

19-7030

No. _____

Supreme Court, U.S.
FILED

OCT 15 2019

OFFICE OF THE CLERK

IN THE

SUPREME COURT OF THE UNITED STATES

MARGARET GUEVARA aka Depass Padin – Petitioner

vs.

MARK PADIN, et al. – Respondent

On Petition for Writ of Certiorari to

The US Court of Appeals for The Eleventh Circuit
Court that last ruled on Merits of Case

Margaret Guevara, *Pro Se*

ORIGINAL

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QUESTION(S) PRESENTED

1. Under the COMMERCE Clause – Article 1,, Section 8, Clause: Isn't Miami-Dade State Attorney's Office and their State Players breaching this Commerce Clause because they insist on deducting, amounts that have been proven wrongly calculated child support from Guevara's paychecks to send "interstate," from Miami to New York?
2. Doesn't GUEVARA have a Constitutional Right to be with her son, Joshua Padin who has been hidden from her for almost 11 years and with whom she has been blocked from having phone calls with for about 9 months; as part of her punishment of not allowing the lower and foreign courts to siphon her relatives funds of which she was only POA?
3. As authorized by 28 U.S.C. § 1331 – 1446; which includes § 1407 - multiple civil cases involving one or more common questions of fact etc - shouldn't GUEVARA's case be heard in Federal Court as stated by this law that if GUEVARA has not and cannot receive justice in the lower court , then this and other laws provide that if a party cannot receive justice in a state court, then the case and all these issues are then to be brought and heard in District Court, under the crux of the claim and issues that arose in this District, per U.S. Code: Title 28, Sections 1330-1369? However, now to be heard in the US Supreme Court?
4. Since Bell v Hood holds that the "Federal courts may use any available remedy to make good the wrong done, when there is sufficient harm from the law or action challenged , then when does a Petitioner receive justice since GUEVARA is considered a "nobody" like "Gideon" (Gideon v. Wainwright (1963) but since the action GUEVARA is challenging is of Great Public Significance and Importance?

LIST OF PARTIES

[x] 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:

Defendant No. 1

Name: Mark Padin (hereinafter referred to as "FATHER" or "PADIN")

Address: C/O University of California, Hastings, College of The Law
200 McAllister Street, San Francisco, CA 94102

Telephone Number: Work: (415) 581-8806

E-mail Addresses: Work: PadinMark@uchatings.edu

OR by mail:

Address: P. O. Box 41
LaFayette, CA 94549

Telephone Number: Cell: (914) 565-7299;

E-mail Address: Personal: M_padin@hotmail.com

Filed in 2016 Federal Case as:

Defendant No. 2

Name: Kimberly Montgomery, individually and as agent of Miami-Dade State Attorney, in the capacity as an Assistant State Attorney, ("hereafter referred to as "MONTGOMERY" or "ASA")

Address: Child Support Enforcement Division, State Attorney's Office,
Overtown Transit Village, 601 NW 1st Court, Miami, FL 33136

Telephone Number: Unknown

E-mail Address: Unknown

X Individual capacity X Official capacity

Defendant No. 3

Name: KIMBERLY I/n/u (last name unknown), individually and as agent of the Miami-Dade State Attorney, in the capacity as secretary to Kimberly Montgomery, (hereafter referred to as "SECRETARY KIM")

Address: Child Support Enforcement Division, State Attorney's Office,
Overtown Transit Village, 601 NW 1st Court, Miami, FL 33136;

Telephone Number: 786-775-6354

E-mail Address: Unknown

X Individual capacity X Official capacity

Defendant No. 4

Name: JOSE LOPEZ, individually and as agent of the Miami-Dade State Attorney, in the capacity as Supervisor of Secretary Kim (hereafter referred to as "SUPERVISOR")

Address: Child Support Enforcement Division, State Attorney's Office,
Overtown Transit Village, 601 NW 1st Court, Miami, FL 33136;

Telephone Number: 786-775-6256

E-mail Address: Unknown

X Individual capacity X Official capacity

Defendant No. 5

Name: STEPHANIE JOHNSON, individually and as agent of 11th Judicial Circuit, Child Support Enf. in the capacity as Admin.Sec. to the (46) Judge's Division; (hereinafter referred to as "STEPHANIE")

Address: Overtown Transit Village, 601 NW 1st Court, Miami, FL 33136

Telephone Number: 786-469-3960

E-mail Address: Unknown

☒ Individual capacity ☒ Official capacity

Defendant No. 6

Name: SHARON KERI, individually and as Process Manager for the Dept. of Revenue, Child Support Enforcement (hereinafter referred to as SHARON)

Address: Address: Overtown Transit Village, 601 NW 1st Court, Miami, FL 33136

Telephone Number: Unknown

E-mail Address: Unknown

☒ Individual capacity ☒ Official capacity

Defendant Nos. 7 and 8

Name: JANE DOE and JOHN DOE

Job or Title: Unknown at this time

Address: Unknown at this time if it is in Miami-Dade or Tallahassee

Telephone Number: Unknown at this time

E-mail Address: Unknown

☒ Individual capacity ☒ Official capacity

Defendant No. 9

Name: ARTHUR L. ROTHENBERG, individually and as agent of the Miami-Dade Circuit Courts in the capacity as Judge to the (46) Division (hereafter referred to as "ROTHENBERG")

Address: Miami-Dade County Courthouse, 73 West Flagler Street, Room 900, Miami, FL 33133

Telephone Number: (305) 349-7008

E-mail Address: Unknown

☒ Individual capacity ☒ Official capacity

and AMENDED in 2019 Federal Case filed as:

Name: Miami-Dade State Attorney's Office, or any of its agents, employees, representatives or assigns in the capacity as a Government Entity, ("hereafter referred to as "ASA" or by their individual names or collectively can be referred to as "State Players".

Address: Child Support Enforcement Division, State Attorney's Office,
Overtown Transit Village, 601 NW 1st Court, Miami, FL 33136

Telephone Number: (305) 530-2600

E-mail Address: Unknown

☒ Official capacity [] Individual capacity

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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 issue to review the judgement below

OPINIONS BELOW

[x] For cases from Federal Courts:

The opinion of the US Court of Appeals dated July 15, 2019, appears at Appendix “A” to the Petition. Also, the Opinion dated May 30, 2019, appears as Appendix “B” and is unknown if either are published or not, due to Petitioner proceeding *pro se* and her inability to find all caselaw.

The opinion of the US District Court of Appeals is not readily accessible from GUEVARA’s files and is unknown if it is published or not, due to Petitioner proceeding *pro se* and her inability to find all caselaw

[x] For cases from State Courts:

The opinion of the highest State Court has not been pursued as it was dismissed from the States District Court of Appeal and no justice was received.

JURISDICTION

[x] For cases from Federal Courts:

The date on which the US Court of Appeals decided my case was July 15, 2019

[x] A petition for rehearing was not pursued as GUEVARA had requested to proceed *In Forma Pauperis* which was denied by the US Court of Appeals, Eleventh Circuit on July 15, 2019, and appears at Appendix “L.”

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

BASIS FOR JURISDICTION

Federal Question(s):

11. Under the COMMERCE Clause – Article 1, Section 8, Clause: Isn't Miami-Dade State Attorney's Office and their State Players breaching this Commerce Clause because they insist on deducting, amounts that have been proven **wrongly calculated child support** from Guevara's paychecks to send such funds via **"interstate,"** from Miami to New York?

12. Doesn't GUEVARA have a Constitutional Right to be with her son, Joshua Padin who has been hidden from her for **almost 11 years** and with whom she has been blocked from having **phone calls with for about 9 months;** as part of her punishment of not allowing the lower and foreign courts to siphon her relatives funds of which she was only POA?

13. As authorized by 28 U.S.C. § 1331 – 1446; which includes § 1407 - multiple civil cases involving one or more common questions of fact etc - shouldn't GUEVARA's case be heard in Federal Court; and now in the **United States Supreme Court** as stated by this law that if GUEVARA has not and cannot receive justice in the lower court, then this and other laws provide that GUEVARA's case and **all** these issues are to be brought and heard in District Court, and now to this **United States Supreme Court** under the crux of the claim and issues that arose in this District, per U.S. Code: Title 28, Sections 1330-1369?

14. When there is sufficient harm from the law or action challenged when does a Petitioner (GUEVARA) receive justice since GUEVARA is considered a "nobody" like "Gideon" (Gideon v. Wainwright (1963)) but the **actions GUEVARA is challenging is of Great Public Significance and Importance;** and is being suffered by "the Public?"

CONSTITUTIONAL AND STATURORY PROVISIONS INVOLVED

1. Under the COMMERCE Clause – Article 1, Section 8, Clause
2. Constitutional Right to her son
3. 28 U.S.C. § 1331 – 1446; which includes § 1407
4. U.S. Code: Title 28, Sections 1330-1369.
5. Johnson v. Bednar, 573 So.2d 822 (Fla.1991)
6. Bagwell, 512 U.S. at 829[, 114 S.Ct. 2552];
7. Bell v Hood holding that the “Federal courts may use any available remedy to make good the wrong done.
8. 28 U.S.C. § 1332.

STATEMENT OF THE CASE

1. The primary concern of the U.S. Supreme Court is not to correct errors in lower court decisions but to decide cases presenting **issues of important beyond the particular facts and parties involved...and importance to the public of the issues.**
2. GUEVARA has filed in Miami-Dade, Florida, State Courts, several motions for years, trying to get them to stop the wrongfully calculated child support deductions from New York. See Appendix “C”, which are copies of Exhibits of paycheck stubs leaving GUEVARA with \$12.22, \$63.93 and \$67.89, respectively, from 3 weeks of paychecks; and Appendix “D” showing \$308.74 deducted as child support from GUEVARA’s paycheck of \$551.00 leaving GUEVARA to live on **\$166.25** for two weeks. This has been occurring for years.
3. Miami-Dade State Attorney’s Office (“MDSA”) insisted per Appendix “E”, dated January 16, 2016 that GUEVARA should pay \$899.50 child support, plus \$179.90 “past-due” child support; however, since **GUEVARA has been exposing the abuse** as she does not earn sufficient funds, in Appending “F” Child Support Program letter dated May 2, 2019, signed by ASA Lauren Hernandez, not only is there an ARREST WARRANT – Writ of Bodily

Attachment even though the case was at the time in the Federal Court – an abuse of law – but MDSA changed their Order to reflect now only \$50.00 to be deducted for arrears See Page 7 – another abuse of Law as MDSA can only enforce or Not enforce the original Order from New York. Here MDSA's actions are shocking that they have ordered a change when they can only NOT enforce!

4. Miami-Dade State Attorney's Office has
 - a. Suspended GUEVARA's driver's licenses, see Appendix "G"; and
 - b. Blocked GUEVARA's U.S. PassPort being renewed – see Appendix "H"
5. GUEVARA has had to file in the Federal Courts an Appeal as to an **Emergency Petition for Immediate Permanent Injunction OR FOR Jury Trial on Complaint**
 1. **for a Civil Case** (Includes Diversity of Citizenship);
 2. **for Violation of Civil Rights** (Non-Prisoner);
 3. **for the Conversion of Property**
 4. **Federal Question(s)**
 5. **RICO, etc.**

to reflect all the abuses of law and GUEVARA's Constitutional abuses suffered.

6. Under the COMMERCE Clause – Article 1,, Section 8, Clause: MDSA's Office has collected and enforced, wrongly calculated child support funds which were deducted from Guevara's paychecks and sent these fund on numerous occasions via "interstate," from Miami to New York, breaching the Commerce Clause of the United States Constitution. During one of the many hearings of GUEVARA's Motion ASA Kimberly Montgomery admitted to GUEVARA that the deducted child support funds from GUEVARA was being sent across State lines to New York to some phantom person/entity of which ASA MONTGOMERY said she could not tell GUEVARA to whom it was being sent. Again, in furtherance of breaching the Commerce Clause and MDSA's breaching of their liaison responsibility.

7. GUEVARA has repeatedly shown in this Writ of Certiorari the various laws breached by MDSA and which can only be stopped by this US Supreme Court.

8. GUEVARA was falsely charged and put in Jail to shut her up and discredit her for exposing her ex-husband, Mark PADIN's hand-written notes and the names of lawyers and judges in New York that promised PADIN he would win the divorce. Because GUEVARA exposed the hand-written notes she calls the "Corruption or Collusion" Document See Appendix "I", GUEVARA was beaten up and lied against and put in jail to block the further exposure of the names of lawyers and judges who promised PADIN he would win his divorce against GUEVARA. These excerpts and the Corruption Document and audio can be seen and heard on:

a. YouTube – "Mark Padin Wife Beater" and

b. Website – DipposDregs.com

9. Florida law that rules Foreign Judgments and in this case the NY Judgement for child support Fla. Stat. § 88.6071(1)(a) – (g) and (2) states:

(1) a party contesting the validity or enforcement of a registered order or seeking to vacate the registration has the burden of proving one or more of the following defenses:

...

(b) The order was obtained by fraud...

(e) There is a defense under the law of this state to the remedy sought;...

(2) If a party presents evidence establishing a full or partial defense under subsection (1), a tribunal may stay enforcement of the registered order, continue the proceeding to permit production of additional relevant evidence and issue other appropriate orders...

even though full defense and **proof** that the NY Foreign Judgment for Child Support was obtained by "fraud" to punish GUEVARA for not subjecting to bullying and intimidation by New York, to get access to GUEVARA's relatives funds of which GUEVARA was POA, MDSA office under the color of law has tried to enforce the Corrupt NY Foreign Judgment so GUEVARA had to add

the question of RICO acts in her Federal Complaint as one of the issues in her Federal Court Appeal. See the Federal Petition Appendix “K”.

In Johnson v. Bednar, 573 So.2d 822 (Fla.1991), the United States Supreme Court concluded that any coercive sanction ordered in a civil contempt proceeding must afford the contemnor an opportunity to purge; otherwise, the contempt is criminal in nature and requires that all of the constitutional due process requirements inherent in criminal cases be provided to the contemnor, including, in some cases, the right to counsel and to a jury trial. See Bagwell, 512 U.S. at 829[, 114 S.Ct. 2552]; and also, Bell v Hood holding that the “Federal courts may use any available remedy to make good the wrong done. As well as even the Broward State court in Florida ruled that they cannot hear a case regarding their own clerk, an employee of the State and therefore the case must go to the Federal District Court. Likewise, since GUEVARA case is before MDSA and their State Players who are employees of the State are involved in the case, the case can only receive justice now through the US Supreme Court re the Federal Question which are of Great Public Importance, for all those who are suffering the same fate.

REASONS FOR GRANTING THE PETITION

This Petition for a Writ of Certiorari should be granted because:

1. The Federal Question asked herein is of Great Public Significance and Importance
2. GUEVARA has no problem paying child support that is properly and ethically calculated but she has been punished for not allowing the lower and foreign courts to siphon funds that she was POA for her relatives; and the continued abuse of
 - a. Her Driver’s licenses being suspended, see Appendix “G”;
 - b. Her U.S. Passport being blocked from being renewed, see Appendix “H”;
 - c. Her now 15 year old son, Joshua Padin has been hidden from her for almost 11 years; and

d. It has been about 9 months she has been blocked from having any telephone calls with her 15 year old son, Joshua Padin.

3. Further GUEVARA is appreciative this Supreme Court's judicial discretion will see she has suffered and not received justice as she has been looked upon as a "nobody" just as "Gideon" was, and just as the Supreme Court saw fit to help him, likewise GUEVARA hopes she will receive an injunction to stop the child support which is wrongfully calculated and has been used to harass GUEVARA for thirteen (13) years, including blocking her from seeing her son, Joshua Padin who is now 15 years old, and who has been hidden from her for almost 11 years and with whom she has not been able to speak with him on the phone for about 9 months now.



4. The excessive abuses she has suffered over the years of her not being able to support herself when they take excessive child support from her and the time she has lost with her son, , **all because she would not succumb to handing over funds that belonged to her family and of which she was merely Power of Attorney.**

CONCLUSION

GUEVARA is appreciative this Supreme Court's judicial discretion will see she has suffered and not received justice as she has been looked upon as a "nobody" just as "Gideon" was; and GUEVARA hopes just as the Supreme Court saw fit to help Gideon get justice, likewise GUEVARA hopes she will receive justice by an injunction to stop the wrongfully calculated child support which has been used to harass GUEVARA for thirteen (13) years including suspending her driver's licenses, blocking her passport from being renewed, sending out an Order for arrest and causing excessive hardships of her not being able to support herself, which are issues suffered by others so they are of Great Public Important. Even though the Federal Court found in 2016 that GUEVARA's Petition (Appendix "J") was moot as GUEVARA was not working, the Federal Court erred because as long as there was no injunction

to stop the fraudulent Court Order to deduct miscalculated Child support, then the threat still existed and would always exist so that as soon as GUEVARA found a job the excessive deductions would be continued, thus this issue was never moot, it was just pending to continue as soon as GUEVARA started earning a salary.

Respectfully submitted,


Margaret Guevara, *Pro Se* AKA


Date: October 14, 2019