

No. 20-6955

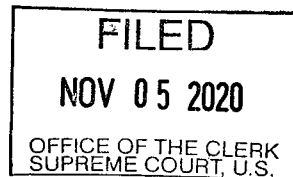
IN THE
SUPREME COURT OF THE UNITED STATES

ORIGINAL

Theresa Skillings — PETITIONER
(Your Name)

vs.

The City of New York — RESPONDENT(S)



ON PETITION FOR A WRIT OF CERTIORARI TO

State of New York Court of Appeals
(NAME OF COURT THAT LAST RULED ON MERITS OF YOUR CASE)

PETITION FOR WRIT OF CERTIORARI

Theresa Skillings
(Your Name)

187-01 Ludlum Avenue
(Address)

St. Albans, New York 11412
(City, State, Zip Code)

(718) 454-5311
(Phone Number)

QUESTION(S) PRESENTED

Whether the respondent's agency the Administration for Children's Services, violated the petitioner's rights with regard to the Americans with Disabilities Act, 42 U.S.C. 12201(b), (d) and 12203(a), (b) in requiring the petitioner's child to have services (e.g. occupational / physical therapy) because of a disability

Whether the respondent's agency failed to comply with New York State's Social Services Law section 409-a and Family Court Act section 1055; Thereby violating the petitioner's rights not only under New York State Law, but also the petitioner's Fourteenth Amendment right to equal protection of the Law

Whether the respondent, in accordance with New York State Civil Practice Law and Rules (CPLR) section 3018(a), answered the petitioner's complaint case # 10955/2017

Whether default judgment against the respondent is due in favor of the petitioner pursuant to NYS CPLR 3215(a), (f) as there was no opposition submitted on the return date case # 10955/2017

LIST OF PARTIES

- ☒ All parties appear in the caption of the case on the cover page.
- ☐ All parties **do not** appear in the caption of the case on the cover page. A list of all parties to the proceeding in the court whose judgment is the subject of this petition is as follows:

RELATED CASES

Gladys Carrion, Commissioner, Administration For Children's Services, vs. Theresa Skillings, Docket # NN-21794-15, Family Court of the State of New York County of Queens. Judgment entered: November 10, 2015

Skillings vs. Gladys Carrion, Commissioner, Administration for Children's Services, Index # 7066/2016, New York Supreme Court, Queens County. Judgment entered: December 21, 2016

Skillings vs. The City of New York, Index # 3682/2017, New York Supreme Court, Queens County. Judgment entered: July 26, 2017 and August 8, 2017

Skilling vs. The City of New York, Index # 10955/2017,
New York Supreme Court, Queens County. Judgment
entered: May 7, 2018

Skilling vs. The City of New York, Docket # 2018-06965,
Supreme Court of the State of New York Appellate Division:
Second Judicial Department. Judgment entered: June 5, 2019

Skilling vs. The City of New York, Docket # 2018-06965
Supreme Court of the State of New York Appellate Division:
Second Judicial Department Judgment entered: August 13, 2019

Skilling vs. The City of New York, Motion # 2019-911
State of New York Court of Appeals. Judgment entered:
January 9, 2020

Skilling vs The City of New York, Motion # 2020-141
State of New York Court of Appeals Judgment entered:
June 9, 2020

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IN THE
SUPREME COURT OF THE UNITED STATES
PETITION FOR WRIT OF CERTIORARI

Petitioner respectfully prays that a writ of certiorari issue to review the judgment below.

OPINIONS BELOW

☐ For cases from **federal courts**:

The opinion of the United States court of appeals appears at Appendix _____ to the petition and is

- ☐ reported at _____; or,
☐ has been designated for publication but is not yet reported; or,
☐ is unpublished.

The opinion of the United States district court appears at Appendix _____ to the petition and is

- ☐ reported at _____; or,
☐ has been designated for publication but is not yet reported; or,
☐ is unpublished.

☒ For cases from **state courts**:

The opinion of the highest state court to review the merits appears at Appendix C to the petition and is

- ☐ reported at _____; or,
☐ has been designated for publication but is not yet reported; or,
☒ is unpublished.

The opinion of the N.Y. Appellate Div. 2nd Judicial Dept. court appears at Appendix A to the petition and is

- ☐ reported at _____; or,
☐ has been designated for publication but is not yet reported; or,
☒ is unpublished.

JURISDICTION

☐ For cases from **federal courts**:

The date on which the United States Court of Appeals decided my case was _____.

☐ No petition for rehearing was timely filed in my case.

☐ A timely petition for rehearing was denied by the United States Court of Appeals on the following date: _____, and a copy of the order denying rehearing appears at Appendix _____.

☐ An extension of time to file the petition for a writ of certiorari was granted to and including _____ (date) on _____ (date) in Application No. ____ A ____.

The jurisdiction of this Court is invoked under 28 U. S. C. § 1254(1).

☒ For cases from **state courts**:

The date on which the highest state court decided my case was 1/9/2020.
A copy of that decision appears at Appendix C.

☒ A timely petition for rehearing was thereafter denied on the following date: 6/9/2020, and a copy of the order denying rehearing appears at Appendix D.

☐ An extension of time to file the petition for a writ of certiorari was granted to and including _____ (date) on _____ (date) in Application No. ____ A ____.

The jurisdiction of this Court is invoked under 28 U. S. C. § 1257(a).

CONSTITUTIONAL AND STATUTORY PROVISIONS INVOLVED

The Americans with Disabilities Act of 1990 (ADA) is a civil rights law prohibiting discrimination on the basis of disability. Ms. Skillings' child has a disability and is therefore entitled to the protections of this statute.

This federal law states 42 U.S.C. 12201(b) 'Relationship to other laws': "Nothing in this chapter shall be construed to invalidate or limit the rights and procedures of any federal law or state law that provides greater or equal protection for the rights of individuals with disabilities."

42 U.S.C. 12201(d) 'Accommodations and Services': "Nothing shall be construed to require an individual with a disability to accept an accommodation, aid service, opportunity or benefit which such individual chooses not to accept."

42 U.S.C. 12203 'Prohibition against Retaliation and Coercion': (a) Retaliation: "No person shall discriminate against any individual because such individual has opposed any act or practice made unlawful by this chapter." (b) Interference, Coercion or Intimidation: "It shall be unlawful to coerce, intimidate, threaten or interfere with any individual's exercise of any right granted or protected by this chapter."

The Fourteenth Amendment, U.S. Constitution, Amdt 14.1 states: " 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.

New York State Social Services Law (SOS)

SOS 409 'Preventive Services; definition.' As used in this title, "preventive services" shall mean supportive and rehabilitative services provided, in accordance with the provisions of this title and regulations of the department, to children and their families for the purpose of: averting an impairment or disruption of a family which will or could result in the placement of a child in foster care; enabling a child who has been placed in foster care to return to his family at an earlier time than would otherwise be possible; or reducing the likelihood that a child who has been discharged from foster care would return to such care.

SOS 409 is also in Appendix 2E.

SOS 409-a 'Preventive services; provision by social services officials' says in part, "A social services official shall provide preventive services to a child and his or her family, in accordance with the family's service plan as required by section four hundred nine-e of this chapter ..."

SOS 409-a is included with Appendix 2E

SOS 409-e 'Family service plan.' This regulation, in Appendix 2H, states "... where a child has been removed from his or her home, within thirty days of such removal, the local social services district shall perform an assessment of the child and his or her family circumstances ... Any assessment shall be in accordance with such uniform procedures and criteria as the office of children and family services shall by regulation prescribe."

New York State Family Court Act (FCT) Article 10
FCT 1055 pertains to 'Placement' of a child that has been removed. The text of this regulation appears in Appendix 2F

New York State Civil Practice Law and Rules (CPLR)

CPLR 32214 refers to Motion papers; service; and time. This rule is in Appendix H

CPLR 308 Personal service upon a natural person, is specified in Appendix L

CPLR 3018 Responsive pleadings, is Appendix O

CPLR 3215 pertains to Default judgment, and is outlined in Appendix Q

STATEMENT OF THE CASE

Ms. Skillings, the petitioner requests that the Supreme Court of the United States grant a writ of certiorari in her civil action against the respondent, the City of New York. An agency of the City, the Administration for Children's Services (ACS) wrongfully filed child neglect charges against Ms. Skillings at the Queens County Family Court in 2015. Although Ms. Skillings was not residing in New York, ACS alleged that Ms. Skillings' child must be registered for school in order to be in receipt of services due to the child's disability. As a result ACS removed Ms. Skillings' child from her custody

Previously Ms. Skillings lived in a rent subsidized apartment in New York. However, due to harassment and threats by her former partner, Ms. Skillings requested that her housing subsidy be transferred to California [Appendix T]. Ms. Skillings relocated to California with her daughter for the purpose of obtaining housing to reside there. A number of years prior to this, Ms. Skillings had lived in California while attending graduate school to earn her doctorate [Appendix U]. The move to California was an opportunity for networking and to re-establish herself in her profession [Appendix V]. During this process, she and her daughter stayed with Ms. Skillings' adult son at his residence in California.

However due to time constraints of the rental subsidy, Ms. Skillings was unable to acquire her own housing within the prescribed time. Therefore she and her son agreed to continue their living arrangement.

Ms. Skillings then went to New York to take care of various matters such as retrieve belongings from storage (including documents needed for school enrollment in California); recover her security deposit from a former landlord [Appendix W]; etc. During this visit Ms. Skillings stayed with relatives at their home in Queens, New York; with the full intention of returning to California to reside. However before this occurred, ACS became involved. This began after an altercation between Ms. Skillings and her former partner, which led to the former partner calling ACS. Later, an ACS caseworker went to the home of Ms. Skillings' relatives, and stated an anonymous call was received about Ms. Skillings' child not registered for school. Ms. Skillings explained to the worker that the situation is really a domestic violence matter [Appendix X]; and that the caller was the former partner who was motivated out of maliciousness and as a way to further harass Ms. Skillings. Also the former partner admitted all of this to Ms. Skillings. However when the worker saw the child has a disability, he focused only on the disability. The worker said the child must receive services through the school. As a result, the child was removed from Ms. Skillings custody. This

case has been in Family Court since the Fall of 2015.

Throughout this ordeal, ACS has subjected Ms. Skillings to excessive and unwarranted court orders. In addition to having her child removed from her custody, a restraining order was issued against Ms. Skillings to stay away from her child [Appendix Y and Appendix 2B]. ACS placed the child with the former partner without properly screening and verifying his residence. Ms. Skillings' child was living there about a month before the Family Court learned it was an unsuitable environment [Appendix Z]. This was only made known after Ms. Skillings brought it to the court's attention, not ACS.

Afterward the child was allowed to return to the home of Ms. Skillings' relatives. The child was then placed with a relative instead of being released to her mother's custody [Appendix 2A]. And although Ms. Skillings is in the same home, she was required to be supervised with her child. ACS has given the decision making regarding the child's health care and education to the relative which goes against the rights of the child's mother whose parental rights were never terminated [Appendix N, Appendix 2C].

ACS could have acted in a way that did the least harm to the child and family. Instead they went above and beyond to make what they alleged was a bad situation

far more worse, when they should have provided assistance as required by law

In considering the fact that the child was removed from her mother when there was no imminent danger [Appendix 2 D] Ms. Skillings has no substance abuse or mental health issues. No prior history with law enforcement. No previous ACS cases. The allegation was educational neglect. ACS did not need to file a petition, and this situation could have been averted, with no need to go to Family Court. Preventive services could have been provided [Appendix 2 E]. However this did not happen. In fact ACS petitioned for the child's removal and then placed the child with the non-respondent parent without properly investigating him. When Ms. Skillings told the court what was really going on, it could not be denied. This demonstrates ACS' negligence and failure to properly investigate the case. It was their actions that placed the child at risk. ACS ultimately removed the child from the non-respondent parent [Appendix Z]. However the child was then placed with a relative. Again, this case was allegedly educational neglect. There was no imminent danger to the child. Also mother and child are in the same home. If ACS was alleging danger to the child, then what is the rationale for allowing this. The placement is unnecessary. As an alternative the child could have been released to Ms. Skillings according to New York State's Family Court Act section 1057. This

action would have been far less disruptive to mother and child; and would have been limited to no more than two years. However this also did not happen. Instead the child has been placed with a relative pursuant to New York State's Family Court Act section 1055

FCT section 1055 (a)(i)(A) [Appendix 2F] pertains to a description of the visitation plan. ACS did not specify a visitation plan for Ms. Skillings and her child. They thought that since the child was in the home with Ms. Skillings that visits would just occur without actually facilitating this. ACS' responsibility was left up to the family to determine. However this was difficult and confusing given the court ordered placement with the relative, the court order of protection to stay away from child, in addition to having the relative supervise mother with her child because they weren't to be left alone. Meanwhile the ACS worker makes home visits every other week, told Ms. Skillings that these court orders "remain in effect from court date to court date". This went on for years. Ms. Skillings did not have real quality time with her child until 2019 when the judge said supervision was no longer needed, when it was never justified.

According to FCT 1055 (b)(i)(B) [Appendix 2F] ACS is required to notify parents of planning conferences to determine a plan of how to assist the family with reunification and closure of the case.

Ms. Skillings has not been notified of any planning conferences. In the nearly 5 years of this case, Therefore if Ms. Skillings is not notified of these meetings taking place, she is unable to participate. Again, the ACS case worker has been making regular visits to the home every other week, and has not made mention of these conferences. The only meetings that Ms. Skillings has had with ACS staff were ones that she initiated to discuss her concerns regarding the case. These were not planning conferences.

FCT¹⁰⁵⁵ section (b)(i)(D) [Appendix 2 F] the '15/22' Rule states ACS may terminate parental rights if a child remains in foster care beyond this time frame.

Due to ACS' unpredictability and disregard for following regulations, the possibility of this occurring is a concern for Ms. Skillings. Foster care placement is meant to be temporary and not an ideal long term arrangement.

In Ms. Skillings' case the goal is family reunification [Appendix 2 G]. However ACS has not taken measures to reunify the family and close the case although mandated to do so pursuant to the Social Services Law section 409-e [Appendix 2 H]

They act as though their work is done because the child and mother are in the same household.

However this is not their home. Ms. Skillings and her child were visiting relatives in New York when this case started. Also after all this time the child still has not been released to Ms. Skillings' custody

The 15/22 Rule also implies a time limit of no more than two years. Ms. Skillings' case exceeds this by 2.5 times. This is a significant indication ACS is not following procedures and relates to ACS' bias regarding the child's disability. It is as though having the family complete more services will somehow rid the child of the disability, which is absurd. It is a lifelong condition. Given this fact, must the family then be subjected to ACS' unethical and discriminatory practices indefinitely?

FCT section 1055(b)(i)(E) [Appendix 2 F] states in part "where the permanency goal is return to parent and it is anticipated that the child may be finally discharged to his or her parent before the next scheduled permanency hearing, the court may provide the local social services district with authority to finally discharge the child to the parent without further court hearing..."

According to this regulation, ACS has the authority to close this case without the need to go to court.

[Appendix 2 G]. Permanency hearings are generally scheduled approximately twice per year. Therefore this regulation allows for closure of the case without having to wait for a hearing. However ACS has not made any effort towards closing Ms. Skillings' case, although Ms. Skillings has completed various services [Appendix 2 I], and the child receives services at school,

ACS continues to require more services merely because the child has a disability.

After the child's removal from Ms. Skillings' custody, ACS must assist with reunification of parent and child in a timely manner. The court ordered mental health evaluation was for the purpose of service planning. However a court ordered evaluation isn't necessary. ACS can conduct their own assessment by simply meeting with the parent to discuss the family's service needs; this is the function of the planning conferences, SOS section 409-e [Appendix 2H] and FCT section 1055 (b)(i)(B) [Appendix 2F]

At a service planning conference, the parent participates with ACS in developing an agreement of what would facilitate the child's timely return to the parent, and closure of the case. This agreement is then signed. The service plan addresses the issues that led to ACS involvement. In Ms. Skillings' case ACS alleged the child was not registered for school to receive services for a disability. However ACS has not complied with the law, as there is no comprehensive service plan. What has happened is that Ms. Skillings has just been following the court's orders that were issued, while ACS has shirked their responsibility. The initial order placing Ms. Skillings' child with a relative in 2015, was to be temporary [Appendix 2A] Why is it that the child is still placed with relative for nearly 5 years? This is not temporary.

Also, ACS and Ms. Skillings had a verbal agreement to return the child in the Spring of 2016. Present at the meeting, that Ms. Skillings initiated; were the caseworker, the supervisor and Ms. Skillings. Ms. Skillings explained again that the matter was not a parenting issue. It stemmed from domestic violence. They then said Ms. Skillings did not have to take the parenting for special needs classes. They recognized the difficulty of locating this class. Therefore it was agreed that all Ms Skillings was required to do was complete the mental health evaluation, and her child would be released to her custody. The caseworker also stated this although reluctantly in court a few days later. However ACS did not abide by the agreement. Meanwhile Ms Skillings has been complying, and completed the evaluation in 2016 [Appendix 2 I]. ACS also reneged on the agreement regarding the special needs parenting classes. It was difficult finding this particular class. However in order to meet the requirement, Ms. Skillings took a standard parenting class through 'Boys Town' and supplemented this with special education workshops given by 'Include NYC' [Appendix 2 I]. Although Ms. Skillings made an earnest effort to complete their requirement, ACS rejected these classes that Ms. Skillings completed. Due to the difficulty of locating a Parenting class specifically for Special Needs children, Ms. Skillings could not complete this until 2018 [Appendix 2 I]. ACS requiring this class

violates Social Services Law section 409-e 2 (c-d)

[Appendix 2 H]

Then in July 2018, the relative informed ACS that she was having a medical procedure and that she would need help caring for the child. Rather than ACS returning the child to her mother as agreed in 2016, ACS stated at the permanency hearing that they wanted to look into another resource (placing the child outside the home) as an option to care for the child if the relative couldn't do it. It was incomprehensible to Ms. Skillings that ACS would consider placing her child because of the guardian's minor outpatient procedure. Why would this even be an option or in the child's best interest when the child's mother is there at the same residence as the child. Ms. Skillings voiced her concerns at the hearing. ACS said in order to be considered as a possible resource for the child to complete a second mental health evaluation.

With the prospect of her child being placed outside the home because of the guardian's minor surgical procedure, which never happened; Ms Skillings completed a second evaluation in September 2018

[Appendix 2 I]

However it wasn't until the next court date in January 2019, after 3+ years when the court said Ms. Skillings was no longer to be supervised. Again this supervision itself was not justified, And although Ms. Skillings was

also given the daily responsibilities of caring for her child, the child still has not been released to Ms. Skillings.

Soon after, ACS began insisting that the child have more services such as respite through the Office for People with Developmental Disabilities (OPWDD). This did not make sense. The judge stated in court that Ms. Skillings should manage the child's daily responsibilities. Also Ms. Skillings who is fully capable of caring for her child, was just allowed time with her child. So having another person come into the home for this purpose would interfere with not only Ms. Skillings' child care responsibilities but also the one-on-one time that mother and child were deprived of for years. These services were not necessary and goes against Social Services Law section 409-e 2 (b) (i-iii) [Appendix 2 H] Then ACS dictated which agency would be the child's OPWDD service provider, when the decision was Ms. Skillings' to make. Ms Skillings made a complaint to ACS management about the problems with the case. However the issues were not addressed, and Ms. Skillings was told she and her child must take Crisis Intervention and Behavioral Services, when neither of these services pertain to the needs of the family. ACS only began requiring this after Ms Skillings' complaint. [Appendix 2 J]

There has been no basis or rationale for the services ACS insists on. The addition of more services adds more time for the family to complete. These services are not court ordered, and do not pertain to the issue or reason for ACS involvement, Social Services Law section 409-e1(a) [Appendix 2H] In Ms. Skillings' case, ACS said the child was not registered for school to receive services. Since 2015, when the child was in first grade, she has attended school regularly and has recently graduated from the fifth grade [Appendix 2K] ACS also maintains contact with the school. So they are aware of the child's status. How is this educational neglect?

Thus ACS' mismanagement of the case has had adverse consequences for Ms. Skillings and her child. It is very disruptive for a family to be living under the scrutiny of ACS for years. Being subjected to their unpredictability as they often change the terms and insist on services that don't pertain to the circumstances, and don't follow through with what was agreed, or use services as a way to retaliate and hinder the family. In addition the uncertainty, as ACS still has not told Ms. Skillings when her child will be released or when the case will close.

This goes beyond child welfare, meaning the

child's life was not endangered. There are no safety issues even by ACS' standards. They said the child wasn't in school. Now she is.

So what is really going on here? They are requiring additional services because the child has a disability. If the child did not have a disability would they require the family to take these services?

No. By saying the family must take classes and services based solely on disability, not by any other factor is unfair. We are being penalized because of the child's disability, a condition she was born with. Similar to one's race. And using her disability as the reason to require something of us, that you would not require of other parents without disabled children, IS discrimination!

Ms. Skillings' child has a disability and is therefore entitled to the protections of the federal statute the Americans with Disabilities Act of 1990 (ADA)

42 U.S.C. 12201 (d) Accommodations and Services' states, "Nothing shall be construed to require an individual with a disability to accept an accommodation, aid, service, opportunity or benefit which such individual chooses not to accept."

The basis of ACS' case is that Ms. Skillings' child must be in receipt of various services because of a disability. This is a clear violation of federal law.

42 U.S.C. 12203 'Prohibition against Retaliation and Coercion.'

The Administration For Children's Services retaliated against Ms. Skillings by having her child removed from her custody, issued a restraining order, required Ms. Skillings to be supervised with her child, required Ms. Skillings to undergo mental health evaluations, required Special Needs parenting classes, etc. All because they disapprove of Ms. Skillings' decisions on the care and education of her child who has a disability. ACS also coerced Ms. Skillings into submitting to the mental health evaluations, because she was told her child would be released to her custody once it was complete. ACS said the evaluations would not be used against her, that it was for service planning. However ACS has not completed a service plan, and the child still has not been released to Ms. Skillings' custody.

ACS' insistence on unnecessary services through New York State's Office for People With Developmental Disabilities; and then requiring the family to have a particular OPLWDD service provider, further demonstrates ACS' interference with Ms. Skillings' right to make decisions for her child.

42 U.S.C. 12201(b) 'Relationship to other laws' says in part, nothing shall "invalidate or limit

the rights and procedures of any federal law or state law that provides greater or equal protection for the rights of individuals with disabilities."

ACS has failed to comply with this statute, as well as New York state law. ACS' actions have violated the right to equal protection. Similarly, the Fourteenth Amendment says, no state shall "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."

ACS is mandated under New York State's Family Court Act and Social Services Laws to follow certain procedures which offer families certain protections, and to provide appropriate assistance. However ACS' failure to comply with these laws has led to unjust and unlawful practices that has resulted in the violation of this Amendment and the rights of the family. If ACS had acted ethically and according to regulations as required by law, then Ms. Skillings and her child would have been spared a lot of needless turmoil and disruption to their lives.

Ms. Skillings first filed a civil action at the Queens County Supreme Court against the Administration for Children's Services; case # 7066 / 2016. The case was dismissed because the civil action could not be brought directly against ACS, an agency of the City; but rather the City of New York.
[Appendix E]

Since the same problems continued and remained unresolved, the petitioner filed with the Queens County Supreme Court, a civil action against the City of New York, case # 3682 / 2017. However the Court stated the exhibits were not labelled appropriately. The case was dismissed without prejudice, which meant the case could return to court. [Appendix F]

As the matter had not been addressed, the petitioner filed an action against the City of New York with the Queens County Supreme Court case # 10955 / 2017. However due to an impending medical situation at the time, petitioner then filed an Order to Show Cause. In the action Ms. Skillings requested that ACS' educational neglect charges be dismissed and that the child be returned to Ms. Skillings' custody, among other relief. Ms. Skillings also asserted various state and federal law claims including the New York Family Court Act - Article 10; and the Americans with Disabilities Act of 1990 (ADA).

The petitioner's paperwork was in proper order, including exhibits. The respondent was given appropriate notice of the civil action [Appendix G]. However the respondent did not provide Ms. Skillings their answering papers by the deadline as required [Appendix H].

On the return date the court clerk informed Ms. Skillings they also had not received any opposition papers from the respondent. Therefore the petitioner's papers were submitted to the judge without opposition. The respondent acknowledges this in the Affirmation

[Appendix I]. The respondent filed a motion to have their late answering papers accepted. [Appendix J]. Ms. Skillings did not receive notification of the respondent's motion, and did not have the opportunity to reply to it. Although the respondent's affirmation of service stated the notice was mailed, [Appendix K], there was no personal delivery of the notice as required by CPLR 308A [Appendix L]. Thus the petitioner was not given proper notice of the respondent's motion. Furthermore, the respondent's answering papers [Appendix M] did not address Ms. Skillings' concerns in her complaint [Appendix N]. CPLR 3018(a) states "A party shall deny those statements known or believed by him to be untrue ... specify those statements as to the truth of which he lacks knowledge or information ... All other statements of a pleading are deemed admitted [Appendix O]. As the respondent did not deny or respond accordingly to Ms. Skillings' complaint,

the allegations are therefore deemed admitted. Despite this the respondent's motion and late papers were allowed. The Queens County Supreme Court eventually denied Ms. Skillings' action stating the petitioner had "already litigated these issues in two prior motions." [Appendix B]

However the first action against the City was case # 3682 / 2017 which was dismissed without prejudice [Appendix F]. Accordingly the petitioner filed case # 10955 / 2017. Prior to # 3682 / 2017, there was an action against the Administration for Children's Services, Case # 7066 / 2016 ; not the City [Appendix P]

Ms. Skillings did not agree with this decision and filed an appeal with the New York Appellate Division Second Judicial Department, docket # 2018 - 6965. Ms. Skillings also filed a motion for default judgment pursuant to CPLR 3215(a), (f) [Appendix Q] The required documentation was provided: the Notice of Motion, a Affidavit, summons and complaint, along with proof of service. The respondent was given appropriate notice of the motion, CPLR 3215(g) [Appendix Q] and yet did not provide any opposition papers. However the motion was denied [Appendix R] Ms. Skillings' appeal of the Queens County Supreme Court decision was also denied, [Appendix A] ; as well as the motion to appeal to the Court of Appeals [Appendix S]

Petitioner then filed an appeal with the New York State Court of Appeals Mo. No. 2019-911 which was denied [Appendix C]. A motion to Reargue the case Mo. No. 2020-141 was also denied [Appendix D].

At the present time, Ms. Skillings seeks to have the case heard before the Supreme Court of the United States.

REASONS FOR GRANTING THE PETITION

Ms. Skillings requests that the Court grant her petition for a writ of certiorari. The petitioner asserts that there have been civil rights violations involving the constitution, as well as federal and state laws; that has not been addressed and which continues to have adverse consequences for Ms. Skillings and her family.

Ms. Skillings' case has relevance because the issues that have been raised are not only applicable to those confronted with similar circumstances, but to the public overall.

The City's agency, the Administration for Children's Services affects the lives of many families in the State of New York. A significant number are minorities and poor.

As a single mother of color, the petitioner has experienced first hand the maltreatment of the City's agency, particularly when it pertains to the rights of people with disabilities. ACS has a responsibility both ethically and legally to comply with laws that were created to protect families from the infringement of fundamental rights, and ensure due process of law. However the agency's disregard for complying with the law leads to marginalization of families and discriminatory practices. ACS has a duty and obligation to abide by rules and regulations; and should be held accountable when they do not. Compliance with the law is not optional. Laws and Rules

are the foundation of our democratic society.

Non compliance should not be tolerated or accepted especially from institutions that have authority over people's lives. The people who often don't have a voice, and usually are not in a position of influence.

Ms. Skillings' case has been eluding review. In the civil action against the City of New York, case # 3682/2017, the Queens County Supreme Court dismissed the case "without prejudice." Therefore the petitioner returned the matter to court, case # 10955/2017. However, the action was dismissed. The Queens County Supreme Court decided incorrectly that the case was already litigated.

This is where the controversy lies. Ms. Skillings was told she could bring the matter back to court. When Ms Skillings does, she is then told it was litigated previously, although it wasn't. By stating collateral estoppel and subsequently dismissing the case, Ms. Skillings was denied the opportunity to have the wrong doing that has occurred throughout this case, be corrected. Thus a significant injustice continues.

Therefore the petitioner humbly request the Court to enact its jurisdiction. By granting the petition for a writ of certiorari, the Court could rectify this matter and provide the relief sought by Ms. Skillings.

CONCLUSION

The petition for a writ of certiorari should be granted.

Respectfully submitted,

Theresa Hilz

Date: October 27th, 2020