

20-1811

ORIGINAL

In the Supreme Court of the United States

FILED

JUN 24 2021

OFFICE OF THE CLERK  
SUPREME COURT, U.S.

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Jackie Chagolla, Petitioner,

v.

Robert Holya, Arizona DCS, Jessica Solis, Patricia Ward, Liz Vullo, Respondents.

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PETITION FOR A WRIT OF CERTIORARI  
TO THE UNITED STATES COURT OF  
APPEALS FOR THE NINTH CIRCUIT

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PETITION FOR A WRIT OF CERTIORARI

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## Questions Presented

i. Whether absolute immunity shields government employees who report false information/omit exculpatory information in the investigation stage as well as those individuals who the government employees promise absolute immunity in exchange for providing false statements in the investigation stage in order to violate Constitutional Rights and Due Process of Law? As to this question, there is a circuit split between the United States Court of Appeals for the Ninth Circuit here, and *Demaree v. Laura Pederson and Amy Van Ness*, D.C. No. 2:11-cv00046-ROS (9th Cir. 2018), the United States Court of Appeals for the Ninth Circuit, *Preslie Hardwick, Plaintiff-Appellee, v. County of Orange*, Defendant, and *Marcia Vreeken; Elaine Wilkins; The Estate of Helen Dwojak*, Defendants-Appellants. No. 15- 55563 D.C. No. 8:13-cv-01390-JLS-AN (9th Cir. 2017) and United States Court of Appeals for the Ninth circuit, *Sarah Greene, personally and as next friend for S.G., a minor, and K.G., a minor*, Plaintiff-Appellant No. 06- 35333 v. D.C. No. CV-05-06047-AA *Bob Camreta; Deschutes County; James Alford, Deschutes County Opinion Deputy Sheriff; Bend Lapine School District; Terry Friesen*, Defendants Appellees (9th Cir. 2009).

ii. Does the Federal Government's Authority to Impose Conditions on Grant Funds per the Spending Clause, Article I, Section 8, Clause 1 of the U.S. Constitution [Federal dollars fund 50% of the matching state dollars for every child removed from their biological parents/ primary caregivers (one trillion dollars per calendar year nationwide)] create an obligation to the children removed from their biological families to require accountability over the removal and non-removal of children from their primary families when that removal is based on pecuniary gain or pecuniary loss and violates Due Process Law? The Ninth Circuit backs up a 2017 ruling by U. S. District

Court Judge Roslyn Silver that *B.K. v McKay* could proceed as a class-action lawsuit. Silver had identified the plaintiffs' allegations as a valid basis for challenging "statewide practices affecting the proposed General Class." *B.K., by her next friend Margaret Tinsley; B.T., by their next friend Jennifer Kupiszewski; A.C.-B., by their next friend Susan Brandt; M.C.- B., by their next friend Susan Brandt; D.C.-B., by their next friend Susan Brandt; J.M., by their next friend Susan Brandt, Plaintiffs-Appellees, v. Jami Snyder, in her official capacity as Director of the Arizona Health Care Cost Containment System, Defendant-Appellant*. No. 17-17501 D.C. No. 2:15-cv-00185-ROS (9th Cir. 2019).

iii. Does the Federal Court failing to permit a Plaintiff to have a jury trial or the Federal Circuit Court failing to permit a Plaintiff to present an oral argument prevent a Plaintiff from proving multiple untruths and interfere with Due Process when the possessor of the facts seal documents, produce false information in the investigation stage and alter documents? Under Section 1001 of title 18 of the United States Code, it is a federal crime 'to knowingly and willfully make a materially false, fictitious or fraudulent statement in any matter within the jurisdiction of the executive, legislative, or judicial branch of the United States.

**List of Parties to Proceeding**

Defendants: Robert Holya and Patrica Ward, Attorneys for DCS; Jessica Solis, Investigator DCS; AZ Department of Child Protective Services (DCS), Liz Vullo (promised prosecutorial immunity for her statements).

Petitioner pro se: Jackie Chagolla

**Corporate Disclosure Statement**

Not applicable in this case.

**Related Proceedings**

CV2017-001125 Maricopa County Superior Court, Ruling, Defendants transferred this case to Federal Court on 7/10/2017

17-CV-01811-DGC Federal Arizona District Court, Trial denied and granted Summary Judgment on behalf of the Defendants, on 12/16/2019

20-15078 Federal Court of Appeals Ninth Circuit, Judgment, granted Summary Judgment and denied Oral Argument Filed on 1/25/2021

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## **Citations of Opinions**

Ninth Circuit Court of Appeals; Case No. 11-00046 Ninth Circuit Court of Appeals; Case No. 15-55563 Ninth Circuit Court of Appeals; Case No. 06-35333 Ninth Circuit Court of Appeals, Case No. 17-17501

## **Statement for the Basis of Jurisdiction**

The Judgement of the Court of Appeals was entered on January 25, 2021. This court's jurisdiction rests on 14<sup>th</sup> Amendment Due Process, the 4<sup>th</sup> Amendment and the 5<sup>th</sup> Amendment.

## **Constitutional Provisions and Statutes**

### **Constitutional Provisions**

U.S. Constitution, 4<sup>th</sup> Amendment (Protecting from Intrusions by the Government)

U.S. Constitution, 5<sup>th</sup> Amendment (Takings Clause) due to Federal Monies

U. S. Constitution, 14<sup>th</sup> Amendment (Due Process Clause) due to Federal Monies Statutes

Under Section 1001 of title 18 of the United States Code

Rule of Law

## **STATEMENT OF THE CASE**

Under the Takings Clause Jackie Chagolla's twins were taken from her when they were 16 years old and the Court kept her from seeing them until they could age out of the system which will be at age 26. Jessica Solis during the investigation stage falsified/alterd/withheld evidence which the Court became aware of but withheld contact (phone, face to face or third party) with the twins thus severing the relationship between Jackie Chagolla and her twins (although they did permit two

visits with one twin after that twin's attempted suicide while in DCS custody and the care of Liz Vullo.

The twin children of Jackie Chagolla stole Jackie Chagolla's car and withdrew over \$3,000 out of a joint account with their mother after a verbal argument with their father regarding trying to sneak out of the house after hours, no criminal charges were filed by Jackie Chagolla, but a missing children report was filed due to not knowing their whereabouts and the twins not returning phone calls. The twins' aunt who had lived in Jackie Chagolla's home for over eleven years stated she had not heard from them or seen them either, so multiple reports were filed. The lead detective confirmed this matter was over before the first Court date with DCS, stating he had advised Jessica Solis and could not explain why she was not truthful with the Court. (The letter referred to in last ruling negates to state in ruling this was before first Court date that the detective confirmed the matter was over instead referred to the date of the letter which refers to the multiple phone conversations).

Approached by the police regarding the missing child reports, the children claimed physical abuse regarding their not returning home and taking the car, but after speaking with Jessica Solis (Investigator DCS) they then alleged at a new police interview sexual abuse. No medical exams were conducted, and they were promised paid trips to foreign countries and a full ride to any university of their choosing if they remained in the care of the Department of Child Safety, which Jackie Chagolla could not provide for them due to being a middle-income earner and a college graduate. Jackie Chagolla was told she would never be able to see her children again by Jessica Solis (Investigator DCS), upon her taking of them. Although the Department of Child Safety became involved on a warrantless possession it would not have mattered that they now require a

warrant because if all Defendants are permitted to lie to the Judge the result will always be the same. It should be noted that by the time the twins reach the age of 26 the Arizona Department of Child Safety will have received a minimum of one million two hundred thousand dollars based on the acquisition of Jackie Chagolla's twins. Property has a dollar amount attached to it when taken from someone, but Jackie Chagolla's twins were priceless to her and pecuniary gain to the Arizona Department of Child Safety.

Jessica Solis (Investigator DCS) stated that if Jackie Chagolla did not provide a family friend's name for placement, she would place the children in a group home (the written report from Jessica Solis states otherwise (in fact stating Jackie Chagolla does not want her twins as evidenced by...) of which she would have shown to the twins further alienating Jackie Chagolla's relationship with them.

Liz Vullo was that family friend who after speaking to Jessica Solis (Investigator DCS) before their placement with Liz Vullo reported the following day immediately after taking possession of the twins that Jackie Chagolla was mentally ill and that Jackie Chagolla's husband and Jackie Chagolla had a long history of years of domestic violence between the two of them (both untrue statements). Her untruths would easily be proven via hospital records, police records and psychiatric hospitalizations, as well as unexplained absences from Jackie Chagolla's place of employment, but none exist. Yet the children were told by all parties (counselors, attorneys, etc) that they were no longer wanted by Jackie Chagolla and that Jessica Solis (Investigator DCS) and Liz Vullo now Foster Mother had no idea why Jackie Chagolla would no longer speak to them or see them implying that Jackie Chagolla was permitted to have contact with them when based on both Jessica Solis' report and Liz Vullo's statements the Court denied any contact with the children

unless approved by the Arizona Department of Child Safety and counselors whom Jackie Chagolla never responded to due to Liz Vullo obtaining her mail. Jessica Solis (Investigator DCS) reported Jackie Chagolla's address as Liz Vullo's. Liz Vullo then circulated the Court documents sent through the mail addressed to Jackie Chagolla with Liz Vullo's address through the Catholic Church and Catholic School that both Liz Vullo and Jackie Chagolla attended. Liz Vullo received attorney Court documents, CASA documents, documents from Jackie Chagolla's attorney, Maricopa County Juvenile Court documents, and documents from the Department of Child Safety that were never returned to sender or forwarded to Chagolla. Liz Vullo stated in Court documents in this lawsuit that she eventually destroyed those documents, but the damage caused by the lies emitted via those documents have severed the relationship between Jackie Chagolla, her children and her church family.

During the entire Court matter Jackie Chagolla was only permitted to see one child twice after that child had attempted suicide while living with Liz Vullo due to the actions and inactions of Liz Vullo. Had Jackie Chagolla's child or children died while in the custody of the Department of Child Safety Jackie Chagolla would have had the dead child returned to her to make funeral arrangements.

Before the 1<sup>st</sup> Court date all parties were advised that this matter criminally was unsubstantiated and DCS and all parties at that point had also known the girls were underaged drinking and using drugs, had liquidated a joint bank account with Jackie Chagolla that had over \$3,000, stolen Jackie Chagolla's car and refused to return it after running away only one time in their lives for one week. Jessica Solis (Investigator DCS) continued to tell the Judge that the police matter was still being investigated while the lead detective from the Police Department said he told Jessica Solis before

the first Court date the matter had been concluded with no evidence of abuse and could not explain why she was not telling the Judge the truth. Jackie Chagolla wrote a letter to a Bureau Commander with the Police Department who then gave the letter to the lead detective who sent a letter back reiterating Jackie Chagolla's phone conversations that as he had told Jackie Chagolla on the phone this matter was done. There existed no reason to not permit Jackie Chagolla to ever see her children, other than to alienate her twins by lying to them, lying to Jackie Chagolla, lying to the Foster Mother, lying to the counselors, and lying to the Court until Jackie Chagolla became aware of the one million two hundred thousand pecuniary gain to the Department of Child Safety based on the acquisition of her twins. Jackie Chagolla requested services to comply with whatever the Court requested, agreed to polygraph, and agreed to submit to drug/alcohol testing. Jackie Chagolla was told no one thought she was drinking or using illegal drugs and they would offer no services because the Department of Child Safety's plan was for severance of parental rights, so no contact would be permitted nor was she permitted to be involved in the staffings regarding her twins. The Foster Care Review Board stated that they had little impact on the actions of DCS and no accountability existed as did the ombudsman. Jackie Chagolla even offered to move into an apartment with only her and her twins and a friend agreed to stay with them during Jackie Chagolla's work hours in the hopes of re-establishing a relationship with them, but the Department of Child Safety said their intent was to never have Jackie Chagolla see them again. Their intent was severance, so the only way Jackie Chagolla would see her children again would be if they died in the custody of DCS.

Once the child stabilized who she had two days of contact with all contact was withdrawn again by the Department of Child Safety since the counselors stated unless Jackie Chagolla admitted

abusing her twins no contact would be approved. There was never a plan for reunification implemented.

It did not matter that the twins had been under a doctor's care for months due to a vehicle accident and the care ended a few weeks before this incident. It did not matter that Jackie Chagolla volunteered at their school extra-curricular activities or communicated with their teachers, that the twins had yearly sport physicals at their school conducted without Jackie Chagolla present, had attended private Catholic School through 8<sup>th</sup> grade who had a mandatory requirement to report abuse of any kind and the twins had been enrolled in martial arts classes to protect themselves since an older sibling had been brutally raped at 14, both twins were in braces and the Department of Child Safety also refused medical/mental health services for her twins stating in Court documents that the Department of Child Safety did not want to pay for those services pre the suicide attempt although their insurance cards had been provided to Jessica Solis (Investigator DCS) as well as their birth certificates and would not cost the Department of Child Safety anything.

Although Jackie Chagolla was not permitted to have contact with her twins, she discovered one twin had been disenrolled by the school due to extensive abscesses that occurred while in the care of the Department of Child Safety, so she provided the information to Jessica Solis (Investigator DCS) on the importance of getting that twin re-enrolled and set up in an IEP and provided her with the contact information to take care of this matter.

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In addition, Jackie Chagolla was advised the trip overseas, the full ride to a university, stipends and all other items promised to her twins would never happen unless a lawsuit was filed. It was said that the Department of Child Safety routinely promised the above items to teenagers in exchange for untruths so they can acquire funds based on their placement with the Department of Child Safety.

Two additional children were interviewed the day Jessica Solis (Investigator DCS) came to Jackie Chagolla's home, but she chose to omit the interviews of each due to the exculpatory nature of the

interviews. In the Ninth Circuit ruling in this lawsuit the Judges ruled that any evidence in favor of Jackie Chagolla is not required to be reported to the Judge including those interviews. One of the children that was interviewed at Jackie Chagolla's home was an adult child who no longer lived in Jackie Chagolla's home and the oldest of her seven children.

After the Department of Child Safety took the twins the remaining 12-year-old in her home was left, omitted from the reports and that child's interview was not submitted to the Judge. The Department of Child Safety chose to pretend that child did not exist, yet that left Jackie Chagolla fearful for every knock on the door, letter in the mail and guarded over the day that child too would be forever removed from her life. She created a safety plan with that child so if that child were taken by the Department of Child Safety that child would not run away from the Department of Child Safety and that Jackie Chagolla would not move from her home so that child could always find her. The voice for Jackie Chagolla would have been the Court Appointed Advocate, but all those mailings from the Court Appointed Advocate went to Liz Vullo under Jackie Chagolla's name. Unable to respond for failure to be advised although requested by Jackie Chagolla at each Court date kept that part of Due Process from ever happening.

Jackie Chagolla was advised by the attorneys representing the Arizona Department of Child Safety that she should sign her parental rights away in lieu of severance and losing her job due to the severance. Jackie Chagolla refused so the Department of Child Safety withdrew all charges but refused to permit a relationship with her twins, set repeated Court dates until her twins had turned 18, so the relationship with her girls would be totally alienated and so the Arizona Department of Child Safety would not lose their \$120,000 yearly minimum funding for the twins. The Arizona Department of Child Safety listed the twins as witnesses in this lawsuit restricting Jackie Chagolla



from having contact with the twins.

In Arizona Foster Care Parents earn an average salary of \$33,636 as of June 2021. Jackie Chagolla's twins are eligible for funding to age 26 and the Department of Child Safety will continue to collect \$120,000 per year for the twins in just Federal and State dollars, not including donations and any other funds donated based on their placement with the Department of Child Safety.

Jackie Chagolla's twins have been given what they were promised a full ride to a university of their choosing, a Semester at Sea with a cost of between \$26,000 to \$32,000 per child. They were flown to China for a month on one of their birthdays then the COVID-19 stopped all travel. Due to the confidentiality of all matters related to children, during this Court process no documentation could be obtained regarding the total of the incoming resources per child taken into DCS custody in Arizona , and no trial meant no one could be asked why there is no money for toothbrushes or toothpaste for the children in DCS custody or why the children who have suffered the most and have the most complaints are left to die or be tortured due to the pecuniary loss that would occur if the Department of Child Safety took them into their custody. The Maricopa County Juvenile Superior Court Judge stated that Jackie Chagolla had nothing to fight since the Department of Child Safety never substantiated any claims Jackie Chagolla, they only removed Jackie Chagolla from the ability to parent her twins or restore the relationship that was severed by not allowing Jackie Chagolla to have contact with her twins and continued the Court dates until the twins turned eighteen.

Jackie Chagolla cannot undue what was done by the actions/inactions of all the listed Defendants, but she can fight to keep this from happening to another family. Foster parents, Department of

Child Safety employees and their attorneys should be held accountable for their actions/inactions, and “best interest of the child” should not be a pass to lie, alter documents, omit exculpatory evidence, and not give detailed accountability of where all funds go that are based on the acquisition of children. In 2015 when Jackie Chagolla’s twins were taken; Maricopa County alone received over one billion dollars based on the children in the Arizona Department of Child Safety custody.

This lawsuit from the beginning was not just about what they did regarding Jackie Chagolla and her twins, but another child (a little girl named “Baby A”) who had 6 complaints filed against her and died in her home at 22 months and 2 days, but whose 5<sup>th</sup> complaint filed against her with the Department of Child Safety occurred one month after Jackie Chagolla’s twins were taken from her.

This lawsuit also addressed a teenager who was lied to when they blocked the parents from having contact with him in the hospital and told him he was abandoned by his parents (the reporter who authored this story was part of Jackie Chagolla’s witness list). Some children in Arizona have over 30 complaints before the Arizona Department of Child Safety acts.

The Arizona Department of Child Safety must show that there is a substantial likelihood that the parent will not be capable of parenting effectively in the near future, not that someone with better parenting skills may be able to care for the child. See *Roberto F.*, 232 Ariz. at 53, ¶ 38 n.11. Rebellious teens are still children, and their rebellion should not be a reason for severance and would not have been if pecuniary gain on the part of the Department of Child Safety was not a factor.

Both *Baby A's case and Demaree v. Laura Pederson and Amy Van Ness*, D.C. No. 2:11- cv00046-ROS (9th Cir. 2018), were cited in the original complaint.

## **REASONS FOR GRANTING THE WRIT**

Jessica Solis, Robert Holya and Patricia Ward disrupted the impartiality of the court so the court could not perform its tasks without bias of prejudice; and failed to produce evidence that they had in their possession committing discovery abuse. The violation of the right to due process is enshrined in the Fourteenth Amendment to the U.S. Constitution. Patricia Ward and Robert Holya as sworn officers of the court violated those due process rights, both when they altered information and withheld information in the investigate stage then throughout the court proceedings. Prosecutorial immunity does not limit financial liability for actions.

Prosecutorial immunity does not protect against Constitutional violations of rights. The Plaintiff argues that an entity or person, who is sworn to uphold the laws then violates multiple laws, commits crimes, and colludes in a coverup of the same to include fraud upon the court forfeit their rights to any time barred accountability due to the heinous nature of the acts, and the violated positions of public trust that then compromises the ***Rule of Law***. [emphasis added]

Since the Federal Government distributes Federal Funds to the Arizona Department of Child Safety (DCS) based on the truthfulness of the Arizona Department of Child Safety (DCS) employees and their attorneys, the Federal Government has due diligence to enforce the ***Rule of Law***. [emphasis added]

Robert Holya, Jessica Solis, Liz Vullo and Patricia Ward did not deceive a jury they intentionally deceived a Judge, and additional Judges as this matter rose through the court as they continued to

commit fraud upon the court.

The federal courts have the power under the Federal Rules of Civil Procedure to set aside judgments entered years earlier that were obtained by “fraud on the court.”

Rule 60(d)3 of the Federal Rules of Civil Procedure which provides grounds for relief from a final judgment, order, or proceeding states that the rule does not limit the Court’s power to seek justice. Robert Holya, Jessica Solis, Liz Vullo and Patrica Ward due to their positions in this process were permitted to use their words not just in the removal of Jackie Chagolla’s twins but in the rising of this lawsuit to portray Jackie Chagolla as someone who she is not. Their credibility is granted due to their positions and Jackie Chagolla’s is negated because she had seven children. Jackie Chagolla does not know how to not care. How to not care about not just own children, but the images of the children who the Arizona Department of Child Safety failed to protect due to pecuniary loss, about the children who unlike her twins have no viable advocate and are either missing while the Arizona Department of Child Safety still collects over \$12,000,000 per year for those children or those children who never receive the benefits promised to them.

These issues are not isolated to the Arizona Department of Child Safety but are a national issue and the ruling in this matter would set a precedent that no one is permitted to lie to the Courts or withhold information for our nation's most priceless commodity our children. The Plaintiff argues that there is a valid claim upon which relief can be granted and that claim is fraud upon the court.

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These issues are not isolated to the Arizona Department of Child Safety but are a national issue and the ruling in this matter would set a precedent that no one is permitted to lie to the Courts or withhold information for our nation's most priceless resource our children. The Plaintiff argues that there is a valid claim upon which relief can be granted and that claim is fraud upon the court. Fraud upon the court harms the integrity of the judicial process and is a wrong against the institutions set up to protect and Fraud upon the court harms the integrity of the judicial process and is a wrong against the institutions set up to protect and safeguard the public. "*Rogone v Correia*, 236 Ariz.43, 48 paragraphs 11 (App.2014) (quoting *Orlandini*, 227 Ariz. At 300 paragraph 43). *McNeil*, 236 Ariz. At 176-77 paragraph 14 (noting fraud upon the court includes 'when a party obtains a judgment by concealing material facts and suppressing the truth with the intent to mislead the court') (Quoting *Orlandini*, 227 Ariz. At 299 Paragraph 42).

A party's diligence, or lack of it, is not a defense against fraud on the court.

*Pearson v. Callahan*, qualified immunity protects a government official from lawsuits alleging that the official violated a plaintiff's rights, only allowing suits where officials violated a "clearly established," courts consider whether a hypothetical reasonable official would have known that the defendant's conduct violated the plaintiff's rights. Under qualified immunity Jackie Chagolla has the right to sue Jessica Solis, Robert Holya, Patricia Ward, and Liz Vullo (who by Liz Vullo's own statements in this matter she was led to believe she was entitled to qualified immunity because her statements were made in the position of the Foster Parent with statements being provable as untrue), actions as individuals in this matter for the damages they caused to Jackie Chagolla. Jessica Solis, Liz Vullo, Robert Holya's and Patricia Ward's actions and inactions in this matter were willful intentional acts of misconduct to include criminal acts generated by their lack of accountability.

*Butz v. Economou*, 438 U.S.478, 507 (1978) (holding that in a suit for damages arising from unconstitutional behavior are only entitled to qualified immunity).

Fraud upon the court via abusive discovery should never go unchecked but especially in crimes against families and their children.

This case does not involve who did it or why, but how do we prevent this from ever happening to someone again.

*Rieves v. Town of Smyrna*, 959 F.3d 678 (6<sup>th</sup> Cir. 2020), Defendants (the District Attorney and Assistant District Attorney) claimed absolute prosecutorial immunity or qualified immunity for their misconduct. The Sixth Circuit affirmed denial of the motions to dismiss by the defendants.

In *Buckley v. Fitzsimmons*, 509 U.S. 259, 274 (1993), the Supreme court held that prosecutors

were not absolutely immune for fabricating boot print evidence at a time that they lacked probable cause to either arrest or prosecute. Before there is probable cause the prosecutor acts in an investigatory capacity rather than an advocate. *Buckley*, 509 U.S. at 224 (before probable cause to arrest a “prosecutor’s mission is entirely investigative in character.

This does not mean that everything a prosecutor does post-probable cause is necessarily advocacy. The investigative conduct of Jessica Solis, Patricia Ward and Robert Holya preceded the time that I was denied access to my children.

Accountability is not just what we do but what we fail to do.

This case is not just about what was done to Jackie Chagolla but the children who either die because they would cost too much to help, or who suffer for years because they would cost too much to help, and those children who are promised resources in exchange for untruths who then never receive them without the aid of an attorney.

The U.S. Supreme Court’s recent ruling point toward qualified immunity which requires in the least that the facts in this matter be reviewed by U.S. Supreme Court for a definitive ruling.

In 2009, *Pottawattamie v. McGhee*, the prosecutors were accused of manufacturing evidence it rose to oral arguments at the U.S. Supreme Court and was settled by the prosecutors before a ruling in that matter.

In the United States Court of Appeals for the *Fifth Circuit Court Case* 19-30197, affirmed that individual Defendants (the prosecutors) are not entitled to absolute immunity for their alleged creation and use of fraudulent subpoenas. April 21, 2020.

Prosecutorial egregious actions are not protected by qualified immunity.

The 7<sup>th</sup> Circuit ruled that when the prosecutor's actions are egregious enough that qualified immunity cannot protect them.

Absolute prosecutorial immunity does not bar criminal prosecutions against prosecutor.

Prosecutors who knowingly manufacture evidence that results in the conviction of an innocent person shouldn't be shielded from lawsuits.

*Fields v. Wharrie, the 7<sup>th</sup> Circuit.* In this case the prosecutors had knowingly coerced witnesses into giving false testimony. The court cited that the act that causes an injury need not be simultaneous with the injury (indeed it will never be exactly simultaneous) for the actor to be liable. Think of products liability. The defect that caused a pipe to burst and flood your home may have been present when the pipe was manufactured years earlier. The manufacturer would be liable despite the lapse of time. He who creates the defect is responsible for the injury that the defect foreseeably causes later.

*Saucier v. Katz, 533 U.S. 194 (2001)* When there is a summary judgment motion for qualified immunity the Court elaborated a 2-part test for whether a government official is entitled to qualified immunity:

First, a court must look at whether the facts indicate that a constitutional right had been violated.

If so, a court must then look at whether that right was clearly established at the time of the alleged conduct.

Defendants, Robert Holya and Patricia Ward, or any prosecutor should not be given a free pass due to being attorneys for accountability for their criminal, violation of due process, and fraud on the court actions, when driven by Constitutional Violations.



Robert Holya and Patricia Ward have a far greater knowledge of the law than the Plaintiff in this matter.

Fogel, Singleton and *Rieves* are important decisions because they illustrate that when a prosecutor steps outside their role as an advocate and engages in investigative conduct, absolute immunity will not immunize their unconstitutional conduct.

During the investigation stage Jessica Solis (Investigator DCS) said she would make sure Jackie Chagolla was never part of our children's lives ever again.

Liz Vullo after talking to Jessica Solis reported Jackie Chagolla was mentally ill and had a history of domestic violence with her husband.

The twins after talking to Jessica Solis suddenly reported sexual abuse, but no one would conduct any medical evaluations regarding the alleged abuse since no abuse existed.

Jessica Solis listed Liz Vullo's address as mine and suddenly Jackie Chagolla's church members had access to the minute entries and documents stating the above.

The attorneys in the matter stated their intent was to make sure that Jackie Chagolla never saw her children again and threatened to make sure she lost her job.

U.S. Court of Appeals for the Ninth Circuit in which appellants tried to argue that strictly speaking, there was nothing in the U.S. Constitution that prohibits a child welfare worker from lying to achieve a removal to foster care, in this case the Judges found that the mere statement the best interest of the child, but how can that be determine if there is not accountability over child welfare workers actions.

Furthermore, the social workers' alleged transgressions were not made under speaking, there was nothing in the U.S. Constitution that prohibits a child welfare worker from lying to achieve a removal to foster care, in this case the Judges found that the mere statement the best interest of the child, but how can that be determine if there is not accountability over child welfare workers actions.

... Government perjury and the knowing use of false evidence are absolutely and obviously irreconcilable with the Fourteenth Amendment's guarantee of Due Process in our courts.

... Government perjury and the knowing use of false evidence are absolutely and obviously irreconcilable with the Fourteenth Amendment's guarantee of Due Process in our courts. Furthermore, the social workers' alleged transgressions were not made under pressing circumstances requiring prompt action, or those providing ambiguous or conflicting guidance. There are no circumstances in a dependency proceeding that would permit government officials to bear false witness against a parent.

Jessica Solis told one child in DCS care that she was going to show the children when she provided paperwork that showed Jackie Chagolla valued her job more than them because it would have included signing Jackie Chagolla's rights away to stop the proceedings, (what she did not tell them is that it would claim her children were severely mentally ill and could not be parented by her due to their SMI status). Every child taken into DCS custody is deemed SMI, because DCS then acquires more money for them.

Hands decision in *Gregoire*, the Supreme Court in *Conley v. Gibson* confirmed the sufficiency standard for claims filed in federal court – the rule for what must be included in a complaint in order for it to survive a 12(b)(6) motion to dismiss for failure to state a claim in response the

defendant's contention that the plaintiffs' complaint "failed to set fourth specific facts to support its general allegations," Justice Black held that "the Federal Rules of Civil Procedure do not require a claimant to set out in detail the facts upon which he bases his claim. To the contrary, all the Rules require is a 'short and plain statement of the claim' that will give the defendant fair notice of what the plaintiff's claim is and the grounds upon which it rests."

To be clear Jessica Solis (Investigator DCS) interviewed an older child who no longer lives in the home and the 12-year-old child who lived in our home but excluded that information from her report, determinations and findings then reported false statements that she claimed Jackie Chagolla made which she had not and left out true statements Jackie Chagolla had made thus altering the truth.

Jackie Chagolla put each foot in front of the other and managed the best she could, but this matter is not just about what happened to her, but the children during this same time frame that were dying because DCS failed to act for those children who had visible wounds, yet those children were not removed and subsequently died. Children whose complaints spanned years but who would have been a pecuniary loss for DCS to help, so no help was provided.

The harm caused to Jackie Chagolla in sleep deprivation, mental anguish, loss of trust and loss of time with her family, all are a foreseeable result of Defendants' actions in this matter.

*Hazel-Atlas Glass Co. v. Hartford-Empire Co.*, conducted the fraud on the court inquiry by considering the "trail of fraud" under a totality of the circumstance's analysis. 332 U.S. 238, 250 (1940), *overruled on other grounds by Standard Oil Co. of Cal. v. United States*, 429 U.S. 17 (1976)

Robert Holya and Patricia Ward held positions of public trust and as sworn officers of the court knew one day their actions could have consequences, but Jackie Chagolla was merely a mother of seven children who volunteered and organized children's volunteer activities in community and at her church and would never have believed that this could happen in the United States of America.

This case is not just about Robert Holya, Patricia Ward, Jessica Solis and Liz Vullo, but others like them who through their actions or inactions cause irreparable harm to children and families due to a lack of accountability.

Absolute power corrupts absolutely, holding these four accountable can positively change a system that was meant to protect children from the trillion-dollar business it has become across the United States.

The Freedom of Information Act does not apply to minor children until they die.

The Freedom of Information Act is ineffective to anyone looking for the total of incoming dollars (items donated (individual, business or charitable), the multiple financial government funds, or other financial dollars donated (individual, business or charitable) for the children taken into the care of the Department of Child Safety.

To protect the appearance of propriety of the legal system, to correct the result of Jessica Solis', Robert Holya's, Patricia Ward's, Liz Vullo's fraud on the court by affirming that fraud on the court may include actions that became known both before and after judgment or settlement in government cases. The pursuit of the truth due to the totality of this circumstance analysis

Plaintiff alleges that Jessica Solis', Robert Holya's, Patricia Ward's, Liz Vullo's actions and inactions warrant granting certiorari to protect the integrity and public reputation of the judicial

system by affirming the appropriate standard that is to be applied to Rule 60(d)(3) fraud on the court claims. Rule 60(d)(3) codifies the general principle that federal courts always have the “inherent equity power to vacate judgments obtained by fraud.” *United States v. Estate of Stonehill*, 660 F.3d 415, 443 (9<sup>th</sup> Cir. 2011), Plaintiff has alleged that Robert Holya and Patricia Ward while acting as sworn officers of the court submitted falsified and fraudulent public records that they altered while in the investigative stage in collusion with Jessica Solis and Liz Vullo acting under qualified immunity. Robert Holya and Patricia Ward interfered with due process by failing to disclose exculpatory evidence, and misrepresented key facts.

The public trust that amici bear requires that amici and the lawyers in their officer scrupulously adhere to their ethical duties whether engaged in a civil or criminal enforcement action. See, e.g. *Freeport-McMoRan Oil & Gas Co. v. FERC*, 962 F.2d at 47 (duty to do justice applies “with equal force to the government’s civil lawyers”); *Reid v. INS*, 949 F.2d 287, 288 (9<sup>th</sup> Cir. 1991) (counsel for the government has an interest only in the law being observed, not in victory or defeat in any particular litigation”).

As recognized in *Freeport-McMoRan*, the American Bar Association's former Model Code of Professional Responsibility expressly held a “government lawyer in a civil action or administrative proceeding” to “the responsibility to seek justice,” and said they “should. refrain from instituting or continuing litigation that is obviously unfair.” *ABA Model Code of Professional Responsibility* EC 7-14 (1981); *Freeport-McMoRan Oil & Gas Co. v. FERC*, 962 F.2d at 47: *see also Silverman v. Ehrlich Beer Corp.*, 687 F. Supp. 67 (S.D.N.Y. 1987) (“the attorney representing the government must be held to a higher standard than that of the ordinary lawyer”).

The potential for fraud does not disappear simply because the government requests civil, not

criminal relief. Edward L. Rubin, Due Process, and the Administrative State, 72 Cal. L. Rev. 1044, 1047o-48 (1984) ('it has always been clear that the [Due Process Clause] applied to the conduct of criminal and civil trials'). The duty to seek justice fairly applies in the civil enforcement context as well. Civil enforcement actions often seek remedies that are penal in nature. The government lawyer in such circumstances is accountable "to a higher standard of behavior." *United States v. Young*, 470 U.S. 1, 25-26 (1985) (Brennan, J., concurring in part) (emphasis original). For example, the ABA Code of Professional Responsibility states that a "government lawyer in a civil action... should not use his/position to harass parties or to bring about unjust settlements or results." EC 7-14 (1980); see also *id.* (Government lawyers have "an obligation to refrain from instituting or continuing litigation that is obviously unfair."

Nor should government attorneys be given the perverse incentive to seek harsh civil penalties rather than criminal penalties to be held to lower standards of conduct. Just as convictions are overturned when courts are misled (sometimes in even minor ways), so too should civil enforcement settlements be subject to vacatur, especially when procured through massive fraud. See *Giglio v. United States*, 405 U.S. 150 (1972); *Brady v. Maryland*, 373 U.S. 83 (1963).

*Fogel, Singleton and Rieves* are important decisions because they illustrate that when a prosecutor steps outside their role as an advocate and engages in investigative conduct, absolute immunity will not immunize her unconstitutional conduct.

Every day is day 1, Jackie Chagolla waits for a letter in the mail, an entry on the internet, or a knock on our door stating how in some new way her live will be impacted by their actions/inactions from the past. This event that could never have occurred if there was just one righteous person involved in this case. This event impacts Jackie Chagolla's live to this very day. Robert Hoyla,

Patricia Ward, Jessica Solis and Liz Vullo know what they did and did not do in this matter, but thought prosecutorial immunity gave them protection from their actions/inactions, especially those that were criminal and unconstitutional and in the investigative stage.

Jackie Chagolla continues to put one foot in front of the other, the damage done to Jackie Chagolla and her other children and grandchildren cannot be undone, but every day she has hope of reconciliation with her children unlike the children who died either due to the Department of Child Safety's (DCS/CPS) actions or inactions.

The faces of the children who have died after 3 or more complaints, the children who begged to go home and died at their own hands when their voices went unheard while in DCS/CPS custody, the children who did not die but who suffered at the hands of the foster parents who failed to protect them, the children whose abuse was reported but due to potential pecuniary loss their voices were ignored, the children who are lied to by their attorneys and DCS/CPS caseworkers, the over two-hundred missing children from the Foster Care System in Arizona, the children in DCS/CPS care but never receive services due to lack of timely action on the part of DCS/CPS.

Jackie Chagolla has not lied to a Judge or the Courts, but Jessica Solis, Liz Vullo, Robert Holya and Patricia Ward by interpretation of prosecutorial immunity are permitted to lie to both the judges and the court. Section 1001 of title 18 of the United States Code, it is a federal crime 'to knowingly and willfully make a materially false, fictitious or fraudulent statement in any matter within the jurisdiction of the executive, legislative, or judicial branch of the United States.

If the very laws (civil, criminal, and constitutional) put in place to prevent abuses are never enforced there is no incentive for any attorney to play by the rules let alone adhere to the laws, they are sworn to follow while addressing the Court. It is respectfully requested this case not be

dismissed and the Federal Government conduct their own investigation into the actions and inactions involving the Arizona Department of Child Safety, so DCS/CPS can explain why a national trillion-dollar business has no money for toothpaste or toothbrushes for the children they have in their custody and to explain why multiple children with over 3 complaints were left in the home to be brutally murdered, why children are sleeping on the floor in the offices of DCS buildings, why children are missing while federal funds are still being collected for their care by DCS/CPS (over \$12,000,000 is collected yearly by the Arizona Department of Child Safety based on every child removed from the home but missing). This lawsuit originates in Arizona, but this is a national issue regarding absolute immunity and financial accountability of federal dollars.

## **CONCLUSION**

For the foregoing reasons, the Court should grant the petition for a writ of certiorari and reverse the Ninth Circuit's decision.

Respectfully submitted,

Jackie Chagolla

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