No. 20-_____

In the Supreme Court of the United States

CHARLES R. CAMPBELL,

Petitioner,

v.

HOLLIE S. BENNETT, ET AL.,

Respondents.

On Petition for a Writ of Certiorari to the United States Court of Appeals for the Fourth Circuit

PETITION FOR A WRIT OF CERTIORARI

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JULY 15, 2020
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QUESTIONS PRESENTED

Coincident May 2013 Divorce action and mandated co-Parental Evaluation, Petitioner, a long-time professional with no previous criminal history, was falsely arrested (App.91a, "Incident Report"). His female Accuser had two previous Convictions. Neither Court Evaluator nor Guardian-ad-Litem interviewed Petitioner post Arrest in the Full Year prior the Final Hearing. Yet each made multiple, direct references to the Arrest in Final Reporting to the Family Court, explicitly Presuming Petitioner's guilt. Petitioner's Criminal charge was dropped/expunged (App.115a "Expungement") without negotiation/trial in April 2016. Petitioner won Civil suit for Defamation in November 2016. But by then Petitioner had been bullied into Final Divorce Agreement (May 2014) (App.102a), removing all Visitation rights. Petitioner has not seen his children since the False Arrest seven years ago. Constitutional Questions regarding loss of access to Petitioner's children and illegitimate Restraining Orders are Prima Facie relative the Fourteenth Amendment. Regardless Obvious Civil issue and approximately $20,000 in fees, Petitioner has been blocked from obtaining Representation to re-establish his Parental Rights. Petitioner raises question of Sixth Amendment applicability due to Criminal Case Encumbrance never expunged from his Family Case. The District Magistrate raised the question of *Rooker-Feldman* Doctrine, as well as "State Actor" requirements for Defendants under the Fourteenth Amendment. The Questions Presented are

1. **Right to Counsel for Defence.** Whether

i) The Sixth Amendment establishes a defined expectation of Individual Due Process Rights relative any and all Criminal Charge;

ii) This Court's previous established willingness to affirm an Individual's Right against Self-incrimination, among other such liberties, in venues where Criminal Liability might infer/occur even as the venue itself is not directly a Criminal Court proceeding, might then inform other like Due Process rights such as the Right of Counsel for Defence and Equal Protection;

iii) The unusual timing/circumstances of Petitioner's Arrest can be shown to have Unilaterally spoiled Petitioner's Family Court proceedings to such degree as to positively confer Petitioner a Right To Counsel even in Civil venues, and as necessary to effectively protect from Criminal responsibility all Liberties, Privileges, and Immunities contemplated in the Fifth and Fourteenth Amendments, especially that of such significance as Petitioner's Right to Family; and

iv) The South Carolina State Bar, defined as the "Administrative agency of the South Carolina Supreme Court" (S.C. Code Ann. § 40-5-20), is appropriately held accountable for Petitioner's Right to Counsel, relative any and all infringements from the original Criminal Charge, especially as given probative evidence of extensive efforts by and previous capability of Petitioner to procure such Counsel of his own regard.

2. ***Rooker-Feldman*** **Doctrine.** Whether:

i) in deliberately failing over significant time to access reasonably available, exculpatory information relative Petitioner's arrest, including as a minimum a direct interview with Petitioner, the Family Court Evaluator, Defendant Shelton, and the Guardian-ad-Litem, Defendant Bennett, both failed in the Investigative phase of their duties, as opposed the Judicial

phase, thus invalidating application of the *Rooker-Feldman* Doctrine; and/or

ii) as this Court may sit in Final Review of Constitutional Questions inherent to State Court judgements, the District Court's *Rooker-Feldman* ruling can be presumed immaterial, and the aforementioned Investigative failure, coupled with collusive withholding of key information from the Family Court Judge, as well as presumptively false statements relative possible Petitioner Guilt explicitly included in Reports to the Judge, taken together sufficed to deny Petitioner any opportunity of Constitutionally provided Due Process in his Family Court matters.

3. Guardian-ad-Litem as State Actor

Whether the District Court (with Fourth Circuit Court affirmation) has misapplied the nature of Defendant Bennett's legal call as Guardian-ad-Litem in such a way that i) inappropriately uses Georgia State Law as basis for adjudication of Petitioner's original Complaint, ii) is at odds to South Carolina State Law, iii) is at odds with relevant Federal Court opinions, and iv) would contravene the concept of Substantive Due Process Right to Family as interpreted from the Fifth and Fourteenth Amendments, and as further established in previous U.S. Supreme Court rulings, ultimately providing that the Guardian-ad-Litem appropriately meets the standard of a "State Actor" for purposes of both the Fourteenth Amendment and 42 U.S.C. § 1983.

4. Family Court Evaluator as State Actor

Whether the District Court (with Fourth Circuit Court affirmation) has erred in applying previously established U.S. Supreme Court rulings to Defendant

Shelton as Family Court Evaluator, ultimately providing that the Court Evaluator appropriately meets the standard of a "State Actor" for purposes of both the Fourteenth Amendment and 42 U.S.C. § 1983.

5. State Agency personnel as State Actor(s)

Whether, as Petitioner has sought official review of the Family Court Evaluation (App.143a "Shelton"), the District Court (with Fourth Circuit Court affirmation) has misapplied the nature of the South Carolina Department of Labor, Licensing, and Regulation's responsibility to the public in such a way that it is at odds to South Carolina State Law, general Professional Standards, and specific contractual warranties, ultimately providing that the named members of the Department appropriately meet the standard of a "State Actor" for purposes of both the Fourteenth Amendment and 42 U.S.C. § 1983.

LIST OF PARTIES

Petitioner and Plaintiff-Appellant Below

- Charles R. Campbell

Respondents and Defendants-Appellees Below

- Hollie S. Bennett
- Karen K. Shelton
- Emily H. Farr
- Christa T. Bell
- Board of Examiners in Psychology, South Carolina Dept. of Labor, Licensing, and Regulation
- Shirley A. Vickery
- South Carolina Bar Association
- South Carolina Bar Board of Governors
- M. Dawes Cooke, Jr.

LIST OF PROCEEDINGS

United States Court of Appeals for the Fourth Circuit

No. 19-2149

Charles R. Campbell, *Plaintiff-Appellant, v.*
Ms. Hollie S. Bennett; Dr. Karen K. Shelton; Honorable Tony M. Jones; Ms. Catherine A. Stone; Mr. Charlton B. Hall; Ms. Emily H. Farr; Mr. Dean Grigg; Ms. Christa T. Bell; Mr. David B. Love; Board of Examiners in Psychology, South Carolina Dept. of Labor, Licensing, and Regulation; Ms. Shirley A. Vickery; South Carolina Bar Association; South Carolina Bar Board of Governors; Mr. M. Dawes Cooke, Jr.; Ms. Beverly A. Carroll; Dr. J. Patrick Goldsmith, *Defendants-Appellees.*

Date of Final Opinion: April 16, 2020

United States District Court for the District of South Carolina

Civil Action No. 0:19-973-JFA

Charles R. Campbell, *Plaintiff, v.*
Ms. Hollie S. Bennett; Dr. Karen K. Shelton; The Honorable Tony M. Jones; Ms. Catherine A. Stone; Mr. Charlton B. Hall; Ms. Emily H. Farr; Mr. Dean Grigg; Ms. Christa T. Bell; Mr. David B. Love; Board of Examiners in Psychology, South Carolina Dept. of Labor, Licensing, and Regulation; Ms. Shirley A. Vickery; South Carolina Bar Association; South Carolina Bar Board of Governors; Mr. M. Dawes cooke, Jr.; Ms. Beverly A. Carroll; Dr. J. Patrick Goldsmith, *Defendants.*

Date of Judgment: September 23, 2019

TABLE OF CONTENTS

Page

QUESTIONS PRESENTED i

LIST OF PROCEEDINGS vi

TABLE OF AUTHORITIES x

PETITION FOR A WRIT OF CERTIORARI 1

OPINIONS BELOW 1

JURISDICTION 1

CONSTITUTIONAL AND STATUTORY PROVISIONS INVOLVED 2

STATEMENT OF THE CASE 5

I. Statement (1) – Right to Counsel for Defence 5

II. Statement (2) – *Rooker-Feldman* Doctrine ... 11

III. Statement (3) – Guardian-ad-Litem (Bennett) as a State Actor 24

IV. Statement (4) – Family Court Evaluator (Shelton) as a State Actor 37

V. Statement (5) – Due Process Claim, Board of Examiners in Psychology 40

REASONS FOR GRANTING THE PETITION 44

CONCLUSION 45

TABLE OF CONTENTS – Continued

Page

APPENDIX TABLE OF CONTENTS

OPINION AND ORDERS

Opinion of the United States Court of Appeals for the Fourth Circuit (April 16, 2020) 1a

Judgment of the United States District Court for the District of South Carolina (September 23, 2019) 3a

Report and Recommendation of the United States District Court for the District of South Carolina Rock Hill Division (May 29, 2019) 5a

Order of Default Judgment of the Court of Common Pleas for the Sixth Judicial Circuit (September 1, 2016) 18a

CONSTITUTIONAL AND STATUTORY PROVISIONS

Relevant Statutory Provisions 21a

OTHER DOCUMENTS

Supreme Court Case Block Quotes 33a

Complaint and Request for Injunction (April 2, 2019) 35a

Addendum I–Additional Defendants 44a

Addendum II–Dates and Times of Events Giving Rise to Claim 49a

Addendum III–Facts Underlying the Claim 55a

Addendum IV–Statement of Requested Relief 81a

Addendum V–Sheriff Incident Report (December 18, 2012) 91a

TABLE OF CONTENTS – Continued

Page

Addendum VI–Final Decree of Divorce (May 27, 2014) 102a

Addendum VII–Order for Destruction of Arrest Records (April 20, 2016) 115a

Addendum VIII–Affidavit of Reviewing Physician Harvey L. Gayer, Ph.D. (August 8, 2018) 120a

Affidavit of Marc Harari, Ph.D. (May 23, 2019) 126a

Affidavit of Consulting Physician Andrew M. Gothard, PhD. (June 5, 2019) 133a

Affidavit of Consulting Physician Lois J. Veronen (June 3, 2019) 138a

Family Court Ordered Psychological Evaluation Summary (July 10, 2013) 143a

Email from BL (October 25, 2014) 160a

Email from SA (July 7, 2013) 161a

TABLE OF AUTHORITIES

Page

CASES

Adickes v. S. H. Kress & Co.,
398 U.S. 144 (1970) 28

Am. Reliable Ins. Co. v. Stillwell,
336 F.3d 311 (4th Cir. 2003) 12

Baxter v. Palmigiano,
425 U.S. 308 (1976) 7

Brewer v. Williams,
430 U.S. 387 (1977) 6

Burton v. Wilmington Parking Authority,
365 U.S. 715 (1961) 28, 36

Calvert v. Hun,
798 F.Supp. 1226 (N.D.W. Va. 1992) 39

Conner v. Donnelly,
42 F.3d 220 (4th Cir. 1994) 39

Ernst v. Child & Youth Servs.,
108 F.3d 486 (3d Cir. 1997) 19, 21

Exxon Mobil Corp. v. Saudi Basic Industries Corp., 544 U.S. 280 (2005) 18

Friedman's, Inc. v. Dunlap,
290 F.3d 191 (4th Cir. 2002) 12

Gardner v. Broderick,
392 U.S. 273 (1968) 8

Garrity v. New Jersey,
385 U.S. 493 (1967) 8

Gash Associates v. Village of Rosemont, Ill.,
995 F.2d 726 (7th Circuit (1993) 19

TABLE OF AUTHORITIES – Continued

Page

Great Western Mining & Mineral v. Fox Rothschild, 615 F.3d 159 (2010) 19, 20

Haavistola v. Community Fire Co. of Rising Sun, 6 F.3d 211 (4th Cir.1993) 39

Higdon v. Smith, 565 F.App'x 791 (11th Cir. 2014) 24

INS v. Lopez-Mendoza, 468 U.S. 1032 (1984) 8

Jackson v. Metropolitan Edison Co., 419 U.S. 345 (1974) 28

Kastigar v. United States, 406 U.S. 441 (1972) 8

Lassiter v. Department of Social Services, 452 U.S. 18 (1981) ..... passim

Lefkowitz v. Turley, 414 U.S. 70 (1973) 8, 9

Lugar v. Edmondson Oil Co., 457 U.S. 922 (1982) ..... passim

Marsh v. Alabama, 326 U.S. 501 (1946) 27

McCarthy v. Arndstein, 266 U.S. 34 (1924) 6, 8, 9

McCormick v. Braverman, 451 F.3d 382 (6th Cir. 2006) 19, 20, 21

McIlwain v. Prince William Hospital, 774 F.Supp. 986 (E.D. Va. 1991) 39

Meeker v. Kercher, 782 F.2d 153 (10th Cir. 1986) 25

TABLE OF AUTHORITIES – Continued

Page

Nesses v. Shepard,
68 F.3d 1003 (7th Cir.1995) 20, 21

Parkell v. South Carolina,
687 F.Supp.2d 576 (D.S.C. 2009) 25

Rendell-Baker v. Kohn,
457 U.S. 830, 102 S.Ct. 2764,
73 L.Ed.2d 418 (1982) 28, 35, 38, 39

Sanitation Men v. Sanitation Comm'r,
392 U.S. 280 (1968) 8

Terry v. Adams,
345 U.S. 461 (1953) 27

United States v. Balsys,
524 U.S. 666 (1998) 7

Vaughan v. McLeod Reg'l Med. Ctr.,
372 S.C. 505, 642 S.E.2d 744,
2007 WL 752276 (2007) 40

West v. Atkins,
487 U.S. 42, 108 S.Ct. 2250,
101 L.Ed.2d 40 (1988) 38

CONSTITUTIONAL PROVISIONS

U.S. Const. amend. V ..... passim

U.S. Const. amend. VI ..... passim

U.S. Const. amend. XIV § 1 ..... passim

STATUTES

28 U.S.C. § 1254(1) 1

28 U.S.C. § 1257 ..... 18, 19, 22

TABLE OF AUTHORITIES – Continued

Page

42 U.S.C. § 1983 ..... iv, 27

S.C. Code Ann. § 1-23-500 (2016) 4

S.C. Code Ann. § 40-1-210 (2016) 4, 42

S.C. Code Ann. § 40-5-10 (2016) 4, 10

S.C. Code Ann. § 40-5-20 ..... ii, 4, 10

S.C. Code Ann. § 40-55-130 (2016) 4, 41

S.C. Code Ann. § 40-55-140 (2016) 4, 41

S.C. Code Ann. § 40-55-150 (2016) 5, 43

S.C. Code Ann. § 40-55-170 (2016) 5, 42

S.C. Code Ann. § 63-3-510 (2016) ..... passim

S.C. Code Ann. § 63-3-810 (2016) ..... passim

S.C. Code Ann. § 63-3-820 (2016) 4, 26

S.C. Code Ann. § 63-3-830 (2016) ..... passim

JUDICIAL RULES

Ga. Unif. Super. Ct. R. 24.9(3) 24

OTHER AUTHORITIES

J. Wigmore,
Evidence 439 (McNaughton rev. 1961) 7

PETITION FOR A WRIT OF CERTIORARI

Petitioner respectfully seeks a writ of certiorari to review the judgment of the United States Court of Appeals for the Fourth Circuit in this case.

OPINIONS BELOW

Opinion of the United States Court of Appeals for the Fourth Circuit published on April 16, 2020 is added at App.1a. Judgment of the United States District Court for the District of South Carolina stated on September 23, 2019 is at App.3a. Report and Recommendation is stated on May 29, 2019 is added at App.5a.

JURISDICTION

The United States Court of Appeals for the Fourth Circuit entered judgment on April 16, 2020. The Court has jurisdiction under 28 U.S.C. § 1254(1).

CONSTITUTIONAL AND STATUTORY PROVISIONS INVOLVED

U.S. Const. amend. V

> No person shall be held to answer for a capital, or otherwise infamous crime, unless on a presentment or indictment of a Grand Jury, except in cases arising in the land or naval forces, or in the Militia, when in actual service in time of War or public danger; nor shall any person be subject for the same offence to be twice put in jeopardy of life or limb; nor shall be compelled in any criminal case to be a witness against himself, nor be deprived of life, liberty, or property, without due process of law; nor shall private property be taken for public use, without just compensation.

U.S. Const. amend. VI

> In all criminal prosecutions, the accused shall enjoy the right to a speedy and public trial, by an impartial jury of the state and district wherein the crime shall have been committed, which district shall have been previously ascertained by law, and to be informed of the nature and cause of the accusation; to be confronted with the witnesses against him; to have compulsory process for obtaining witnesses in his favor, and to have the assistance of counsel for his defense.

U.S. Const. amend. XIV § 1

> All persons born or naturalized in the United States and subject to the jurisdiction thereof, are citizens of the United States and of the State wherein they reside. No State shall make or enforce any law which shall abridge the privileges or immunities of citizens of the United States; 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.

42 U.S.C. § 1983

> Every person who, under color of any statute, ordinance, regulation, custom, or usage, of any State . . . , subjects, or causes to be subjected, any citizen of the United States . . . to the deprivation of any rights, privileges, or immunities secured by the Constitution and laws, shall be liable to the party injured in an action at law, suit in equity, or other proper proceeding for redress, except that in any action brought against a judicial officer for an act or omission taken in such officer's judicial capacity, injunctive relief shall not be granted unless a declaratory decree was violated or declaratory relief was unavailable . . . .

28 U.S.C. § 1257

> (a) Final judgments . . . rendered by the highest court of a State . . . , may be reviewed by the Supreme Court by writ of certiorari . . . where any . . . right, privilege, or immunity is specially set up or claimed under the Constitution . . .

S.C. Code Ann. § 1-23-500 (2016)

South Carolina Administrative Law Court created. (No other references utilized.)

S.C. Code Ann. § 40-1-210 (2016)

Civil proceedings before Administrative Law Court. The department, in addition to instituting a criminal proceeding, may institute a civil action through the Administrative Law Court, in the name of the State, for injunctive relief against a person violating this article . . .

S.C. Code Ann. § 40-5-10 (2016)

Complete Code Section provided in App.25a

S.C. Code Ann. § 40-5-20 (2016)

Complete Code Section provided in App.26a

S.C. Code Ann. § 63-3-510 (2016)

Complete Code Section provided in App.21a

S.C. Code Ann. § 63-3-810 (2016)

Complete Code Section provided in Statement 3.

S.C. Code Ann. § 63-3-820 (2016)

Qualifications. (No other references utilized.)

S.C. Code Ann. § 63-3-830 (2016)

Complete Code Section provided in App.23a

S.C. Code Ann. § 40-55-130 (2016)

Complete Code Section provided in App.27a

S.C. Code Ann. § 40-55-140 (2016)

Complete Code Section provided in App.28a

S.C. Code Ann. § 40-55-150 (2016)

Complete Code Section provided in App.29a

S.C. Code Ann. § 40-55-170 (2016)

Complete Code Section provided in App.31a

STATEMENT OF THE CASE

I. Statement (1) – Right to Counsel for Defence

Petitioner humbly requests the Due Process Right to Assistance for Defence be extended to his current Civil deficit.

Inarguable facts: Petitioner was falsely arrested. Petitioner's Guilt was inappropriately presumed to York County (SC) Family Court. Petitioner, with Family counsel, was bullied to release his Substantive Due Process Rights of Family. Petitioner's Arrest was later expunged without reservation/negotiation.

Petitioner documents then Family Court's offending presumption, identifying the Arrest itself as the inarguable pivot point to Petitioner's Family case:

i) Providing that no interviews or communications with either Court Evaluator or Guardian-ad-Litem occurred in the Full Year after the Arrest itself;

ii) Providing there existed overwhelming exculpatory evidence at the time of the Arrest, never investigated by Court Staff or reported to Family Court;

iii) Providing multiple third-party, (Licensed) Professional reviews of the Court Evaluator's entire actual audiotapes with Petitioner, which Reviews positively assert that only the Arrest could have driven the conclusions provided by the Court Evaluator's Report to the Judge (*see* App.120a "Gayer" and 138a "Veronen"). (*See* Question 5)

Petitioner's Family case remains unaltered, and he remains unrepresented.

The Sixth Amendment describes fair and specific expectation of the provision of Due Process by States in Criminal cases against individuals. Among Rights enumerated for those "in all criminal prosecutions" is "the right . . . of Assistance of Counsel for Defence". *Brewer v. Williams*, 430 U.S. 387 (1977) defined such right ensues "at the time that judicial proceedings have been initiated, whether by charge, hearing, indictment, information, arraignment." Petitioner's Arrest logged to the State of South Carolina, County of Chester, on May 18, 2013, and was ultimately expunged as of April 20, 2016.

Another Due Process Right, from the Fifth Amendment, provides he "shall [not] be compelled in any criminal case to be a witness against himself". Yet this Right has been interpreted to extend beyond the explicit locational wording itself, such that "Right against self-incrimination" is available outside Criminal proceeding venues.

McCarthy v. Arndstein, 266 U.S. 34, 40 (1924):

> "The privilege is not ordinarily dependent upon the nature of the proceeding in which the testimony is sought . . . It applies alike

> to civil and criminal proceedings, wherever the answer might tend to subject [him] to criminal responsibility . . . "

Baxter v. Palmigiano, 425 U.S. 308 (1976) clarifies:

> At 316: " . . . if inmates are compelled in ("civil" prison disciplinary) proceedings to furnish testimonial evidence that might incriminate them in later criminal proceedings, they must be offered 'whatever immunity is required to supplant the privilege' and may not be required to 'waive such immunity'."
>
> Following at 319: "Our conclusion is consistent with the prevailing rule that the Fifth . . . Amendment 'does not preclude the inference where the privilege is claimed by a party to a civil cause.' J. Wigmore, Evidence 439 (McNaughton rev. 1961)."

Examining *United States v. Balsys*, 524 U.S. 666 (1998), also provides clarity. Balsys was a U.S. resident alien, being called for deposition by the U.S. DOJ Office of Special Investigations (OSI) relative possible visa irregularities. Balsys submitted to deposition, but provided only his name and address, otherwise invoking the Fifth Amendment privilege against compelled self-incrimination.

> Beginning at 671:
>
> "Balsys agrees that the risk that his testimony might subject him to deportation is not a sufficient ground for asserting the privilege, given the civil character of a deportation proceeding. *See INS v. Lopez-Mendoza*, 468

> U.S. 1032, 1038-1039 (1984). If, however, Balsys could demonstrate (672) that any testimony he might give in the deportation investigation could be used in a criminal proceeding against him . . . he would be entitled to invoke the privilege. It "can be asserted in any proceeding, civil or criminal, administrative or judicial, investigatory or adjudicatory," in which the witness reasonably believes that the information . . . discoverable as a result of his testimony, could be used in a subsequent . . . criminal proceeding. *Kastigar v. United States*, 406 U.S. 441, 444-445 (1972)."

Noting however, Balsys' initial flagrance was originally of a Civil nature – he falsified information on his immigration application. Thus the Civil proceeding sought a Civil encumbrance (possible deportation), and the Privilege was deemed not applicable, no Criminal encumbrance being found.

This situation then stands starkly in opposition to Petitioner's case, as Petitioner's Encumbrance emanates purely from a Criminal origin, and a False Arrest as well (App.91a "Incident Report" and 115a "Expungement").

Petitioner notes *Lefkowitz v. Turley*, 414 U.S. 70 (1973), at 77 reference to *McCarthy v. Arndstein*, *supra*, and at 79 to prior similar cases, *Garrity v. New Jersey*, 385 U.S. 493 (1967); *Gardner v. Broderick*, 392 U.S. 273 (1968); *Sanitation Men v. Sanitation Comm'r*, 392 U.S. 280 (1968).

Lefkowitz at 79:

> "Finally, in almost the very context here involved, this Court has only recently held that employees . . . may be compelled to respond to questions about the performance of their duties but only if their answers cannot be used against them in subsequent criminal prosecutions."

In each case, inclusive *Lefkowitz*, the Court reviews a Civil circumstance. But simply the future "possibility" of Criminal encumbrance inherent to the employees' answers-answers not even specifically contemplated – caused the State's attempts to compel responses to fail.

Petitioner argues he is well beyond the "possibility" that a Criminal component will spoil his Civil proceedings.

Thus, not only has the "Criminal responsibility" (*McCarthy*, at 40) "compelled" (Fifth Amendment) loss of Civil Rights by Petitioner, but Petitioner's Criminal "prosecution" (Sixth Amendment) remains effectively unresolved in Final Family Court records.

Wherever such intrusion of a Criminal encumbrance has occurred in the Opinions of this Court so previously noted, This Court has uniformly opined to provide the Individual their rightful Constitutional Privileges and Protection.

Petitioner humbly argues then that the current outcome in his Family case was not the intent of either the Fifth, Sixth, or Fourteenth Amendments to the Constitution, nor of the recognition provided in noted opinions such as *McCarthy*, such that the

Court should Affirm Petitioner's Sixth Amendment Right To Counsel as necessary and in all venues to effectively protect all Due Process Liberties and Privileges naturally afforded him.

The Court will kindly note that Petitioner has identified the South Carolina Bar, its Board of Governors, and several individual Officers of the Bar as Defendants. In doing so, Petitioner has attempted to identify all persons and groups with "Corporate" responsibility for delivering Due Process within the State of South Carolina relative access to legal Defence.

S.C. Code Ann. § 40-5-10 (2016) (App.25a) begins, "The inherent power of the Supreme Court with respect to regulating the practice of law . . . ".

Paraphrasing S.C. Code Ann. § 40-5-20 (2016) (App.26a) further provides, "regulation of the practice of Law" has been legislated to the "South Carolina Supreme Court", who in turn "establish(es) (the) South Carolina State Bar" to "act as an administrative agency of the Supreme Court of South Carolina for the purpose of improving the administration of justice", such that "all . . . official duties . . . given . . . by statute or appointment of the State of South Carolina . . . shall be vested in the South Carolina State Bar and its officers."

In short, responsibility for administering the provision of Due Process, a requirement of the State, including Right of Assistance of Defence, falls upon the global administration of the South Carolina Bar.

Petitioner has shown he has an obvious case of Constitutional merit. Petitioner can also show within reasonable comfort that he has attempted all good

faith efforts to obtain such Assistance, but yet has been uniformly rebuffed.

When speaking with Attorneys specializing in Family Court Law, Petitioner was consistently told that he had no recoverable rights of Family to argue. Can it be a surprise then that when speaking with Civil Attorneys, all demurred approaching a case with any possible "Family Court" origins? Petitioner warrants that these responses were uniform, and spread beyond even the geography of the State itself for possible legal action within South Carolina.

Petitioner further warrants that he was effectively forced into Federal Court for lack of State appreciation.

Thus, Petitioner recognizes each individual Licensed Attorney's right to commit to or reject individual business opportunities. Specifically however, Petitioner challenges that any and all concerted and imperious negativity, or more, that emanates from South Carolina Family Court, or its Members, towards cases that run contrary the Family Court's prevailing societal views or previous judgements on same, and to such degree that said cases are discouraged of Individual Attorneys from being appropriately prosecuted, enforces direct responsibility upon both the South Carolina Bar and its "parent", the South Carolina Supreme Court, to ensure that Due Process can be carried out.

Petitioner requests then that these Defendants be so agreed and held responsible by This Court.

II. Statement (2) – *Rooker-Feldman* Doctrine

In his Objections to the Magistrate's Report relative the *Rooker-Feldman* Doctrine, Petitioner was

clear in arguing that neither "appellate review of the state judgement" (*Am. Reliable Ins. Co. v. Stillwell*, 336 F.3d 311, 316 (4th Cir. 2003)) nor "constitutional claims . . . inextricably intertwined with question(s) ruled upon by a state court" (*Friedman's, Inc. v. Dunlap*, 290 F.3d 191, 197 (4th Cir. 2002)) were germane to his Complaint.

Petitioner would go so far as to say that this is in fact a determinable certainty.

Petitioner's Complaint argues that the Family Court Evaluator (Shelton) and the GAL (Bennett) both failed their duty of Due Diligence and Reporting in such a way to unequivocally exclude requisite exculpatory information from the state court "judgement process" itself.

In short, it is with certainty that the Injury occurred Prior any "state judgement".

Of specific importance is the Family Court evaluators' failure to address Petitioner's knowledge of the original Arrest circumstances, even as the Arrest happened a full year prior the final Hearing. In no way did either interview Petitioner after the Arrest itself. Effectively then they were opining to the Family Court that they were capable of "evaluating" both person and circumstance without even speaking to the person involved, such that only Predisposed notions were required.

Petitioner argues that this failure is contra any reasonably accepted Professional Psychology standard, the intent of the Fifth, Sixth and Fourteenth Amendments relative Due Process, and the dictates of South Carolina Law, all; and that time has shown

these Evaluators' lack of Diligence to be deficient in all regards.

In her Report to the Family Court Judge, the Court Evaluator (Shelton) ironically accentuates her own lack of professionalism (initial paragraph of page 2/8, App.143a "Shelton"):

> "After consulting with . . . GAL (Bennett), it was agreed that the need for the [Family] Court to have information regarding my evaluation findings was paramount . . . I would provide my report without conducting further interviews . . . as I already had data sufficient to form opinions . . . that would be informative to the Court. Evaluators must always be open to new information, and it is always a possibility that information not obtained . . . would affect my opinion; however, I am confident that I obtained sufficient information . . . to support my current findings and recommendations."

For additional quotes specific to the Arrest, please reference Petitioner's Complaint (App.55a "Facts-underlying"), items 9 through 16.

Both the ultimate April 2016 expungement of the Charge itself (App.115a "expungement"), as well the November 2016 Chester (S.C.) Civil Court Judgement rendered in favour of Petitioner against his Accuser (App.18a "Order of Default"), strongly warrant that Shelton's confidence was literally "wanton in its negligence".

As further counterpoint to Shelton's "confidence", Petitioner highlights information, notably using the Accuser's statement itself, to show the ease with

which the Court Evaluator's perspective could be undermined, even then.

To wit: In the Accuser's (Lathan) Statement to the Chester (S.C.) Sheriff (App.97a "Warrant", page 5, "Voluntary Statement"), her second sentence includes, "I was going to turn left into my driveway". Importantly, Accuser is stating that Petitioner passed her car on her left, effectively cutting her off, and driving her off the road. This supposed provocation is then the basis for which Accuser justifies following Petitioner at close range and high speed for 3.5 miles beyond her own residence to engage Petitioner in a confrontation.

Yet the Accuser herself provides the Sheriff's report an address from the Right-hand side of the road in question, and not the Left (for a supposed "left-hand turn"). This determination is obvious from any map, but it has also been confirmed in Affidavit by the Postmaster General for the Great Falls (S.C.) delivery area.

Continuing review of Accuser's statement (App.97a "Warrant"), "He (Petitioner) drug me about 150-200 yards, with me [sic] feet sliding on the highway". Several lines later though, Petitioner notes the Accuser's own admission contrary her first charge: "I tried reaching over him (while hanging on)". She then follows, "I finally let go". So in the space of just a few words, the Accuser charges that she was "drug" down a highway, before then openly admitting that she was "hanging on" until she "let go".

Petitioner begs the Court to imagine the scene the Accuser herself provides: that of a woman so

enraged and personally out of control as to be hanging on to a moving car while it proceeds down a highway.

This is stunningly correct: the Accuser at the basis of Petitioner's 2013 Arrest and ultimate loss of Parental Rights has provided a statement that cannot withstand physical evidence for even the Second sentence provided. And then, with only two points, – both using the Accuser's own statement as basis of reference – Petitioner has easily shown that the Accuser was the sole aggressor to the confrontation both at its inception and later. Petitioner warrants further that he can provide some twenty-six points of contention to the two-page statement in question, several of which, as the initial one noted previous, simply cannot be valid in the physical universe that exists.

However the Court Evaluator's (Shelton) failure of Due Diligence is not singular. In her own Report to the Family Court the GAL (Bennett) records that she "interviewed the following persons: . . . 31. Carman Lathan [Accuser], involved in road incident resulting in charges again [sic] Charles Campbell [Petitioner]". This statement confirms then that the GAL was in home with Accuser (May 2013) a year prior Petitioner's Final Family Court Hearing.

The importance of this 2013 GAL interview becomes clear when Petitioner's description of the events is provided from within his June 2015 Civil Complaint against Accuser [Defendant Lathan] filed within Chester County (S.C.):

6. "While on the same roadway as Plaintiff [Petitioner Campbell], Defendant [Accuser Lathan] began driving aggressively and

erratically by following too close to Plaintiff's vehicle.

7. Plaintiff attempted to evade Defendant but she continued to drive her vehicle in an aggressive manner.

8. Plaintiff's vehicle approached a stop sign and he brought his vehicle to a [normal] stop. Defendant was unable to stop her vehicle . . . and slid into the intersection being controlled by the stop sign.

9. While in the intersection, Defendant's vehicle was almost struck by an 18 wheeled truck."

Here, Petitioner (as Plaintiff) is describing a situation where Accuser's 6-year-old child, sitting in the front passenger seat, was nearly hit by a truck going highway speeds-immediately endangering her for her very life, nothing less-due only to road rage behaviour of the Accuser herself. Petitioner warrants that evidence relative this incredible endangerment of the Accuser's child is circumstantial, yet reasonably obvious, and confirmed as above from within the Accuser's own statement.

Petitioner then anecdotally adds that the child was ultimately determined as undergoing abuse and removed from Accuser's home by the State in 2016. But by then, the GAL's indifference to the need for Truth in Petitioner's Family case, had allowed the child's abuse to continue for the additional three years since the point of that May 2013 GAL in-home interview of Accuser.

So when the Magistrate Judge opines possible "appellate review of issues already decided", evidence

shows this is demonstrably impossible. The Failure of Due Process by defendants Shelton and Bennett is rooted in a Distinct and Prior failure of information gathering (negligent Due Diligence) that undermines any possible "State judgement process".

The simple maxim exists: one cannot even consider, much less adjudge, that which one is not informed. This then is an Investigative failure, leaving issues not yet decided by a Judge, and thus falls outside the basic confines of *Rooker-Feldman.*

In his Complaint, Petitioner also alleges Collusion by these two Family Court staff, which further conspires to depriving the Family Court Judge information otherwise key to providing a Fair Hearing.

In neither Evaluator's report to the Judge was there any reference to (among other key issues of parenting):

i) The Accuser's (Lathan) previous Criminal record, including both Assault & Battery, as well a crime of Moral Turpitude (Theft) (App.99a);

ii) The failure of the Evaluators themselves to personally interview Petitioner regarding the incident in order to gain a more complete picture of the circumstances;

iii) The like failure of the Chester (S.C.) County Sheriff's Department to interview Petitioner with regard the circumstances of the Incident itself; and

iv) The fact that the original Warrant itself, as allowed by State law, was created solely under signature of the Accuser, and was never

> attested by either the Sheriff or the Deputy, with the ultimate Arrest being executed in same manner.

Petitioner argues that without this information the Family Court Judge had no opportunity to appropriately assess the Validity of the Accuser's Charge placed before him. Yet all were left prejudicially blank in the Court Reporting provided.

Petitioner argues that such collusion-induced Deficit in Reporting obviously occurs prior any Judgement process, and thus prejudicially undermines any Judgement process that might have occurred in Family Court. This Fault thus falls outside the narrow bounds of *Rooker-Feldman* as well.

Petitioner references the following Authorities for this position. Referencing first *Exxon Mobil Corp. v. Saudi Basic Industries Corp.*, 544 U.S. 280 (2005), beginning at 291:

> "*Rooker* and *Feldman* exhibit the limited circumstances in which this Court's appellate jurisdiction over state-court judgments, 28 U.S.C. § 1257, precludes a United States district court from exercising subject-matter jurisdiction . . . In both cases, the losing party in state court filed suit in federal court after the state proceedings ended, complaining of an injury caused by the state-court judgment and seeking review and rejection of that judgment. Plaintiffs in both cases, alleging federal-question jurisdiction, called upon (292*292) the District Court to overturn an injurious state-court judgment. Because § 1257, as long interpreted, vests authority

> to review a state court's judgment solely in this Court . . . the District Courts in *Rooker* and *Feldman* lacked subject-matter jurisdiction."

Continuing in 293,

> "Nor does § 1257 stop a district court from exercising subject-matter jurisdiction simply because a party attempts to litigate in federal court a matter previously litigated in state court. If a federal plaintiff 'present[s] some independent claim, albeit one that denies a legal conclusion that a state court has reached in a case to which he was a party . . . , then there is jurisdiction' . . . ", quoting *Gash Associates v. Village of Rosemont, Ill.*, 995 F.2d 726, 728-7th Circuit (1993).

The 3rd Circuit Court of Appeals references multiple other cases which expand on this idea of "some independent claim" while commenting in *Great Western Mining & Mineral v. Fox Rothschild*, 615 F.3d 159 (2010).

At 172 *Great Western* notes *Ernst v. Child & Youth Servs.*, 108 F.3d 486, 491-92 (3d Cir. 1997):

> "holding that a claim alleging that defendants violated plaintiff's due process rights by making biased recommendations to the state court, resulting in an improper ruling, was not barred by *Rooker-Feldman* as it was separate from the state-court judgment."

At 167 *Great Western* notes *McCormick v. Braverman*, 451 F.3d 382, 384 (6th Cir. 2006).

> "(T)he plaintiff filed suit in federal court contending . . . that the defendants engaged in fraud and misrepresentation in state-court divorce proceedings . . . *Id.* at 388. Assessing the plaintiff's allegations, the court held that while some were barred by the *Rooker-Feldman* doctrine, the remainder were 'independent' claims over which the federal courts had jurisdiction . . . Focusing on the source of the alleged injuries, the court held that '[n]one of these claims assert an injury caused by the state court judgments. . . . Instead, Plaintiff asserts independent claims that those state court judgments were procured by certain Defendants through fraud, misrepresentation, or other improper means. . . .' *Id.* Even though the injuries of which the plaintiff complained helped to cause the adverse state judgments, these claims were 'independent' because they stemmed from 'some other source of injury, such as a third party's actions.' *Id.* at 393."

And at 171 *Great Western* references *Nesses v. Shepard*, 68 F.3d 1003, 1004 (7th Cir.1995) "where the federal plaintiff alleged that his losses in state court were the product of a conspiracy among the judges and the lawyers."

> "The court acknowledged that Nesses 'was in a sense attacking the ruling by the state court that he had been inexcusably dilatory in complying with a discovery order; he was in the same sense attacking the decisions themselves that dismissed his suit' . . .

> But the *Rooker-Feldman* doctrine, the court concluded, 'is not that broad.' *Id.* Nesses was not merely claiming that the decision of the state court was incorrect or that the decision itself violated his constitutional rights; such claims would be barred. Instead, because Nesses alleged that 'people involved in the decision violated some independent right of his, such as the right (if it is a right) to be judged by a tribunal that is uncontaminated by politics, then he [could], without being blocked by the *Rooker-Feldman* doctrine, sue to vindicate that right.' *Id.* . . . Moreover, Nesses could, 'as part of his claim for damages,' show 'that the violation caused the decision to be adverse to him and thus did him harm.' *Id.* If Rooker-Feldman barred jurisdiction, 'there would be no federal remedy for a violation of federal rights whenever the violator so far succeeded in corrupting the state judicial process as to obtain a favourable judgment.' *Id.*"

Petitioner's contention then is clear. As in *Nesses* para, *McCormick* para, and *Ernst* para, Petitioner's Constitutional Rights were subverted by a Collusive and Failed Due Process, which is in itself the "independent claim", separate from the State court judgement, thus invalidating the applicability of the *Rooker-Feldman* doctrine.

Petitioner accordingly requests appropriate judgment by This Court.

However, Petitioner believes he has provided enough evidence to allow the Court to make a Prima-Facie judgement of Failure of Due Process under its

right to Review Constitutional Claims as infringed by States (28 U.S.C. § 1257). Given the predisposition to Guilt as evidenced by the Family Court Evaluator's Report to the Family Court Judge, as well the failure of both Court Evaluators to access and report Reasonably Required exculpatory information to the Judge, there can be no doubt that Petitioner's Right to Due Process Fair Hearing relative Family Court was simply destroyed.

Petitioner offers one final quote as per the Family Court Evaluator's Report (pg. 5/8, para. 3) to the Family Judge as example:

> "When he [Petitioner Campbell] discussed it [the incident and Arrest] with his [consultant], he continued the pattern of blaming others and not taking responsibility for his behaviour."

In this one quote the Family Evaluator has communicated to the Judge not only the completely erroneous idea that Petitioner was somehow Guilty of the Criminal charge given, but also that he was effectively Emotionally incapable of the Truth. As it turned out, Only the Petitioner, of all those involved in this Family Case in the State of South Carolina – only the Petitioner-was capable of Honesty and Fairness towards others. (Petitioner's specific well-being is attested in App.133a-Gothard and 126a-Harari.)

In *Lassiter v. Department of Social Services*, 452 U.S. 18, 37 (1981), Justice Blackmun in dissenting noted, "it is not disputed that state intervention to terminate the relationship between a parent and a child must be accomplished by procedures meeting the requisite of the Due Process Clause." Clearly

though, such "termination" has occurred in Petitioner's case and just as clearly, without benefit of Due Process.

Petitioner now simply quotes Justice Blackmun from *Lassiter* at 38 and 39 (*see* App.33a "Supreme-quote" for full quote and appropriate citations):

> "At stake here is the interest of a parent in the companionship, care, custody, and management of his or her children. This interest occupies a unique place in our legal culture, given the centrality of family life as the focus for personal meaning and responsibility . . . . parental rights have been deemed to be among those 'essential to the orderly pursuit of happiness by free men', . . . and to be more . . . priceless than `liberties which derive merely from shifting economic arrangements.' . . . freedom of personal choice in matters of family life long has been viewed as a fundamental liberty interest worthy of protection under the Fourteenth Amendment . . . . the Court has accorded a high degree of constitutional respect to a natural parent's interest . . . in retaining the custody and companionship of the child."

Petitioner therefore seeks Immediate Reinstatement by This Court as Parent in Sole Custody of his only remaining minor child (HG) as she approaches her final year in High School (App.83a "Complaint-relief", items 6 and 7). Petitioner sees this as a matter of simple Equity at this point – he has already been unfairly denied all access to his eldest daughter (BL) from ages 13 through 18, his only son (SA) from ages

11 through 18, and this youngest daughter (HG) from ages 9 through now approaching 17. Petitioner further notes, that since it is the Weight of the State of South Carolina that has forcibly taken his Parental Rights, said older two children have so far demurred of a relationship even as they progressed into majority.

III. Statement (3) – Guardian-ad-Litem (Bennett) as a State Actor

The District Magistrate has argued that Defendant Bennett as Guardian-ad-Litem in Petitioner's Family Case does not meet the standards as a "State Actor" under the Fourteenth Amendment. Quoting the Magistrate's Report:

> "the conduct of Bennett . . . is not fairly attributable to the state because, even if they participated in the family court proceedings in some form, all are professionals in private practice, and their conduct was not directed by the State or in the State's interest. Bennett, a guardian ad litem appointed by the family court, represented private interests in the litigation."

Petitioner first complains that the District Court has inappropriately referenced a case based in Georgia State Law. Quoting from *Higdon v. Smith*, 565 F.App'x 791, 793 (11th Cir. 2014) Per Curiam opinion at Paragraph 6, "Under Georgia's Uniform Superior Court Rules, guardians ad litem are appointed to assist the court in domestic relations cases by representing the best interests of the children involved. Ga. Unif. Super. Ct. R. 24.9(3)." Petitioner argues that Georgia State Law does not apply as his underlying Family case was based in South Carolina.

Petitioner further argues that the District Magistrate was inappropriate in referencing both *Meeker v. Kercher*, 782 F.2d 153, 155 (10th Cir. 1986) and *Parkell v. South Carolina*, 687 F.Supp.2d 576, 587 (D.S.C. 2009). In both of these cases the GAL was appointed under Protective Order for the safety of the children involved. There was no such order required, requested, or provided in Petitioner's Family case. Prior the Marital Separation, the children were all happy, healthy, and well successful in all pursuits.

Petitioner argues that to conflate the roles of a GAL in a typical divorce case with such role in a case under Protective Order is to confuse the level of authority and allowable intrusion by the State, and thus inappropriately infer a "private interest".

Petitioner now provides argument to meet the requirements of "State Action" as set forth in *Lugar v. Edmondson Oil Co.*, 457 U.S. 922 (1982) at 936:

> "Careful adherence to the "state action" requirement preserves an area of individual freedom . . . It also avoids imposing on the State, its agencies or officials, responsibility for conduct for which they cannot fairly be blamed . . . (937*937) . . . These cases reflect a two-part approach to this question of "fair attribution." First, the deprivation must be caused by the exercise of some right or privilege created by the State or by a rule of conduct imposed by the State or by a person for whom the State is responsible . . . Second, the party charged with the deprivation must be a person who may fairly be said to be a state actor."

South Carolina Code Ann. § 63-3-810 (2016, under Article 7 for "Private Guardians ad Litem", provides for the appointment of a GAL as such:

> "(A) In a private action before the family court in which custody or visitation of a minor child is an issue, the court may appoint a guardian ad litem only when it determines that:
>
> (1) without a guardian ad litem, the court will likely not be fully informed about the facts of the case and there is a substantial dispute which necessitates a guardian ad litem; or
>
> (2) both parties consent to the appointment of a guardian ad litem who is approved by the court.
>
> (B) The court has absolute discretion in determining who will be appointed as a guardian ad litem in each case. A guardian ad litem must be appointed to a case by a court order."

Qualifications for a Guardian are set out in S.C. Code Ann. § 63-3-820 (2016). Then in S.C. Code Ann. § 63-3-830 (2016) (App.23a), Responsibilities for a GAL are specifically set out, including details of investigative and documentation requirements. In part this list requires provision of "suggestions" to the Court, as well as summary reporting for the Family Court Judge.

Given that the Family Court Judge "determines" the Guardian (SC Code Ann. § 63-3-810 (2016), part (B)), Law provides a GAL qualifications list (S.C. Code Ann. § 63-3-820 (2016)), and reporting requirements are directed first to the Family Court Judge (S.C.

Code Ann. § 63-3-830 (2016) (App.23a), part (A)(6)), Petitioner argues that the Guardian meets the First requirement of State Action from *Lugar* in that the deprivation is created "by a person for whom the State is responsible".

To the Second requirement of "State Action", *Lugar* enunciates the Court's previous approval of certain tests to evidence the character of a "State Actor" at 937,

> "Second, the party charged with the deprivation must be a person who may fairly be said to be a state actor. This may be because he is a state official, because he has acted together with or has obtained significant aid from state officials, or because his conduct is otherwise chargeable to the State."

Continuing at 938 to 939,

> "the Court . . . focused . . . on the character of the defendant to the § 1983 (939*939) suit: Action by a private party pursuant to this statute, without something more, was not sufficient to justify a characterization of that party as a 'state actor.' The Court suggested that that "something more" which would convert the private party into a state actor might vary with the circumstances of the case. This was simply a recognition that the Court has articulated a number of different factors or tests in different contexts: e. g., the 'public function' test, *see Terry v. Adams*, 345 U.S. 461 (1953); *Marsh v. Alabama*, 326 U.S. 501 (1946); the "state compulsion" test,

> *see Adickes v. S. H. Kress & Co.*, 398 U.S., at 170; the "nexus" test, *see Jackson v. Metropolitan Edison Co.*, 419 U.S. 345 (1974); *Burton v. Wilmington Parking Authority*, 365 U.S. 715 (1961) . . ."

In looking at the "public function test" of *Lugar*'s Second requirement of "State Action", Petitioner references *Rendell-Baker v. Kohn*, 457 U.S. 830, 842, 102 S.Ct. 2764, 2772, 73 L.Ed.2d 418 (1982), ""In applying this test it is not sufficient merely to ask "whether a private group is serving a 'public function.' . . . the question is whether the function performed has been 'traditionally the exclusive prerogative of the State'."

Petitioner then refers to S.C. Code Ann. § 63-3-510 (2016) (App.21a), "Exclusive original jurisdiction: (A) Except as otherwise provided herein, the [Family] court shall have exclusive original jurisdiction and shall be the sole court for initiating action . . . "

The remainder of the Section details the specific affairs over which Family Court holds sway, including, but not limited to, " (1) Concerning any child living or found within the geographical limits of its jurisdiction . . . (e) whose custody is the subject of controversy, ..."

And thus the first aspect of the "State Actor public function test" is confirmed: Family Court holds exclusive prerogative in the matters of child custody in "dispute".

The second aspect of the "public function test" references the issue brought to the fore by the District Magistrate, that of "public versus private interest".

As above, Petitioner references again S.C. Code Ann. § 63-3-810 (2016) providing for the appointment of a GAL

> "(A) in a private action before the family court in which custody or visitation of a minor child is an issue, the court may appoint a guardian ad litem only when it determines that: . . . (2) both parties consent to the appointment of a guardian ad litem who is approved by the court."

Petitioner argues contra the Magistrate's contention that such mere "Consent to Appoint" establishes a "private interest" in the children of a Marriage. The only such "interest" rests with the Parents as a Fifth and Fourteenth Amendment Right, and cannot – nay, should not-be presumed to be given away so lightly.

Petitioner then provides this interpretation of S.C. Code Ann. § 63-3-810 (2016) relative GAL appointments:

i) as in (A)(1), the GAL is purely intended as an informational gathering tool for the Judge when such information might otherwise be difficult to obtain. This is solely intended to improve information flows to the Court itself. The term "dispute" is relative "disagreement of principle" only, not of a physical nature. Thus the presence of the GAL cannot be simply inferred as a "protective" measure in any way.

ii) as in (A)(2), sans the need for "protective measures," the GAL cannot be imposed without agreement by the Parents,

maintaining the Primacy of Substantive Due Process Rights of the Parent even within the Family Court protocol.

Petitioner further refers to S.C. Code Ann. § 63-3-510 (2016), Exclusive original jurisdiction (App.21a). As to the inability of the Family Court (and thus the GAL) to pre-empt private Rights, S.C. Code Ann. § 63-3-510 (2016) is clear that such pre-emption of Parental Rights may not occur unless:

i) as in (A)(1) (a), (b), (c), or (d), the child must have been "neglected", "injured or endangered", "beyond the control of the Parents", or "have violated Laws" (all circumstances absent in the Petitioner's case); or

ii) as in (A)(1) (e), there must be some "dispute" of custody.

Petitioner notes then that absent (i) above, but including (ii) Custody disagreements, and up until a Final Hearing, Parents notably have the Statutory Right to Mediate or otherwise Agree appropriate Custody arrangements without Family Court input. Neither the immediate issue of some "dispute" nor the immediate "appointment" of a GAL, preclude separate, unimpeded, unilateral actions on Custody by the Parents up until such authority is given over at the Final Hearing.

The over-arching importance of *Lassiter*'s (37) "requirement" of formal Due Process should be clear at this point ("state intervention to terminate the relationship between a parent and a child must be accomplished by procedures meeting the requisite of the Due Process Clause").

Lassiter 37, S.C. Code Ann. § 63-3-510 (2016) (Family Court jurisdiction) (App.21a), and S.C. Code Ann. § 63-3-810 (2016) (Guardians) thus all come together on this point: without a protective order established in Due Process, the Parents' private interest in their children must be considered unabated in total, even if Parents have agreed the informational gathering presence of a GAL.

S.C. Code Ann. § 63-3-830(2016) (App.23a), "Responsibilities", accentuates the "information gathering" aspect of the GAL in several places. Petitioner argues that South Carolina has clearly written Law that limits the Guardian to the "public function" of information gathering and reporting, and that such position, being investigative in nature, does not even rise to the level of "quasi-judicial". Wording that accentuates this description includes:

- "conducting investigation",
- "determin(ing) facts",
- "obtaining documents",
- "observing",
- "meeting with",
- "interviewing",
- "obtaining",
- "consider(ation) to the wishes of the child", and
- "visiting", etc.

The non-quasi-judicial nature of this "appointment", and the primacy of Due Process in *Lassiter* 37, then is further highlighted by the specific limita-

tions noted in S.C. Code Ann. § 63-3-830 (2016) (App. 23a):

1) (A)(3) where "suggestions" can be made, but notably cannot be "ordered" without specific Action by the Court or approval of the Parents. "Suggestions" are informative only – simply data points of possibilities that hold no weight without specific Court action.

2) (A)(6) where the GAL must "present reports" which "may" contain "conclusions based on facts". Petitioner argues that "Report(ing)" is an act of logging data – it is purely informational. Further, because possible "Conclusions" are to be specifically "based on facts", they are "Summarizing" in nature only, not inferentially "Judicial". This is a matter of logical result summarized from "facts" meant only to streamline subsequent Judicial review.

Importantly, these "conclusions" are, by Law, not meant to drift into "recommendations", which are indeed generally prohibited.

3) (A)(6) where the GAL is specifically prohibited from "recommendations" on issues of "custody . . . unless requested by the Court". Petitioner highlights again the link to *Lassiter* 37, inferring that the Court must first produce some explicit probative reasoning for the GAL to move beyond "information gathering".

The 14th Amendment provides that a State "cannot enact nor enforce" a Law that infringes Due Process. The demarcation of *Lassiter* 37 must then be clear –

it cannot be a victim of lazy Law or egregious over-reaching. It cannot be settled by simple "consent of appointment". It must not be considered "gray area" or confused – the Substantive Due Process Right of Family requires black and white instead – it requires the most firm push back against State intrusion without Due Process.

The GAL's position to "represent the best interests of the children" is a matter of being a spokesperson for those that often cannot speak for themselves. It is a matter of observing, ascertaining, and reporting facts. Specifying the "best interests" is neither overtly meaningful nor "judicial" – it is simply descriptive of the State's very pointed Responsibility and, most would hope, obvious intent.

Petitioner suggests that the failure of the Magistrate's position is accentuated by specific circumstances.

Highlighting even the highly argued Family Court Evaluator's Report (Shelton) shows how dangerous the basic fallacy of the District Court's opinion on the Guardian can be. Noting on page 5/8 (App.154a "Shelton") the State-licensed Psychologist opined, "there is no evidence that he [Petitioner Campbell] is at risk for physical abuse of the children".

Yet when the "Licensed Baccalaureate Social Worker" GAL Bennett reported, her specific contention on page 10/10 was, "Because . . . the mental health issues faced by Mr. Campbell (Petitioner), it is imperative the children are protected . . . " This, even though Bennett is neither Licensed in nor educated in Psychology.

Then after recommending the need for "protection" of the children, Bennett almost laughably asserts,

" . . . as the parties are aware, the [Law] specifically prohibits me from making a recommendation concerning . . . custody".

The GAL's (Bennett) true nature is then unveiled in the final paragraph of page 9/10 in her Report: "The children describe neutral feelings regarding their Father . . . They seem to lack a longing to reunite with their Father". This comes after a full year of terminated visitation, in May 2014, and coincident the Final Divorce Decree.

Yet Petitioner can provide three unilateral communications, one from each of his natural children (App.160a "Bobbi-lane" and App.161a "Sam"), from the period surrounding that Report – May 2013 through October 2014 – that categorically state the children's specific feelings otherwise. This Court must understand that these communications are being unilaterally received by Petitioner during a time that he has no active contact with the children. Alternatively, Bennett's statement is being made as she has had almost two years' complete access and responsibility to the feelings of the children.

Most telling of these communications is audio voicemail received from then 9-year-old HG, who stated tearfully in June 2013,

> "Hey Daddy. I'm really sorry I couldn't talk to you tonight, and I'm really sorry we missed visitation. I really missed you this weekend. Umm . . . I'm looking forward to seeing you next weekend, and on Thursday . . . (tearful and unintelligible) . . . I love you. Bye from everybody. I love you Daddy; Goodnight."

This voicemail has never been answered to the child. The child is now coming upon her Senior year in High School.

The GAL's sole job was to report facts. She lied; she obfuscated; she manipulated; she hid facts. She failed Due Diligence. She flaunted Due Process. Even in "considering the wishes of the child, if appropriate", she callously manipulated the view of the Court.

And for seven years the State of South Carolina has overtly protected Bennett. Through the Family Court and the GAL, the State of South Carolina has indeed Abused these children.

The final and possibly saddest comment then comes from Court Evaluator Shelton, who, after seven (7) pages of now-debunked character assassination, (App.159a "Shelton") states on pg. 8/8: "I strongly discourage the parties from restricting all contact between the children and their Father".

And yet that is exactly where this case has been for seven (7) years.

Petitioner argues that the Magistrate's position on GAL "private interest" is contra *Lassiter* 37, and thus the State limitations inherent Due Process per the 14th Amendment. The State could neither "enact nor enforce" a meaningful "private interest" to the GAL in the manner described, who must then be considered to have served a "public function" instead; such function being described as informational gathering by S.C. Code Ann. § 63-3-810 (2008).

This then provides the two legs of "State Actor" as per *Rendell* (842), and the two legs of "State

Action" as per *Lugar* (936-937), relative the 14th Amendment.

Petitioner now argues that Bennett's actions also satisfy the requirements of the "nexus test" as described in *Burton* at 725 (from *Lugar* at 937). Petitioner describes a circumstance where he was falsely Arrested yet again, this time on Felony charges. This arrest occurred after Petitioner had been directly requested to contact a child (App.160a "Bobbi-lane") some six months after the Divorce Decree was finalized, in October 2014. Aware his strict limitations, Petitioner and his Attorney attempted twice to get contact to the child through the Family Court, but to no avail. When Petitioner then attempted contact almost a year later – not personally, but through provision by an intermediary of a book, money, and a note of consolation – he was arrested on multiple charges (October 2015) including Felony Stalking.

At the heart of this Felony Arrest was Defendant Bennett – now sixteen months beyond her position in the case – both inappropriately representing herself to local Police as "Guardian", and then representing in email to Police that she had Legal knowledge of the applicability of the Felony charges. Petitioner was then arrested on the 10-year count, and the Family Court Judge is specifically known to have argued "vociferously" for the County Solicitor to follow through with Trial even as certain components to the Criminal charge were obviously missing. The Solicitor ultimately refused and the charges were dropped.

Petitioner contends that this extraordinarily predatory action meets the "nexus test" as described in *Burton* at 725:

> "By its [action], the Authority, and through it the State, has not only made itself a party to the [issue], but has elected to place its power, property and prestige behind the admitted discrimination. The State has so far insinuated itself into a position of interdependence with [the private party] that it must be recognized as a joint participant in the challenged activity, which, on that account, cannot be considered to have been so "purely private" as to fall without the scope of the Fourteenth Amendment."

Accordingly Petitioner requests This Court to overturn the ruling on determination of State Actor status by the District Court.

Petitioner also requests that any and all "determinations" of possible Immunity for this Defendant (Bennett), as well the Court Evaluator (Shelton) in Statement (4), be withheld until such time as full Oral arguments and additional factual evidence may be provided. Petitioner thusly warrants that he is very reasonably aware of the requirements that such arguments will reach. Indeed, if allowed, Petitioner will argue that neither Common Law, nor State Law, nor a reasoned approach to 'functional analysis', nor even pain of possible 'frivolous suits' will provide these Defendants with Absolute Immunity.

IV. Statement (4) – Family Court Evaluator (Shelton) as a State Actor

Incorporating arguments and references from Statement (3) above, Petitioner contends that the Family Court Evaluator (Shelton) also fits the two

part test per *Lugar* at 939, with further delineation of *Rendell-Baker* at 842:

1) *Lugar* at 939: "the deprivation must be caused by the exercise of some right or privilege created by the State . . . or by a person for whom the State is responsible"

2) *Rendell* at 842

   a. "whether the function performed has been 'traditionally the exclusive prerogative of the State'"

   b. "whether a private group is serving a 'public function'"

Petitioner first references the Service Contract between Dr. Karen Shelton and both Litigants in the Petitioner's Family case. Per introductory paragraph (page 1/9): "Though my fees are not paid by the Court, the work that I will be doing as an impartial evaluator will be done for the Court." Again noting required impartiality on page 4/9, both (5) and (6): "In order to perform my Court-ordered function, I must be an examiner, not a therapist . . . Because the evaluation services I provide are independent and objective, the findings, conclusions, or recommendations may be detrimental to any of the parties."

Plaintiff then references *West v. Atkins*, 487 U.S. 42, 54, 108 S.Ct. 2250, 2257, 101 L.Ed.2d 40 (1988), where a private physician under contract with a state to provide medical services to prison inmates acts under color of state law when treating a prisoner. This action specifically noted the provision of medical services to prisoners was the sole responsibility of the State.

Then in *Conner v. Donnelly*, 42 F.3d 220 (4th Cir. 1994) stating,

> "Today we go against these district courts (noting *McIlwain v. Prince William Hospital*, 774 F.Supp. 986, 989-90 (E.D. Va. 1991) and *Calvert v. Hun*, 798 F.Supp. 1226, 1229 (N.D.W. Va. 1992)), and hold that a physician who treats a prisoner acts under color of state law even though there was no contractual relationship between the prison and the physician."

Petitioner argues then that the Court Evaluator was acting within the responsibility of the State as per *Lugar* 939.

As to *Rendell* (a) above, Petitioner again references S.C. Code Ann. § 63-3-510 (2016),

> "Exclusive original jurisdiction: (A) . . . the court shall have exclusive original jurisdiction and shall be the sole court for initiating action: (1) Concerning any child living or found within the geographical limits of its jurisdiction: (e) whose custody is the subject of controversy, ..."

To wit: the Campbell parents were not in agreement on Custody, and as such the Court was invited to provide impartial Evaluation in the form of Shelton.

As per *Rendell* (b) above, Petitioner references *Haavistola v. Community Fire Co. of Rising Sun*, 6 F.3d 211, 215-16 (4th Cir.1993), stating,

> "[r]eview of the . . . precedents and decisions does little to simplify the issue of when a private entity assumes the role of state

> actor due to its involvement or provision of an exclusive public function. The cases inform the analysis in two ways: first, the determination is a factually intense analysis; and second, its outcome hinges on how a given state itself views the conduct of the function by the private entity."

With regard this second suggestion, it is entirely appropriate to note the words of the South Carolina Supreme Court in *Vaughan v. McLeod Reg'l Med. Ctr.*, 372 S.C. 505, 512, 642 S.E.2d 744, 748, 2007 WL 752276 (2007),

> "We find the reasoning that supports a finding . . . for court-appointed guardians also supports a finding . . . for court-appointed examiners. . . . Court-appointed examiners are essentially an arm of the judiciary",

thus unequivocally linking both positions to the "public function" of the Family Court itself.

Plaintiff therefore provides that Court Evaluator Shelton meets all reasonable tests for "State Actors" within the requirements of the 14th Amendment.

V. Statement (5) – Due Process Claim, Board of Examiners in Psychology

Firstly, it should be noted that in Header to the services contract between "Karen K. Shelton" and the litigants "*Jane Waldron Campbell vs. Charles Randall Campbell*, File Book No. : 12-DR-46-1624", "Court Ordered Psychological/Custody Evaluation – Statement of Understanding", Karen K. Shelton is identified in enlarged-font type specifically as a

"Licensed Psychologist", holding "South Carolina License No. 1094".

As Dr. Shelton self-identifies this title in her own provided contract, and the South Carolina Department of Labor, Licensing, and Regulation (henceforth SCDoLLR), through the Board of Examiners, has willingly provided and managed such professional title, Plaintiff asserts that he has specific liberty interest in all expectations of conduct associated to such title, including, but not limited to all professional standards of knowledge and experience, standards of behavior, standards of evaluation and professional process, and standards of ethical conduct, as governed under South Carolina Code of Laws, Title 40 Profession & Occupations, Chapter 55 Psychologists.

Plaintiff then humbly argues the District Magistrate presumption that South Carolina Law provides no benefit or entitlements to those who file complaints.

Specifically, Petitioner references:

S.C. Code Ann. § 40-55-130 (2016) (App.27a),

> "(A) The board shall receive complaints by any person against a licensed psychologist . . . the chairman's designee shall investigate the allegations of the complaint and make a report";

S.C. Code Ann. § 40-55-140 (2016) (App.28a),

> "Any final order of the board finding that a psychologist is guilty of any offense charged in a formal accusation shall become public knowledge . . . All final orders which are made public shall be mailed . . . to any other source

> that the board wishes to furnish this information";

and S.C. Code Ann. § 40-55-170 (2016) (App.31a),

> "(B) Pursuant to S.C. Code Ann. § 40-1-210, the board may in its own name maintain a suit for an injunction against a person who violates a provision of this chapter . . . An injunction may be issued without proof of actual damage sustained by a person."

Within the context of such "final orders to be made public" or possible "injunctive relief," it is presumptively obvious that such communications and corrective process would include any affected Family Courts for such cases, as in the current Complaint, where a charged Psychologist has previously filed formal Reports relative child custody.

Plaintiff argues that any such negative "order" emanating from SCDoLLR review of a Licensed Psychologist's behavior should affect some Significant Basis for re-assessing the existing Final Divorce Decree as perpetrated by (SC) Family Court.

Anything less would be to cause significant Question to the reason for requiring an Evaluation in the first place.

Petitioner notes in both Complaint and Objections to the Magistrate that he has several avenues of questioning Dr. Shelton's review process, including:

1) Industry standards review relative Presumptive Guilt from the Arrest and associated impact on Report conclusions;

2) Adherence to contractual warranties included in the services contract relative
   i) impartiality,
   ii) completeness of information gathering,
   iii) traceability of documented evaluation process through to conclusions,
   iv) inviolability of professional judgment, etc.;
3) Adherence to S.C. Code Ann. § 40-55-150 (2016) (App.29a): "Revocation or suspension of license or other disciplinary action; grounds" including
   i) (8) adherence to Board ethics,
   ii) (9) conduct that is deceptive, fraudulent, or harmful;
   iii) (10) obtaining fees . . . under fraudulent circumstances; and
   iv) (11) use of intentionally false . . . statement(s) in a published document.

In addition questioning Dr. Shelton's Process and Professionalism, Petitioner has also filed Affidavits attesting two Licensed Psychologists have reviewed the original Evaluation tapes between Dr. Shelton and Petitioner in complete (App.120a "Gayer" and App.138a "Veronen"). Both reviews led the specific Licensees to expressly question whether the tapes themselves could appropriately support Dr. Shelton's Report conclusions, and to expressly support instead two additional Licensed Evaluations provided relative Petitioner in 2017 and 2019. (App.126a "Harari" and 133a "Gothard").

Petitioner asserts that the totality of direct evidence counters Dr. Shelton's Evaluation so exceedingly in favor of Petitioner such as, in the least, to enforce a liberty interest in the specific relief processes of South Carolina Law relative the Board of Examiners in Psychology and the SCDoLLR Office of Investigations.

As neither the Board of Examiners, nor the SCDoLLR Office of Investigations, has abided by South Carolina Law, Petitioner requests The Court agree these groups, and their primary Officers, as Defendants.

REASONS FOR GRANTING THE PETITION

On Question 1, Petitioner prays the Court Agrees providing Sixth Amendment privileges to be consistent with previous Supreme Court opinions relative the Fifth Amendment.

On Question 2, the District Court has requested the U.S. Supreme Court to opine.

Petitioner prays that instead the Court will review and correct the underlying Constitutional Deficit at the heart of his case on an Immediate basis.

On Questions 3 through 5, Petitioner has shown that the District Court opinions were not in adherence with either South Carolina Statute, previous U.S. Supreme Court opinion, and/or the Fourteenth Amendment.

CONCLUSION

For the foregoing reasons, the petition for a writ of certiorari should be granted.

Respectfully submitted,

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