

No. 20-1386

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IN THE  
SUPREME COURT OF THE UNITED STATES

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Dale Sawyer Eisele

Petitioner

v.

The Estate of Joseph Brodie Smith

Respondent

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On Petition for a Writ of Certiorari for the State of New Hampshire  
9<sup>th</sup> Circuit – Probate Division Nashua and the State of New Hampshire

Supreme Court

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PETITION FOR REHEARING

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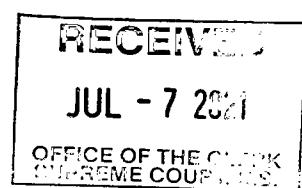
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## **PETITION FOR REHEARING**

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Pursuant to Rule 44.2, Dale Sawyer Eisele respectfully petitions for a hearing of the Court's order denying a certiorari in this case.

### **GROUNDS FOR REHEARING**

The Petitioner is raising other substantial grounds not previously presented. Pursuant to Rule 44.2 which pertains to rehearing of certiorari it states "other substantial grounds not previously presented."

The original certiorari petition in this case presented "General Statues of Minnesota", a compilation of laws from 1915 -17. This was the first law mandating social investigations of all adoptions including home studies and providing for all confidentiality of adoption records. It also stated "Consent when necessary".

" Except as herein provided no adoption of a minor shall be permitted without consent of his parents but the consent of a parent who has abandoned the child or who cannot be found, or who is insane or otherwise incapacitated from giving, such consent, who has lost custody of the child through divorce proceeding or order of juvenile court, may be dispensed with and consent may be given by the guardian,

**if there be one or if there be no guardian, by the state board of control."**

**"In case of illegitimacy the consent of the mother alone shall suffice."**

The substantial grounds that were not previously presented was the Massachusetts Adoption of Children Act of 1857. The Minnesota Law of 1915-1917 was the first law mandating social investigation and "Consent when Necessary". It went one step further it stated "In case of illegitimacy the consent of the mother alone shall suffice." In the Massachusetts Adoption of Childrens Act of 1857 it does not mention illegitimacy. Gladys Irene biological parents were not married. The Childrens Act of 1857 states

**"If both or either of the parents of such child shall be living, they or the survivor of them, as the case may be shall consent in writing to such adoption, if neither parent be living, such consent may be given by the legal guardian of such child, if there be no legal guardian no father nor mother, the next of kin of such child within the state, may give such consent and if there be no such next of kin, the judge of probate may appoint some discreet and suit-**

able person to act in the proceeding as the next friend of such child and give or withhold such consent."

The Massachusetts Adoption of Children Act of 1851 is clear "If both or either of the parents of such child shall be living, they or the survivor of them". Gladys Irene biological parents were both living as the petitioner's affidavit states which was sent to the court.

On the Petition for a Writ of Certiorari, it is exemplified how the laws of today were used and not the Massachusetts Adoption of Children Act of 1851 stating "they or the survivor of them".

A new decision by this Court would clearly establish the appropriate period of retroactively. This decision could change the result of this proceeding.

#### **CONCLUSION**

This petition for rehearing should be granted.

**CERTIFICATE OF PRO SE**

I hereby certify that this petition for rehearing is presented in good faith and not for delay, and that it is restricted to the grounds specified in Supreme Court Rule 44.2.

Dale Sawyer Eisele

Dale Sawyer Eisele

1/1/2021

