

No. 19-7692

IN THE SUPREME COURT OF THE UNITED STATES

R.A.S. – PETITIONER

VS.

MONTGOMERY COUNTY PENNSYLVANIA OFFICE
OF CHILDREN AND YOUTH – RESPONDENT

ON PETITION FOR A WRIT OF CERTIORARI to The
Superior Court of Pennsylvania, Philadelphia Office No.
1560 EDA 2019

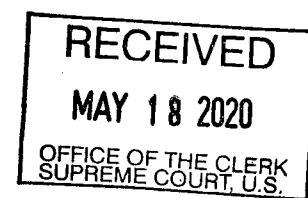
PETITION FOR REHEARING

R.A.S. – Petitioner

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PETITION FOR REHEARING

STATEMENT OF THE CASE

Pursuant to rule 44 of this Court, R.A.S., petitioner respectfully petitions for rehearing of this case before a full nine - member court. Limited to grounds not previously presented this case involves a challenge to a September 16, 2019 decision made by Superior Court of Pennsylvania, Philadelphia Office No. 1560 EDA 2019. R.A.S. mother appeals it's decision to the United States Supreme Court for review. The subject in the appeal of R.A.S. (mother) to the United States Supreme Court from The Superior Court Of Philadelphia from an order of the Court of Common Pleas of Montgomery County Pennsylvania Orphan's Court Division (Orphan's Court) involuntarily terminating her parental rights to her minor daughter,

B.M.S. (Child) (Born in August 2017) pursuant to 23 Pa.C.S. §2511(a)(1),(2),(5) and (b). Superior Court Philadelphia Pennsylvania affirmed under 23 Pa.C.S. §2511(a)(2) and (b). Filing in good faith and not delay. Only if there are procedural due process or equal protection problems with the way a state interfered with the right to parent could parents challenge the loss of their parental rights with constitutional backing. In federal constitutional law, the right to parent would be considered an unremunerated right, protected from governmental interference by the due process Clauses of the fifth and fourteenth amendments. This case incorporated government interference, many errors and a violation to R.A.S. mother's parental rights and due process rights. Superior Court did not provide competent evidence in support of its decision, it provided many errors of fact. Superior Court of Philadelphia entered errors of fact by

OCY denied and deprived mother R.A.S. of their Services for mother's goal of reunification with her Child, by not allowing child and mother visitation rights. Mother's parental rights were violated under Constitutional Law. Title 18 U.S.C. Section 242 makes it a crime for a person acting under color of any law to willfully deprive a person of a right or privilege protected by the Constitution on Laws in the United States. Jurisdiction Invoked under 28 U.S.C. 1257(a). Child and Mother have protected rights under the fifth and fourteenth Amendments. Parents possess an interest in the care, custody and management of their children, and children possess a reciprocal interest in being raised by their parents. Substantially mother should be allowed to argue before The Supreme Court of The United States. The Bureau of Hearings and Appeals [Herein after as BHA] in Harrisburg PA has jurisdiction over the establishment of family service plans [Herein after

as FSP] Mother appealed the FSP with the completion of all her goals to the BHA. OCY filed a motion to dismiss mother's FSP appeal. The BHA issued an order that DENIED OCY's motion to dismiss as the agency did not provide any documentation in support of the motion. The FSP binds the family into court for Permanency Review Hearings. OCY interfered with mother's appeal to the BHA, violating her constitutional rights under the first amendment "the right of the people peaceably to assemble, and to petition the government for a redress of grievances." Child and Mother's visitation was suspended based on Unfounded Allegations from July 12, 2018 through May 16, 2019, Child and Mother were deprived from seeing each other for ten months while child lived in the Licensed foster home of Maternal Grandmother in St. Augustine FL, and Mother lived in Orlando FL with Mother's parental rights still intact. OCY intimidated Maternal Grandmother that

if Mother had any contact with her child the child would be removed from Maternal Grandmother. OCY violated mother's parental rights under the Fourteenth Amendment to the Constitution "nor shall any State deprive any person of life, liberty, or property, without due process of law; nor deny to any person within its jurisdiction the equal protection of the laws." OCY did not offer Skype visitation, or recommend an appropriate parenting program or specific behavioral treatment to reunite Child and Mother. Mother's Private Liberty Interests in raising her child without governmental interference is involved. The FSP created on October 20, 2017 is the only FSP approved by the court. While all of the other FSP's were under Appeal, the agency and family had to abide by the most recent FSP by state law, which was the 10/20/2017 FSP approved by the court. OCY violated Pennsylvania state law and Florida law as the FSP was

sent through Interstate Compact Placement of Children [Herein after as ICPC], visitation between child and mother were listed on the only court approved FSP. See *In re: P.A.B.* 391 Pa.Superior Ct. 79 (1990) 570 A.2d 522 “Under 2511(a)(5) Thus, to apply the statute correctly, there must be an inquiry into the status of the bond, regardless of whether the parents have a physical or mental incapacity. The order in terminating parental rights is reversed.”. Mother demonstrated Substantial Compliance in Completing all of her goals from the October 20, 2017 FSP at the First Permanency Review Hearing dated April 26, 2018. Child-Parent Visitation is a National Fundamental Parental right. OCY failed to provide services and denied Child and Mother Visitation. *In Re: B.P.*, 376 P.3d 350 (Wash.2016) (“*The Supreme Court of Washington reversed an order of parental termination on the grounds of insufficient evidence demonstrating the*

futility of provision of attachment services to assist mother-child bonding. The court found that the state failed to meet the evidentiary standard of clear, cogent, and convincing evidence in arranging for all necessary services for correcting parental deficiencies before termination.")

Superior Court of Philadelphia entered errors of fact by stating "On September 28, 2017 OCY received a referral from Abington Hospital that mother had taken child to the hospital multiple times and the hospital was not able to find anything medically wrong with the child. The referral further alleged that the hospital was concerned about Mother's mental health stability and inadequate housing."

Mother would like to give the high court the information that the Child's September 28, 2017 medical visit from the internal patient data report entered on September 30, 2017 shows that child was diagnosed with GERD [acid reflux].

The hospitals referral to OCY was solely alleged on inadequate housing. The outcome was determined invalid by the CPS [Herein after as CPS] investigation. Superior Court of Philadelphia entered error of facts stating OCY received a second referral on October 12, 2017. There was not a CPS investigation in regards to it. October 13, 2017 OCY's allegation summary for the removal of Mother's Child from her Medical Observation and from Mother while child was at the pediatric unit of Abington Hospital for Acid Reflux Symptoms warrants scrutiny. Mother's daughter was not medically clear for discharge, and had incomplete discharge paperwork when [OCY] took Emergency Protective Custody. Social Security Act §1861 [42 U.S.C.1395x](e)(6)(B) has in place a discharge planning process that meets the requirements of subsection (ee).

Under Mother's Daughter Medicare Coverage for Skilled Nursing Facilities under Medical Observation Status

requires a 3-day Stay Rule for Inpatient or Outpatient Status, when their attending physician determines that they are medically stable for discharge. Under Title 42 CFR §482.43 - Condition of participation: Discharge planning: The Hospital must have an effective discharge planning process that focuses on the patients goals and treatment preferences and includes the patient and his or her caregivers/ support person(s) as active partners in the discharge planning for post-discharge care. Under Title 42 CFR § 482.43 (c)(1) " standard requirements related to post-acute care services: The hospital must include in the discharge plan a list of HHAs, SNFs, IRFs, or LTCHs that are available to the patient, that are participating in the Medicare program. While Child and Mother's Abington Memorial Jefferson Health Pennsylvania Hospital Rights were protected by Federal and Pennsylvania Law. Federal Register Centers for Medicare and Medicaid Services

(CMS) HHS Under the Affordable Care Act states " The final Rule also implements discharge planning requirements which will give patients and their families access to information that will help them to make informed decisions about their post-acute care, while addressing their goals of care and treatment preferences, which may ultimately reduce their chances of being re-hospitalized. OCY violated these protected rights. Mother reported that her daughter was spitting up her formula and described all symptoms of acid flux; it was then determined that mother's daughter had acid reflux in foster care, mother's daughter was prescribed nine different medications, and missed eight vaccines while she was in OCY's placement. August 14, 2018 it was court ordered that Mother's Daughter be removed from OCY foster home to the home of her Maternal Grandmother in Florida through Interstate Compact Placement of Children [Herein after as

ICPC]. Under National Law ICPC is a statutory agreement between all Fifty States, The District of Columbia and The U.S. Virgin Islands. The agreement governs the placement of children from one state to another state. It sets forth the requirements that must be met before a child can be placed out of state. In order for an ICPC placement request to get started, a caseworker (or adoption entity) in the state the child is located creates a packet that includes such items as the child's social, medical, and educational history and the current status of any court case involving the child.

Montgomery County Pennsylvania OCY is in Breach between FL and PA ICPC by failing to send Child's important medical records to the Sending States Compact Office and the Receiving State's Compact Office to where Mother's daughter received an overdose of the Hepatitis B vaccination. R.A.S. Mother has also submitted evidence to the Trial Court and Superior Court that her daughter

B.M.S. received an overdose of the third dose of Hepatitis B vaccine Series, due to OCY's negligence. The child's First dose was given on August 14, 2017, Second dose was given on September 25, 2017, Third dose was given on May 18, 2018 and again Third dose was given on December 14, 2018. OCY failed to submit child's May 18, 2018 record of receiving the third dose of the Hepatitis B vaccination to ICPC. Mother R.A.S. has evidence that OCY in Montgomery county Pennsylvania is in Breach and Violation of ICPC National Law by not sending child's medical records and causing harm to child's health. Statutory Agreement between all Fifty States, The District of Columbia and the US Virgin Islands. The CPS investigation was Unfounded and the case was closed. The question is why were visits still suspended. Child and Mother's rights have been deprived. Onto Dr. Miksic's errors of fact; a possibility is not a diagnosis. He based his

entire opinion of mother on a possibility. Category of abuse/neglect – creating a reasonable likelihood of bodily injury to a child through any recent act/failure to act is not applicable and it does not meet the Criteria per Child Protective Services Law [CPSL]. Superior Court entered an error of law by affirming under 23 Pa.C.S. §2511(a)(2) and (b). Does 23 Pa.C.S. §2511(a)(2) and (5) violate the equal protection Clause of the Fourteenth Amendment to the United States Constitution? 1. Has Pennsylvania chosen the least restrictive means of promoting its interest in protecting minor children? 2. Does 23 Pa.C.S. §2511(a)(2) and (5) violate Amendments to the United States Constitution? 3. Does public policy mediate against the termination of parental rights in the absence of a finding of fault? 4. Was the evidence adduced at the hearing in the case sub judice sufficient to support the termination of the parents parental rights? Mother was compliant with

Pa.R.A.P.1925(b), 1925(a)(2)(i), Rule 905 and Pa.R.A.P. 905(a)(2). The trial judge did not enter an order allowing mother's former attorney R.J.M. to withdraw or allow mother to represent herself before the last TPR hearing on April 3, 2019. Hybrid representation is forbidden at the trial and on appeal. Mother would also like to give the high court the information that father C.J. to child is a participant to the appeal, he is listed as a participant on the Superior Court Docketing statement. Custody of the child was granted to father without a permanency review hearing for the ICPC case and father's home study was not sent to ICPC compact offices of Tallahassee Florida and Harrisburg Pennsylvania for approval. Father was in prison for DUI charges, illegal weapons, illegal drugs. This decision was not in the best interest of the child's welfare.

REASONS FOR GRANTING PETITION

Under Federal, Constitutional and National Law, the reason I would like Supreme Court to take a look at my case in which they have jurisdiction over is that Majority of States in the United States have reinstatement of parental rights, Pennsylvania should be enacted. Mother's Family Strengths have always been that she loves her child, and she is able to provide a safe, nurturing home that meets the needs of her child's physical, emotional, well-being. The petition for rehearing should be granted and the order that involuntary terminated mother R.A.S. parental rights to her child should be reversed. Please help restore family life, and protect a child-mother bond that is irreplaceable.

Respectfully Submitted,

R.A.S., Mother

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