

NOV 15 2019

OFFICE OF THE CLERK

19-8404

IN THE
SUPREME COURT OF THE UNITED STATES

JAMAAL GITTENS

PETITIONER

v.

JUDGE ELIZABETH K KELLY

DOMESTIC RELATIONS

PETITION FOR A WRIT OF CERTIORARI
TO THE UNITED STATES THIRD CIRCUIT

PETITION FOR A WRIT OF CERTIORARI

Jamaal Gittens

Marlene Street

Charlotte NC 28208

ORIGINAL

TABLE OF CONTENTS

	<u>Page</u>
Question Presented	3
Table of Contents	2
Table of Authorities	2
Petition For Writ Of Certiorari	
Statement of the case.....	3
Conclusion	8

TABLE OF AUTHORITIES

	Page(s)
Cases	
Tyler v judges of the court of registration 179 U.S 405 (12/17/1950).....	4
Mugler v Kansas 123 US 623 659-60 (1887)	5
In re marriage of Denise M. Kalis-fuller v Lee Fuller C7-926, C8-97-1132 MN (1999)	6
Northern Pipeline Co v Marathon Pipeline Co 458 U.S 50, 63, 76 (1982).....	6
Toth V Quarles 350 U.S 11(1955).....	6
Rafael Peretz v U.S 501 U.S 923(1991).....	6
Marbury v Madison 5 U.S 137.....	7
Allen v Wright 463 US 737, 751, (1984)	5
NOW, Inc. v. Scheidler, 510 US 249	5
Pennoyer v Neff 95 U.S 714 (1978) (1871).....	5
Department of social service 436 U.S 658 (1978)	7
South Carolina v United States 199 U.S. 437 at 199 U.S 450(1905).....	8
Forrester v White 484 U.S 219(1988).....	5

I. QUESTION PRESENTED

Pursuant to Pa CSA 4342(e) 42 U.S 666 Common Pleas judge Kelly, Domestic Relations has authority to obtain personal jurisdiction over non residence of the state of Pennsylvania, by showing service of process on the defendant, declaring him father of child by default, for refusal to take a paternity, third circuit affirms that these acts are judicial in nature, The question here is whether statues governing this ruling are legal precedent, constitutional, did judge Kelly act in clear absent of jurisdiction, is she, domestic relations, immune from suit

II. PETITION FOR WRIT CERTIORARI

Petitioner Jamaal Gittens respectfully prays that a Writ of certiorari to vacate states void judgment review judgment below

III. OPINIONS BELOW

Jamal Gittens v Judge Kelly, Domestic Relations Third Circuit Court unpublished opinion November 4, 2019

IV.JURISDICTION

Jamaal Gittens petition was denied November 4, 2019, Jamaal Gittens invokes this court's jurisdiction under 28 U.S.C1257 having timely filed petition for writ certiorari within 90 days

V.STATEMENT OF THE CASE

judge Kelly, Domestic Relations, under a color of law, had authority to declared me father of a child by default, for failure to adhere to an out of state summons, which required me to take a paternity test, appear, on a given court date. I'm a resident of North Carolina, never spent time in Pennsylvania.

April 2017 I received a letter from domestic ordering me to take a paternity test, I written letters to domestic relations stating that I do not know the plaintiff, never spent time in Pennsylvania, and a demand for proof of jurisdiction on record; jurisdiction can never be presumed, never be waved.

The court order I received regarding the paternity test didn't state the court's jurisdiction; statutory authority there was no referenced to law making me obligated do anything. The court summons ordering appeared in court May, 5, 2017 didn't bear the seal of the clerk, signed, pursuant to rule 4 federal civil procedures; The 6th Amendment requires me to be informed of the nature and cause of the accusation

I refused to participate in a phone hearing which was scheduled 05/25/2017, the letters I had written was sufficient enough; judge Kelly ruled in my absence; knowing the limited powers of the judicial branch, the lack of personal jurisdiction, I had no reason to adhere.

Judge Kelly declared me father of a child for failure to appear, on August, 2017, child's support was garnishment from my wages. I filed a law suit against Judge Kelly, domestic relations,, petitioned a motion to vacate with western district court, my claim was dismissed due to the Rooker Feldman doctrine, and that Kelly acted in her judicial capacity, that both was barred from suit. November 5, 2019 Third circuit affirmed distinct court's decision

VI. ARGUMENT

Judge Elizabeth K Kelly declaring me father of a child for refusal to take a DNA test, failure to appear, wasn't within her judicial capacity, The Judicial tribunal is limited determining the rights of persons, or of property which is are controvert Tyler v judges of the court of registration 179 U.S 405 at 179 U.S409 (12/17/1950)

Limited to cases in controversy lord v Veazie, 49 U.S 8 How, 251 251(1850) Cleveland v Chamberlain 66, U.S1 Black 419 419(1861) (DNA test no controversy)

Judge Kelly acts were administrative, non judicial Forrester v White 484 U.S 219(1988)

Under our system of government upon the individuality and intelligence of the citizen, the state does not claim to control him, except to his conduct to others, leaving him the sole judge as to all that affects himself "Mugler v Kansas 123 US 623 at 12

Standing is perhaps the most important of [the jurisdictional] doctrines, standing represents a jurisdictional requirement which remains open to review at all stages of the litigation..." NOW, Inc. v. Scheidler, 510 US 249 "

Plaintiff lacked standing to sue the secretary for failure to force title IV-D Wehunnt v Ledbetter 875 f.2d 1558(11th cir 1989) A plaintiff must allege personal injury traceable to the defendant" Allen v Wright 463 US 737, 751, (1984)

VI. SERVICE OF SUMMONS, PERSONAL JURISDICTION

Judge Kelly, Domestic relations lacked personal jurisdiction, sending me a service of summons from out of state is null and void; I live in NC, never spent time in Pennsylvania, "process from the tribunals of one state, cannot run into another state and summon a party there domiciled to respond to proceeding against him "A personal Judgment is without any validity if it be rendered by a state court in an action upon a money damage against a nonresident of the state who was served publication of summons" Pennoyer v Neff 95 U.S 714 (1978)

VII. DOMESTIC RELATIONS UNCONSTITUTIONAL

Domestic relations enactment is null and void, having the jurisdiction to send subpoenas, court orders s is null and void; it violates the separation of power clause in the federal constitutions, Article II. The Great, Honorable Supreme court of Minnesota said “The administrative child support process created by Minn. Stat 518.5511(1996) violates separation of powers doctrine by infringing on district courts original jurisdiction, by creating a tribunal which is not inferior to the district court, and by permitting child support officers to practice law. Therefore, the statue is unconstitutional” in re marriage of Sandra Lee Holmberg v Ronald Gerald, in re marriage of Denise M. Kalis-fuller v Lee Fuller in re Marriage of Kristi Sue Carlson V Steven Alan Carlson C7-926, C8-97-1132 (1999)

The United States Supreme Court has explained that the power to adjudicate private rights must be vested in an Article III court Northern Pipeline Co v Marathon Pipeline Co 458 U.S 50, 63, 76 (1982) see Toth V Quarles 350 U.S 11(1955)

Where the court examined the question of whether a transfer to a non-Article III court could be waved, the court ruled that the constitutions mandate for a judicial hearing, meaning an Article III court was not subject to waver Rafael Peretz v U.S 501 U.S 923(1991)

An Act is invalid giving judicial power to officers who are not under the constitution of commonwealth, to deprive persons of their property without due process of the law Tyler v judges of the court of registration 179 U.S 405 at 179 U.S 406 (12/17/1950)

“An unconstitutional act is not law. It confers no rights, it imposes no duties, it affords no protections; it creates no office. It is in legal contemplation as inoperative as though it has never been passed.” Norton v. Shelby County 118 U.S 425 at 118 U.S 426 (1886)

“Any law that is repugnant to the constitution is null and void of law Marbury v Madison 5 U.S

137

VIII .STATE AGENCIES BARRED FROM SUIT

Third circuit court dismissed my claim against Domestic relations because Government state entities are not persons for 1983 purposes Callahan v city of Philadelphia 207 f 3d 668,674(3rd cir 2000)

The United States Supreme court ruled Government, state entities are “persons” subject to suit when deprivation of rights is routine and habit Montell v Department of social service 436 U.S 658 (1978) Domestic Relations is a single separate unit 42, U.S 654, it’s not a state agencies,

Pursuant to Pennsylvania’s statues, Pa CSA 4342(e) United States code 42 U.S 666, these proceedings is custom, routine; there is paternity established quota system, for states to receive federal funding PIQ-03-01

42 USC 609(a)(8) does not rise to give to give individual rights, it was not intended to benefit individual children, and custodial parents blessing v freestone 520 U.S 329 (1997) it was created to benefit the public treasury Wehunnt v Ledbetter 875 f.2d 1558 (June 27, 1989)

Domestic Relations, Judge Kelly conspired to deny me due process; under color of law, enslaving me to involuntary servitude prohibited thirteenth Amendment. To receive federal funding 45 CFR 302.34 Liability can be held even for a single decision that’s improper Pembaur city of Cincinnati 475 U.S 469 (1986)

The Laws of Pennsylvania allowing state agencies to file proceedings against me in North Carolina, make a default judgment, is repugnant to constitution, and denies Due process,

Due process of law, as used in the Fourteenth Amendment are intended to secure the individual from the arbitrary exercise of powers of government" *Twining v State* 211 U.S 78(1908)

IX. CONCLUSION

Article III of The United States Constitution established a common law system, under the supremacy clause, state judges are bound by the Federal Constitution, "The supreme law of the land" The Supreme Court said the constitution must be interpreted in the light of common law, the principals and history of which were familiarly known to the framers of the constitution *South Carolina v United States* 199 U.S. 437 at 199 U.S 450(1905)

The constitution is a written instrument as such, its meaning does not alter, that which meant when adopted, means now *South Carolina v United States* 199 U.S. 437 at 199 U.S. 437.449 U.S 450(1905)

Honorable Judge K Kelly is not immune for tortuous acts committed in a purely administrative non judicial capacity *Forrester v White* 484 U.S 219(at 227) 2291988) see *Atkinson Baker Associates v Kolts* 7 F 3d 1452(9th cir 1993)

It is clear that a judge who acts in the absence of subject matter jurisdiction may be held liable for judicial acts *stump v Sparkman* 435 U.S. 349, 98 S CT. 1099 (1978)

Where judge presumes to exercise jurisdiction beyond understood boundaries, judge is not entitled to immunity. *Dykes v Housemann*, 743 F.2d 1488 (11th Cir. 1980)

When a judge knows that he lacks jurisdiction, or acts in the face of clearly valid statutes expressly depriving him of jurisdiction, judicial immunity is lost. *Ranking v Zeller* 633 F.2d 844(1980)

When an officer acts under a state law in a manner contrary to the Federal Constitution, he "comes into conflict with the superior authority of that constitution, and he is in that case stripped of his official or representative character and is subject in his person to the consequences of his individual conduct. The state has no power to impart him from immunity from responsibility to the Supreme authority of the United States." By Law, a judge is an officer. The Judge then acts not as a judge, but a private individual(in his person) The U.S Supreme Court, in Scheuer V Rhodes, 416, US 232, 94 S Ct 1687 (1974)

Judge Elizabeth K Kelly declaring father of a child, ordering me to pay child support was an administrative function, it wasn't judicial nature; for her, Domestic relations to obtain personal jurisdiction over an out of state resident of the state by showing service of process on the defendant is null and void; the paternity establishment pursuant to 42 U.S 666 is null and void There can be no laws regulating peoples social lives unless it pertains to public safety Mugler v Kansas 123 US 623 659 right at 660 (1887) power does not exist for government to control rights that are purely private Munn v Illinois 94 U.S 124 (1876)

WHEREFORE, the reasons stated herein, Writ of certiorari to vacate should be granted, as well as punitive damages for excess jurisdiction

Respectfully submitted

Jamaal A Gittens

1206 Marlene Street

Charlotte NC 28208

(704) 975-8173

Jamaal A Gittens

Type or printed notary name

Seal

- Place Notary Signature Above -

My commission expires

Date