite this headnote



388	Trial
388III	Course and Conduct of Trial in General
388k21	Presence of parties and counsel

5 Trial

As a litigant's interest in personal liberty diminishes, so does his right to **appointed** counsel. U.S.C.A.Const. Amend. 14.

139 Cases that cite this headnote



388	Trial
388III	Course and Conduct of Trial in General
388k21	Presence of parties and counsel

6 Constitutional Law

There is a presumption that an indigent litigant has a right to **appointed** counsel only when, if he loses, he may be deprived of his physical liberty and the other element of the due process decision, i. e., the private interest at stake, the government's interest, and the risk that the procedures used



92	Constitutional Law
92XXVII	Due Process
92XXVII(E)	Civil Actions and Proceedings
92k4017	Costs and Fees
92k4020	Indigents; proceedings in forma pauperis (Formerly 92k317(2))

will lead to erroneous decision, must be balanced against each other and then weighed against the presumption. U.S.C.A.Const. Amends. 6, 14.

799 Cases that cite this headnote

7 Child Custody

A parent's desire for and right to the companionship, care, **custody**, and management of his or her children is an important interest that undernably warrants deference and, absent a powerful countervailing interest, protection. N.C.G.S. §§ 7A-289.24, 7A-289.25(6), 7A-289.27, to 7A-289.30, 7A-289.34, 7A-587.

295 Cases that cite this headnote



76D	Child Custody
76DII	Grounds and Factors in General
76DII(A)	In General
76Dk22	Persons entitled in general (Formerly 285k2(1))

8 Infants

Parent's interest in accuracy and justice of decision to **terminate parental** status is an extremely important one. N.C.G.S. §§ 7A-289.24, 7A-289.25(6), 7A-289.27, to 7A-289.30, 7A-289.34, 7A-587.

150 Cases that cite this headnote



211	Infants
211XIV	Dependency, Permanent Custody , and Termination of Rights; Children in Need
211XIV(A)	In General
211k1816	Persons and Relationships Affected or Subject
211k1817	In general (Formerly 211k205)

9 Infants

In a proceeding to **terminate parental** status, the state shares with the **parent** an interest in a correct decision, has a relatively weak pecuniary interest in avoiding the expense of **appointed** counsel and cost of lengthened proceedings his presence may cause, and, in some but not all cases, has a possibly stronger interest in informal procedure. N.C.G.S. §§ 7A-289.24, 7A-289.25(6), 7A-289.27, to 7A-289.30, 7A-289.34, 7A-



211	Infants
211XIV	Dependency, Permanent Custody , and Termination of Rights; Children in Need
211XIV(A)	In General
211k1825	Interest, role, and authority of government in general (Formerly 211k194.1, 211k194)



211	Infants
211XIV	Dependency, Permanent Custody , and Termination of Rights; Children in Need

587; U.S.C.A.Const. Amends.
6, 14.

91 Cases that cite this
headnote

211XIV(J)

Counsel

211k2332

Right to Counsel

211k2338

Indigents and paupers; public
defenders

(Formerly 211k205)

10 Infants

Complexity of proceeding
to **terminate parental status**
and incapacity of
uncounselled **parent** could be,
but would not always be, great
enough to make risk of an
erroneous deprivation
of **parent's** rights
insupportably high. N.C.G.S.
§§ 7A–289.24, 7A–
289.25(6), 7A–289.27, to 7A–
289.30, 7A–289.34, 7A–
587; U.S.C.A.Const. Amends.
6, 14.

62 Cases that cite this
headnote



211

Infants

211XIV

Dependency, Permanent **Custody**,
and **Termination** of Rights; Children
in Need

211XIV(J)

Counsel

211k2332

Right to Counsel

211k2335

Parent or **parent** figure in general

(Formerly 211k205)

11 Constitutional Law

If, in a given proceeding
for **termination of parental status**,
the **parent's** interests were at
their strongest, the state's
interests were at their weakest,
and the risks of error were at their
peak, it could not be said that due
process did not
require **appointment** of
counsel. N.C.G.S. §§ 7A–
289.24, 7A–289.25(6), 7A–
289.27, 7A–289.29, 7A–
289.30, 7A–289.34, 7A–
587; U.S.C.A.Const. Amend. 14.

384 Cases that cite this headnote



92

Constitutional Law

92XXVII

Due Process

92XXVII(G)

Particular Issues and Applications

92XXVII(G)18

Families and Children

92k4403.5

Removal
or **termination of parental rights**

(Formerly 92k4393, 92k274(5))

12 Constitutional Law

Constitution does not
require **appointment** of counsel in
every **parental termination** proceeding

and decision whether due process calls for **appointment** of counsel for indigent **parent** in such proceedings must be answered in first instance by trial **court** subject to appellate review. N.C.G.S. §§ 7A-289.24 7A-289.25(6), 7A-289.27, 7A-289.29, 7A-289.30, 7A-289.34, 7A-587; U.S.C.A.Const. Amend. 14.

534 Cases that cite this headnote



92	Constitutional Law
92XXVII	Due Process
92XXVII(G)	Particular Issues and Applications
92XXVII(G)18	Families and Children
92k4403.5	Removal or termination of parentalrights (Formerly 92k4393, 92k274(5))

13 Constitutional Law

Failure to **appoint** counsel for indigent **parents** in proceeding for **termination of parental status** did not deprive **parent** of due process in light of circumstances which included that petition contained no allegations upon which criminal charges could be based, no expert witnesses testified, case presented no specially troublesome points of law, and presence of counsel could not have made a determinative difference for petitioner; such decision does not imply that **appointment** of counsel is other than enlightened and wise. N.C.G.S. §§ 7A-289.24, 7A-289.25(6), 7A-289.27, 7A-289.29, 7A-289.30, 7A-289.34, 7A-587; U.S.C.A.Const. Amend. 14.

329 Cases that cite this headnote




92	Constitutional Law
92XXVII	Due Process
92XXVII(G)	Particular Issues and Applications
92XXVII(G)18	Families and Children
92k4403.5	Removal or termination of parentalrights (Formerly 92k4393, 92k274(5))



14 Fourteenth Amendment imposes on state the standards necessary to ensure it that judicial proceedings are fundamentally fair. U.S.C.A.Const. Amend. 14.	92	Constitutional Law
	92XXVII	Due Process
	92XXVII(B)	Protections Provided and Deprivations Prohibited in General
	92k3867	Procedural due process in general (Formerly 92k305(1))

56 Cases that cite this headnote

15 Constitutional Law A wise public policy may require that higher standards be adopted than those minimally tolerable under the Constitution. U.S.C.A.Const. Amend. 14.		
	92	Constitutional Law
	92XXVII	Due Process
	92XXVII(B)	Protections Provided and Deprivations Prohibited in General
15 Cases that cite this headnote	92k3865	In general (Formerly 92k251)

****2155 Syllabus ***

***18** In 1975, a North Carolina state **court** adjudicated petitioner's infant son to be a neglected child and transferred him to the **custody** of respondent Durham County Department of Social Services. A year later, petitioner was convicted of second-degree murder, and she began a sentence of 25 to 40 years of imprisonment. In 1978, respondent petitioned the **court** to **terminate** petitioner's **parental** rights. Petitioner was brought from prison to the hearing on the petition, and the **court**, after determining, *sua sponte*, that she had been given ample opportunity to obtain counsel and that her failure to do so was without just cause, did not postpone the proceedings. Petitioner did not aver that she was indigent, and the **court** did not **appoint** counsel for her. At the hearing, petitioner cross-examined a social worker from respondent, and both petitioner and her mother testified under the **court's** questioning. The **court** thereafter **terminated** petitioner's **parental** status, finding that she had not contacted respondent about her child since December 1975, and that she had "wilfully failed to maintain concern or responsibility for the welfare of the minor." The North Carolina **Court** of Appeals rejected petitioner's sole contention on appeal that because she was indigent, the Due Process Clause of the Fourteenth Amendment required the State to provide counsel for her. The North Carolina Supreme **Court** summarily denied discretionary review.

Held :

1. The Constitution does not require the **appointment** of counsel for indigent **parents** in every **parental** status **termination** proceeding. The decision whether due process calls for the **appointment** of counsel is to be answered in the first instance by the trial **court**, subject to appellate review. Pp. 2158–2162.

(a) With regard to what the "fundamental fairness" requirement of the Due Process Clause means concerning the right to **appointed** counsel, there is a presumption that an indigent litigant has a right to **appointed** counsel only when, if he loses, he may be deprived of his physical liberty. The other elements of the due process decision—the private interest at stake, the government's interest, and the risk that the procedures used will lead to erroneous decisions, *Mathews v. *19 Eldridge*, 424 U.S. 319, 335, 96 S.Ct. 893, 903, 47 L.Ed.2d 18—must be balanced against each other and then weighed against the presumption. Pp. 2158–2160.

(b) The **parent's** interest in the accuracy and justice of the decision to **terminate parental** status is an extremely important one (and may be supplemented by the dangers of criminal liability inherent in some **termination** proceedings); the State shares with the **parent** an interest in a correct decision, has a relatively weak pecuniary interest in avoiding the expense of **appointed** counsel and the cost of the lengthened proceedings his presence may cause, and, in some but not all cases, has a possibly ****2156** stronger interest in informal procedures; and the complexity of the proceeding and the incapacity of the uncounseled **parent** could be, but would not always be, great enough to make the risk of an erroneous deprivation of the **parent's** rights insupportably high. Thus if, in a given case, the **parent's** interests were at their strongest, the State's interests were at their weakest,

and the risks of error were at their peak, the *Eldridge* factors would overcome the presumption against the right to **appointed** counsel, and due process would require **appointment** of counsel. Pp. 2159–2162.

2. In the circumstances of this case, the trial judge did not deny petitioner due process of law when he did not **appoint** counsel for her. The record shows, *inter alia*, that the petition to **terminate** petitioner's **parental** rights contained no allegations of neglect or abuse upon which criminal charges could be based; no expert witnesses testified; the case presented no specially troublesome points of law; the presence of counsel could not have made a determinative difference for petitioner; she had expressly declined to appear at the 1975 child **custody** hearing; and the trial **court** found that her failure to make an effort to contest the **termination** proceeding was without cause. Pp. 2162–2163.

43 N.C.App. 525, 259 S.E.2d 336, affirmed.

In re Ella B.

Download PDFCheck if overturned
Court of Appeals of the State of New YorkJun 8, 1972

30 N.Y.2d 352 (N.Y. 1972)Copy Citation

Cases citing this document

- Reist v. Bay Circuit Judge

The New York Court of Appeals similarly declared: "A parent's concern for the liberty of the child, as well...

- In re Weldon

The history of the conflict between Dahlari and her mother — a conflict which triggered the interest of the...

112 Citing cases

Summaries written by judges

- Holding that an individual who has a right to court-appointed counsel in a child neglect case must be advised of that right
Summary of this case from In re Adoption of J.D.F
- Holding that "an indigent parent, faced with the loss of a child's society, as well as the possibility of criminal charges, is entitled to the assistance of counsel"; "parent's concern for the liberty of the child, as well as for his care and control, involves too fundamental an interest and right to be relinquished to the State without the opportunity for a hearing, with assigned counsel if the parent lacks the means to retain a lawyer"; and since a right to counsel exists, "it follows that one is entitled to be so advised"
Summary of this case from In re "A" Children
- Explaining that if a parent were not advised of the right to counsel, "there could be no assurance either that he knew he had such a right or that he had waived it"
Summary of this case from Chris L. v. Vanessa O. (In re Natalia O.) 9 Summaries

Chief Judge FULD.

Whether the Family Court is required to advise an indigent parent, charged with child neglect, that he is entitled to be represented by assigned counsel is the question presented by this appeal.

The Family Court Act (§ 1043, subd. [a]; prior to May 1, 1970, § 343, subd. [a]) makes provision for legal representation but is silent with respect to the right of indigent parents to assigned counsel:

"The court shall advise the parent or other person legally responsible for the child's care of a right to be represented by counsel of his own choosing and to have an adjournment to send for counsel and consult with him."

The order appealed from should, therefore, be modified, without costs, and the matter remitted for further proceedings in accordance with this opinion and, as so modified, affirmed.

Judges BURKE, SCILEPPI, BERGAN, BREITEL, JASEN and GIBSON concur.

12 Cal.4th 226
Supreme Court of California.

In re BRYCE C., a Minor.
VERNON S., Petitioner and Appellant,
v.
JEROME C., Objector and Respondent.

No. S040932.
Dec. 26, 1995.

Synopsis

Following decision of the Superior Court, Kern County, No. 293962, Gary T. Friedman, J., refusing stepfather's petition to declare child free from **parental custody** and control, father requested appointment of appellate counsel to represent him in stepfather's appeal. The Court of Appeal denied request. Father petitioned for review. The Supreme Court, Arabian, J., granted petition and held that Court of Appeal had authority but was not required to appoint appellate counsel for father.

Reversed and remanded.

Kennard, J., filed opinion concurring in part and dissenting in part.

24 Cal.3d 22
 Supreme **Court** of California, In Bank.

Julia Ann SALAS, Plaintiff and Respondent,
 v.
 Miguel Martinez CORTEZ, Defendant and Appellant.
 DAVID M., a minor, etc., et al., Plaintiffs and Respondents,
 v.
 David Duran CASTELLANOS, Defendant and Appellant.

L.A. 30971.
 April 11, 1979.
 Rehearing Denied May 17, 1979.

Synopsis

Suits were instituted at behest of state to determine parentage of minor children. The Superior **Court**, Ventura County, Robert R. Willard and Lawrence Storch, JJ., entered adverse judgments from which defendants appealed. The Supreme **Court**, Bird, C. J., held that: (1) due process requires **appointment** of counsel to represent indigent defendants in paternity proceedings wherein state appears as a party or appears on behalf of mother or child, and (2) judgments which were entered against individuals by involuntary default when, without assistance of counsel, each individual was found to be father of child in each case on basis of alleged facts which were deemed admitted because not contradicted and testimony of mother which was not subjected to cross examination were subject to being reversed and cases were subject to being remanded to trial **court** for purpose of **appointing** counsel for individuals if they could demonstrate that indigency.

Reversed and remanded.

Richardson, J., dissented and filed opinion which Clark and Manuel, JJ., concurred.

Opinion, Cal.App., 145 Cal.Rptr. 727, vacated.

West Headnotes (13)

[Change View](#)

- 1 Constitutional Law**
 Central to the due process right under the Federal and State Constitutions is the guarantee that absent a countervailing state interest of overriding significance, persons forced to settle their claims of right and duty through the judicial process must be given a meaningful opportunity to be heard. U.S.C.A.Const. Amend. 14; West's Ann.Const. art. 1, § 7(a).

5 Cases that cite this headnote



92	Constitutional Law
92XXVII	Due Process
92XXVII(E)	Civil Actions and Proceedings
92k3953	Notice and hearing in general (Formerly 92k305(2))

2 Constitutional Law

Due process guarantee that persons forced to settle their claims of right and duty through the judicial process be given a meaningful opportunity to be heard includes the right of a defendant to **appointed** counsel under certain circumstances regardless of whether the action is labeled criminal or civil. U.S.C.A.Const. Amend. 14; West's Ann.Const. art. 1, § 7(a).

9 Cases that cite this headnote



92 Constitutional Law
 92XXVII Due Process
 92XXVII(E) Civil Actions and Proceedings
 92k3991 Trial
 92k3992 In general
 (Formerly 92k314)



92 Constitutional Law
 92XXVII Due Process
 92XXVII(H) Criminal Law
 92XXVII(H)10 Counsel
 92k4800 In general
 (Formerly 92k268.1(1))

3 Constitutional Law

Touchstone of due process is fundamental fairness. U.S.C.A.Const. Amend. 14; West's Ann.Const. art. 1, § 7(a).

9 Cases that cite this headnote



92 Constitutional Law
 92XXVII Due Process
 92XXVII(B) Protections Provided and Deprivations Prohibited in General
 92k3866 Fairness in general
 (Formerly 92k251.3)

4 Constitutional Law

Whether due process requires **appointment** of counsel in a particular case depends on interests involved and nature of proceedings. U.S.C.A.Const. Amend. 14; West's Ann.Const. art. 1, § 7(a).

5 Cases that cite this headnote



92 Constitutional Law
 92XXVII Due Process
 92XXVII(E) Civil Actions and Proceedings
 92k3991 Trial
 92k3992 In general
 (Formerly 92k314)

5 Parent and Child

If paternity is to be determined in an adversary proceeding at the behest of the state, the interests of all concerned demand that the defendant be able to defend fully and fairly. West's Ann.Welfare & Inst.Code, §§ 11350.1, 11475.1; West's Ann.Civ.Code, §§ 7001, 7006.



285 **Parent and Child**
 285II Proceedings to Determine Parentage
 285II(A) In General
 285k160 Trial or Hearing
 285k161 In general
 (Formerly 76Hk57 Children Out-Of-Wedlock, 205Ak57 Illegitimate Children)

6 Parent and Child

There is no state interest sufficiently compelling to



285 **Parent and Child**

warrant depriving an indigent defendant of counsel at time crucial determination is made in a paternity proceeding that he is legally to be considered a child's father. West's Ann.Welfare & Inst.Code, §§ 11350.1, 11475.1; West's Ann.Civ.Code, §§ 7001, 7006.

7 Cases that cite this headnote

285II	Proceedings to Determine Parentage
285II(A)	In General
285k158	Counsel
	(Formerly 76Hk57 Children Out-Of-Wedlock, 205Ak57 Illegitimate Children)

7 Parent and Child

Appointment of counsel for indigent defendants will make fact-finding process in paternity cases more accurate and thereby further legitimate interests of the state in securing support for dependent children. West's Ann.Welfare & Inst.Code, §§ 11350.1, 11475.1; West's Ann.Civ.Code, §§ 7001, 7006.

15 Cases that cite this headnote



285	Parent and Child
285II	Proceedings to Determine Parentage
285II(A)	In General
285k158	Counsel
	(Formerly 76Hk57 Children Out-Of-Wedlock, 205Ak57 Illegitimate Children)

8 Child Support

Parent and Child

Legitimate interests of state in ascertaining **parent** each of minor children and enforcing **parental** support obligations will be furthered if accuracy and fairness of paternity suits are improved by providing for representation of indigent defendants. West's Ann.Welfare & Inst.Code, §§ 11350.1, 11475.1; West's Ann.Civ.Code, §§ 7001, 7006.

11 Cases that cite this headnote



76E	Child Support
76EV	Proceedings
76EV(C)	Hearing
76Ek210	In general
	(Formerly 76Hk57 Children Out-Of-Wedlock, 205Ak57 Illegitimate Children)



285	Parent and Child
285II	Proceedings to Determine Parentage
285II(A)	In General
285k158	Counsel
	(Formerly 76Hk57 Children Out-Of-Wedlock, 205Ak57 Illegitimate Children)

9 Parent and Child

When state initiates paternity proceedings, whether on behalf of mother or on behalf of child, state owes it to child to ensure that an accurate determination of parentage will be made. West's Ann.Welfare & Inst.Code, §§



285	Parent and Child
285II	Proceedings to Determine Parentage
285II(A)	In General
285k160	Trial or Hearing
285k161	In general

11350.1, 11475.1; West's
Ann.Civ.Code, §§ 7001, 7006.

2 Cases that cite this
headnote

(Formerly 76Hk57 Children Out-
Of-Wedlock, 205Ak57 Illegitimate
Children)

10 Constitutional Law

Due process
requires **appointment** of
counsel to represent indigent
defendants in paternity
proceedings wherein state
appears as a party or appears
on behalf of mother or
child. West's Ann.Welfare &
Inst.Code, §§
11350.1, 11475.1; West's
Ann.Civ.Code, §§ 7001, 7006.

32 Cases that cite this
headnote



92	Constitutional Law
92XXVII	Due Process
92XXVII(G)	Particular Issues and Applications
92XXVII(G)18	Families and Children
92k4390	Parent and Child Relationship
92k4392	Children out-of-wedlock; paternity (Formerly 92k306(1))

11 Courts

Rule that due process
requires **appointment** of
counsel to represent indigent
defendants in lawsuits brought
at behest of state to determine
parentage of minor children is
applicable in all cases not final
as of date of opinion
announcing rule. West's
Ann.Welfare & Inst.Code, §§
11350.1, 11475.1; West's
Ann.Civ.Code, §§ 7001, 7006.

4 Cases that cite this
headnote



106	Courts
106II	Establishment, Organization, and Procedure
106II(H)	Effect of Reversal or Overruling
106k100	In General
106k100(1)	In general; retroactive or prospective operation

12 Courts

In cases where a judgment of
paternity has become final,
fact that defendant did not
have counsel may not be
advanced as a reason to
attack that judgment. West's
Ann.Welfare & Inst.Code, §§
11350.1, 11475.1; West's
Ann.Civ.Code, §§ 7001, 7006.

2 Cases that cite this
headnote



106	Courts
106II	Establishment, Organization, and Procedure
106II(H)	Effect of Reversal or Overruling
106k100	In General
106k100(1)	In general; retroactive or prospective operation

13 Parent and Child

Judgments which were
entered against individuals in
paternity proceedings by
involuntary default when,
without assistance of counsel,
each individual was found to

be father of child in each case on basis of alleged facts which were deemed admitted because not contradicted and testimony of mother which was not subjected to cross-examination were subject to being reversed on due process grounds and cases were subject to being remanded for purpose of affording trial **court** an opportunity to **appoint**counsel for individuals if they could demonstrate their indigency. West's Ann.Welfare & Inst.Code, §§ 11350.1, 11475.1; West's Ann.Civ.Code, §§ 7001, 7006.

37 Cases that cite this headnote

IN THE
SUPREME COURT OF THE UNITED STATES

PETITION FOR WRIT OF CERTIORARI

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

OPINIONS BELOW

☐ For cases from **federal courts**:

The opinion of the United States court of appeals appears at Appendix _____ to the petition and is

- ☐ reported at _____; or,
☐ has been designated for publication but is not yet reported; or,
☐ is unpublished.

The opinion of the United States district court appears at Appendix _____ to the petition and is

- ☐ reported at _____; or,
☐ has been designated for publication but is not yet reported; or,
☐ is unpublished.

☒ For cases from **state courts**:

The opinion of the highest state court to review the merits appears at Appendix A to the petition and is

- ☐ reported at _____; or,
☐ has been designated for publication but is not yet reported; or,
☒ is unpublished.

The opinion of the _____ court appears at Appendix _____ to the petition and is

- ☐ reported at _____; or,
☐ has been designated for publication but is not yet reported; or,
☐ is unpublished.

JURISDICTION

☐ For cases from **federal courts**:

The date on which the United States Court of Appeals decided my case was _____.

☐ No petition for rehearing was timely filed in my case.

☐ A timely petition for rehearing was denied by the United States Court of Appeals on the following date: _____, and a copy of the order denying rehearing appears at Appendix _____.

☐ An extension of time to file the petition for a writ of certiorari was granted to and including _____ (date) on _____ (date) in Application No. ____ A ____.

The jurisdiction of this Court is invoked under 28 U. S. C. § 1254(1).

☒ For cases from **state courts**:

The date on which the highest state court decided my case was June 19th, 2019.
A copy of that decision appears at Appendix A.

☐ A timely petition for rehearing was thereafter denied on the following date: _____, and a copy of the order denying rehearing appears at Appendix _____.

☒ An extension of time to file the petition for a writ of certiorari was granted to and including November 16, 2019 (date) on October 15, 2019 (date) in Application No. 19 A 358.

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

CONSTITUTIONAL AND STATUTORY PROVISIONS INVOLVED

United States Constitution Civil Rights
14th Amendment

- CA Family Code § 7895

1ST Statement of Facts

1 Most Honorable United States
2 Supreme Court this case arises
3 from the State of California relentless
4 Crusade to alienate Petitioner and his
5 four minor children from each other going
6 back to November 22, 2015.
7 Petitioner was married to his ex-spouse
8 on October 20, 2001 and fathered four
9 lovely children who were born June 30, 2002,
10 January 12th, 2005, July 17th, 2006 and
11 October 11th, 2011. The first two born
12 were girls and upon the youngest's arrival
13 Petitioner became the Primary Caregiver of
14 all four since his ex-spouse chose
15 and preferred to return to a standard
16 office work schedule.
17 Fast forwarding to the unfortunate and
18 life changing events of November 22nd, 2015,
19 Petitioner and Respondent became permanently
20 separated following the very difficult &
21 circumstances that included Petitioner being
22 assaulted by Respondent, who was the initiating
23 aggressor but never charged by the bias investigators
24 involved in presenting a report to the O.C. District
25 Attorney that gave rise to Misdemeanor Case # 15HM12251.
26 The bias officers withheld evidence and is the
27 basis for an ongoing Habeas Corpus petition before the
28 California Supreme Court S257770. Moreover,

1st Statement of Facts

Following the jury trial for Case # 15HM12251, Petitioner was found "Not Guilty" of 3 bogus charges, these included 1.) NO Wrongdoing whatsoever as to Petitioner's ex-wife, 2.) NO Wrongdoing, of a lesser charge, as to Petitioner's ex-wife and 3.) NO Wrongdoing whatsoever as to Petitioner's son (N.A.L.).

In addition, Petitioner was never charged with any wrongdoing whatsoever as to 2 of his, not involved, other children. Through the altercations that unfolded, however, Petitioner was Found Guilty of Abuse/Child Endangerment for having spanked his oldest daughter one time with an open hand, leaving no marks, whatsoever, on her left shoulder. Petitioner was also found guilty of a misdemeanor cell phone interference charge and consequently was sentenced to 30 days total in custody in addition to some fines. However, the trial judge also issued a 3 year no-contact order against Petitioner precluding him from seeing, writing or any contact whatsoever with all of his four children, including the three non-victim children. This unlawful (based on clear California Case law)-court order is the basis for Petitioner's case with this court under Docket # 19-6472, please take judicial notice.

Fast forwarding to the conclusion of said unlawful Protective order which expired 1/14/2019,

§

1st Statement of Facts

Petitioner attempted to get permission from his ex-wife to wish his second born daughter a Very Happy Birthday by phone since she had just turned "14" on January 12th, 2019 and there no longer existed a no-contact order as it had just expired. However, not only was Petitioner not granted permission by Respondent but rather never even received a call back and instead Petitioner found himself again consumed by filings and hearings in the State Family Court - Lamoreaux Justice Center - Superior Court of California, County of Orange. The net result of all of these hearings and filings has been a continuance of the initial three year alienation from his four children - three of which have nothing to do with the ongoing Habeas Corpus case as the misdemeanor convictions related to Petitioner's oldest daughter who is now 17. The state courts have refused to permit even phone calls to Petitioner's children, minors counsel has been appointed and he has moved the court to continue this alienation despite Petitioner's exemplary record before and after the events of November 22nd, 2015. Petitioner is currently involved in several Appeals related to these

15th

STATEMENT OF THE CASE

deprivation tactics by the Respondent, Minor's Counsel and the State Court which include refusal to provide equal protection under Law and even Due Process since the Superior Court has ~~ordered~~ no more filings can be made by Petitioner in this case despite not being permitted to exercise his Parental Rights under the 14th amendment. Moreover, despite several hearings and pleadings by the Respondent and Minor's Counsel seeking to deny Petitioner's Parental Rights entirely, the State Superior and Court of Appeals have refused to provide Petitioner with an attorney despite his permanent injuries and disabilities which are doctor confirmed and prevent Petitioner from deriving employment income and consequently can not afford to pay for a private attorney.

Family Code
§§ 7895 California Statute Provides for a Court Appointed Attorney when Parental Rights are being terminated. This is exactly what has been done for nearly four years. Petitioner has included an abundance of Case Law to support his claim to representation as an indigent parent in a Family Law Case where Misdemeanor Convictions are related. For all these reasons Petitioner seeks Relief through this court for his family's Reunification.

2nd Statement of Facts ^{for}
only In Support of Petition

Honorable ~~California Superior Court~~ of California,
County of ~~Orange~~ - ~~Lamarcaux~~ Justice Center
please accept Petitioner Father Arthur Lopez's
Response To Minors' Counsel Issues and Contentions
Brief of April 7th, 2019.

To begin, Petitioner firmly opposes Attorney
Brian Baron's Requested Orders as it clearly
does not provide for what is in the Best Interest
of all four minor children and moreover it
clearly attempts to deprive Arthur Lopez
of not only his U.S. Constitutional Civil
Rights under the 5th and 14th Amendments,
but also his Father-Parental Rights as
provided by the State of California and
the United States of America laws and
statutes.

First, the issue of the "Best Interest" of
the four minor children for whom Petitioner
Arthur Lopez is not only the Biological
Father but also the Presumed Father (having
been married to the Children's mother at
conception and lived with all four children
during the first two years of their lives). In
addition, Petitioner acknowledges Paternity,
therefore as articulated through the Uniform Parentage
Act - Paternity Law, meets by several factors/facts

2nd Statement of Facts

the California and Federal criteria establishing Arthur Lopez as the "Father."

Hence, under California Family Code §3010, Petitioner is provided and guaranteed to be equally entitled to the custody of the child(ren) see exhibit 'A'. Moreover, under California Family Code 3011 In making the determination of the child(ren)'s 'best interest in a dissolution of marriage proceeding the following factors shall be considered:

a) the health, safety, and welfare of the child(ren)

b)(1) history of abuse by one parent against (A) Child

(B) Other Parent

(C) Person seeking custody has a dating relationship

Accordingly, as to the (a) health, safety and welfare of the children, Petitioner has a proven track record of providing a solid environment for the nurturing of good health and balance nutritious diet as the primary caregiver of all four of his children while their mother was away from the home 8-10 hours daily Monday - Friday between Jan. of 2012 and November 22, 2015. During this period all four children received consistently great medical checkups and dental examinations as scheduled every 6 to 12 months. In fact,

2nd Statement of Facts

1 Petitioner's oldest daughter was not diagnosed
2 with Diabetes until 8 months after sole
3 custody was designated to her mother.
4 Petitioner learned of this diagnosis in July of
5 2016 through a financial disclosure filed
6 by respondent seeking financial contributions
7 for a special diet that was prescribed.
8 Furthermore, Petitioner is able to devote
9 a considerable amount of his day and night
10 time to the care of his four children
11 since he is not able to work due to
12 injuries to his back, hip and neck suffered
13 during a traumatic fall in December of 2015.
14 These disabilities do not prevent Petitioner to
15 care for himself or his four minor children
16 and are the subject of two disability
17 claims being processed through the Social Security
18 Department for which petitioner is represented
19 by the law offices of Lawrence Rahlberg -
20 562-868-5886 and law offices of Dr. Bill Latorre
21 800-803-5090. In addition to these disability
22 benefit claims petitioner is confirmed as
23 eligible for approximately \$2550.⁰⁰ in monthly
24 benefits by the Riverside County Social
25 Services division upon confirmation of having
26 at least 51% (or more) of parental custody of
27 his four children - see exhibit 'B'.
28 Petitioner is currently receiving \$528 in monthly

10

Page Number

2nd Statement of Facts

1 benefits and has been screened and qualified
2 for these since September of 2018 and
3 has met w/ Supervisor Saenz regarding the
4 additional family benefits described above
5 as recently as late March 2019 at
6 which time she provided the sliding
7 scale - Exhibit 'B' - which reflects the
8 benefit based on the family size (5=
9 over \$2500.- monthly). Beyond this stable monthly
10 allowance Petitioner intends to address
11 his permanent neck and back/hip injuries
12 upon resolution of his active Personal Injury
13 claim with the Federal Buildings 'I&A'
14 division through the U.S. Court of Appeals
15 9th Circuit processes. This is paramount
16 since the initial surgery advised is over \$30,000⁺
17 as prescribed by the consulted surgeon - Samuel Bederman.
18 Petitioner also has a younger brother who
19 has owned his home in Corona for over
20 ten years and has been employed with
21 his current employer for over ten years
22 as well. Petitioner's children have always
23 had an affectionate familial relationship
24 with Petitioner's only brother and vice versa.
25 This address is 1129 Fallbrook Drive; Corona, CA 92880
26 and all of the Petitioner's children have been to this
27 home as has their mother.
28 In summary on this subject of health, safety

2nd Statement of Facts

1 and welfare. Petitioner will add that he has
2 his own vehicle for transportation and
3 given the above listed facts and plan
4 clearly not only has a proven track
5 record going back to the birth of his
6 first child in June of 2002 @
7 which time Petitioner had just purchased
8 a multi million dollar, 5000 sq. ft semi
9 custom estate in Justin Ranch (11540 Hoxie Ln.
10 Justin, Ca 92782) but also earned over
11 \$100,000.00 that year, but also is prepared
12 and eager to resume his role as protector,
13 provider and present Father.
14

15 Secondly, as to (b)(1) history of abuse against
16 a child by parent seeking custody, petitioner
17 has accepted the findings of his trial in
18 January of 2016 where he was found guilty
19 of one count of Child Endangerment as to
20 one child (the oldest). As a consequence to this
21 significant life changing offense, Petitioner
22 received what the Superior Court of CA - Harbor Justice
23 presiding judge determined to be a just
24 punishment for this serious transgression
25 upon the conclusion of the jury trial & guilty
26 verdict. The sentencing was carried out on or about
27 January 14th, 2016 ^(Ex. C, pp. 22-25) and in addition to 30 Days
28 of incarceration ^(Completed) Petitioner was required to complete
12

2nd Statement of Facts

30 Days of physical labor, ^(Completed 4/20/16) pay a considerable ^(25th month Payment Plan) fine, accept four years of informal probation, ^{1/14/19} pay restitution, accept a 3 year stay away ^(Completed w/ no violation 10 week) order, attend and complete Anger Management Course and Child Abuse 52 week Course - Both of which Petitioner Completed with flying colors (Highest Marks of #5 in both Courses) - see exhibit **A**. Please note, Petitioner was provided a monthly payment plan for the court fines which is paid up to date through May 20th, 2019 (\$25 - monthly payments). These details related to the punishment rendered for Petitioner's failings serve to support Petitioner's acceptance of his wrongs and his eagerness to comply with the conditions set out by the presiding judge @ sentencing, all of which have been fulfilled as ordered. Moving forward Petitioner has not engaged in any violations of the three year protective order or the four year informal probation. In addition, Petitioner has remained engaged with his Catholic Christian Church of more than fourteen years where all four children were baptized and where Petitioner's oldest attended school in her early school years. For all these facts Petitioner strongly disagrees and opposes Counsel Brian Barons recommendation to deny reunification of petitioner with his four

2nd Statement of Facts

children. Furthermore, the 5th amendment of the U.S. Constitution guarantees every citizen and petitioner against being twice punished for the same offense, simply stated a person can not be prosecuted or punished twice for the same offense. In fact Double Jeopardy protections extend to State Courts through the 14th amendment as well. Moreover the United States Supreme Court has further determined that the right against Double Jeopardy is not limited to Capital Crimes and corporal punishment, but also extends to all felonies and all misdemeanors, see Exh. 'C' - U.S. v. Halper, 490 U.S. 435, 440 (1989) also see Boston Municipal Court v. Lydon 466 U.S. 294, 324 (1984) In Benton v. Maryland, 395 U.S. 784 (1969) the United States Supreme Court interpreted the Double Jeopardy Clause against the States ruling that the Federal Double Jeopardy Clause in applicable to State and Federal Prosecutions. Also, in United States v. One Absentment of 89 Firearms, 465 U.S. 354 (1984) the Supreme Court held that the prohibition on Double Jeopardy extends to civil sanctions which are applied in a manner that is punitive in nature (Exh. 'C').

11

Page Number

2nd Statement of Facts

1 children. Furthermore, the 5th amendment
2 of the U.S. Constitution guarantees every
3 citizen and petitioner against being
4 twice punished for the same offense, simply
5 stated a person cannot be prosecuted or
6 punished twice for the same offense. In fact,
7 Double Jeopardy protections extend to
8 State Courts through the 14th amendment
9 as well. Moreover the United States
10 Supreme Court has further determined
11 that the right against Double Jeopardy
12 is not limited to Capital Crimes and
13 corporal punishment, but also extends
14 to all felonies and all misdemeanors,
15 see Exh. ^(C) - U.S. v. Halper, 490 U.S. 435, 440 (1989)
16 also see Boston Municipal Court v. Lydon 466 U.S. 294, 301
17 In Benton v. Maryland, 395 U.S. 784 (1969) (1984)
18 the United States Supreme Court incorporated
19 the Double Jeopardy Clause against the States
20 ruling that the Federal Double Jeopardy Clause
21 is applicable to State and Federal prosecutions.
22 Also, in United States v. One Assortment
23 of 89 Firearms, 465 U.S. 354 (1984) the Supreme
24 Court held that the prohibition on Double Jeopardy
25 extends to Civil Sanctions which are applied
26 in a manner that is punitive in nature (Exh. ^(C) and C-1).
27 Moreover, the 3 year protective order issued on 1/14/16
28 @ Petitioners sentencing by the Harbor Justice Center

2nd Statement of Facts

1 in Newport Beach - Superior Court of California - County of Orange
2 expired in its entirety as to all of Petitioner's four
3 children and his ex-wife on January 14th, 2019.

4 Additionally, Petitioner had absolutely no
5 violations of the parameters set by this
6 stay away order and its issuance was
7 clearly a part of the punishment imposed
8 by the presiding judge at sentencing of this and
9 all of the other incarceration and sanctions ordered
10 including fines to the court, Sheriff and Newport
11 Beach Police Department (fines to the court on a
12 payment plan of 25th per mo. current through 5/20/19, O.C. Sheriff
13 has been paid in full and N.B.P.D. has received PD-
14 garments).

15 In summary, Petitioner has accepted responsibility
16 for his transgressions that led to his conviction
17 following his trial in January 2016 and has made every
18 possible effort to fulfill the mandate of the court and succeeded.
19 and has proceeded clear of any other mistakes
20 through this 3 1/2 yr. period and has every intent
21 to remain on this path of lawfulness.
22 Petitioner has also every intent of providing
23 nothing but a nurturing environment for his
24 four children free of the unpleasanties of the
25 22nd of November 2018 and any other uncomfortable
26 experiences they have had during Petitioner's
27 previous marriage. Petitioner would also request
28 this court take judicial notice of the three NOT GUILTY

2nd Statement of Facts

1 Verdicts related to Petitioner's ex-wife and 1-
2 to Petitioner's oldest boy. Moreover, Petitioner's ex-wife
3 attacked Petitioner multiple times on 11/22/15
4 and initiated aggression and physical contact upon
5 Petitioner - Please take judicial notice of the
6 complete trial transcript provided to this court
7 in support of the Requested Restraining Order
8 submitted on January 18, 2019. Petitioner also
9 opposed Respondent's Restraining Order of 1/16/19 which
10 was subsequently denied by this court - Petitioner
11 respectfully request this court take judicial
12 notice of Petitioner's opposition filing, as well
13 as this court's denial. Petitioner has no history of any sort of abuse towards his
14 ex-wife.
15 Most importantly for this process and court's
16 consideration, Petitioner seeks to convey that
17 no recurrence of anything of this nature
18 will ever repeat itself and having filed
19 for divorce and having been granted a restored
20 single status ensures no other possibility
21 of interactions of an involved nature.
22 Lastly, Petitioner is and has always been
23 heterosexual and does not oppose marrying
24 again when the ideal woman is found.
25 However, Petitioner remains unattached and aside
26 from his back, neck injuries is generally healthy
27 and has had regular doctor visits and exams
28 during the past three years and is entirely free
of any dependencies or addictions.

2nd Statement of Facts

Now as to Points of Authorities Beyond what is already included Petitioner who's Background is in Auto Finance for better than 30 yrs humbly submits the following relevant cases :

1) San Bernardino Cty. Children and Family Svcs. v. J.S. (In re N.F.),

2017 Cal App - Doctrines of Law Exception - Serves to support existing law

* Court of Appeals of CA, 4th District, Div. 2 held lower court could not terminate his parental rights based solely on poverty-related housing instability

(In re P.C. (2008) 165 Cal. App. 4th 98, 99-100, 80 Cal. Rptr. 3d 595 (P.C.));

In re Co-S.R. (2008) 159 Cal. App. 4th 1202, 1212-1213, 72 Cal. Rptr. 3d 31 (C.S.R.)

2) Adoptive Couple v. Baby Girl, 570 U.S. 637

* The Supreme Court of the United States held that the South Carolina Supreme Court judgment should be reversed and remanded for further proceedings when Father argued his Parental Rights should not have been terminated. (See Exhibit 'H')

3) Santosky v. Kraemer, 455 U.S. 745

Supreme Court of the United States held that a clear and convincing standard was necessary to protect petitioner's due process rights and vacated the Supreme Court of New York judgment and remanded so that the hearing could be conducted under a constitutionally proper standard - See Exh 'I'

2nd Statement of Facts Points of Authorities (cont.)

1 4.) M.L.B. v. S.L.J., 519 U.S. 102

2 * Supreme Court of the United States held
3 The Fourteenth Amendment did not permit a
4 state to condition the taking of an appeal
5 from the termination of Parental Rights on the
6 affected Parent's ability to pay record transcription costs.
7 The judgement from the Supreme Court of Mississippi was
8 reversed, see exh. 'J'

9
10 5.) Pierce v. Soc'y of Sisters, 268 U.S. 510

11 * Supreme Court of the United States held
12 the legislation requiring children to attend
13 public schools interfered with Parental Rights.
14 see exh. 'K'

15
16 6.) Caban v. Mohammed, 441 U.S. 380

17 * Supreme Court of the United States
18 held that the New York statute at issue
19 violated the Equal Protection Clause
20 as it treated unmarried parents differently
21 according to their sex. The Court
22 reversed judgement from the New York Court
23 of Appeals see exh. 'L'

24
25 7.) In re Baby Girl M., 37 Cal. 3D 65

26 * Supreme Court of California held
27 that appellant had a right to the opportunity
28 to retain and develop a parent/child relationship.
Court Reversed and Remanded judgement terminating natural
father's custodial rights see exh. 'M'

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2nd Statement of Facts

Points and Authorities (cont.)

8.) Supreme Court of California. *In Re M.* 14 Cal3d 71
Court held Father legitimated minor child and acquired
custody rights equal to those of mother

9.) Supreme Court of California *In Re Marriage of Harris*
Court held that the Court of Appeals judgement 34 Cal 4th 21
order pertaining to visitation rights to grandparents
violated parent's (mother's) Constitutional liberty
interest in the custody, care and control of her
child and affirmed judgement.

10.) Ca Court of Appeal, 1st Dist, Div 5 - *In Re T.G.*, 215 Cal App 4th 1
held the order terminating Parental Rights
was reversed and case was remanded, see Exh. 'N'
Court never made finding parent was unfit parent.

11.) *Renee J. v Superior Court*, 26 Cal. 4th 735
* Supreme Court of California Reversed
Court of Appeal judgement denying Reunification Services
due to concern of recidivism. Due Process
Argument was made by Appellant. Judgement was Reversed.
see exh. 'O'.

12.) Supreme Court of California *In Re Matthew C.*, 6 Cal 4th 381
Court Reversed Appellate Court denial of
Mother's review of Juvenile Court order -
Substantial Right of Appellant was affected Court Reversed
See Exh. P. denial.

2nd Statement of Facts

1 Last issue Petitioner brings to this Court
2 with regard to Counsel Baron's Request is his
3 reference to CPS and Investigator Amezcua's report
4 of 4/20/16 both of which Petitioner has
5 objected to for serious violations of Due Process,
6 Equal Protection Under Law and Clear Bias
7 due to Petitioner's Male gender. These objections
8 were documented with the Executive offices of the
9 Superior Court, also with this court and the
10 Ombudsman of the Court staff. Petitioner reiterates
11 his objections that they are part of any
12 consideration. Moreover, Petitioner has
13 respectfully requested from Mr. Baron a
14 copy of the Interview Narratives from Mr. "Wes"
15 interview's with Petitioner's four children
16 and Mr. Baron has objected to this request
17 and has refused to honor subpoenas for these documents
18 and gone as far as making reference to sanctions
19 against petitioner for making such requests.
20 Consequently, Petitioner agreed to withdraw his
21 subpoenas pending clarification from this
22 court as to their validity having been
23 issued by the clerk of the Court - see
24 exhibit 'Q' - Petitioner also submits Family Code
25 3025 which states Records shall not be
26 denied to a Parent because that Parent is not the
27 Child's Custodial Parent.

28
21

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2nd Statement of Facts

In closing, Petitioner submits to this court additional references related to the effects of preventing parent and child from having contact for an extended period, some call this Parental Alienation Syndrome. Petitioner can appreciate his children having feelings of uncertainty given the prolonged interaction with Petitioner their Father. However, Petitioner intends on making every possible effort to regain the assurance, comfort, joyfulness and free spirit each one of Petitioner's children felt exhibited throughout their years as a family unit before the events of 11/22/15. exhibit R

Petitioner respectfully seeks this court's opportunity to start on this path by granting the orders requested and denying Counsel Brian Baron's Renunification opposition.

Respectfully and humbly submitted,

Armando Lopez
Armando Lopez
Armando Lopez

April 16th, 2019

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Page Number

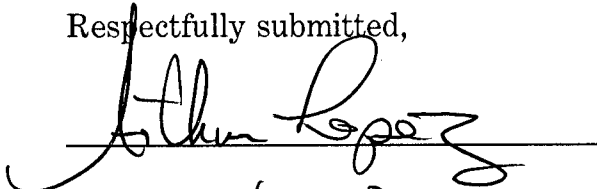
REASONS FOR GRANTING THE PETITION

This Petition should be granted to restore an Equilibrium in the Parental Rights of Mothers and Fathers in the State of California to the benefit of Minor Children and the Entire Family as guaranteed and intended by the Supreme Founding Authority of our United States of America the Constitution.

CONCLUSION

The petition for a writ of certiorari should be granted.

Respectfully submitted,

A handwritten signature in cursive script, appearing to read "Arthur Lopez", is written over a horizontal line.

Date: November 16, 2019