20-7518

No. 21- _____

In the Supreme Court of the United States

IN RE JACK STONE,

Petitioner,

v.

UNITED STATES DEPARTMENT OF STATE and,
UNITED STATES TOKYO EMBASSY,

Respondent.

On Petition for an Extraordinary Emergency Writ of Mandamus from the United States Court of Appeals for the District of Columbia

EMERGENCY PETITION FOR EXTRAORDINARY WRIT OF MANDAMUS

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February 25th 2021

QUESTIONS PRESENTED

FIRST ISSUE

THE QUESTIONS IN THIS ISSUE PERTAIN TO INTERNATIONAL CHILD ABDUCTION, CUSTODY AFTER ABDUCTION AND THEREAFTER, FAILURE OF THE U.S. DEPARTMENT OF STATE TO REISSUE PASSPORT DESTROYED BY THE CHILD'S MOTHER, A FOREIGN NATIONAL, WHO DESTROYED THE PASSPORT TO PREVENT THE CHLD FROM RETURNING TO THE U.S.

1.

Should passport issue to Petitioner's minor child under CFR 2012 Title 22 Vol.1 §51-28, due exigency or special family circumstances, or, under 8 FAM 502.5-2e(4) or 8 FAM 502.5-3d(4) where the child is stranded in a foreign country noncompliant to the Convention, or, where the child's health, safety or welfare is at risk, or, because the mother has abandoned the child, or, because the mother is not sustaining the family, where she has refused to be guarantor on housing and refused to be guarantor on Petitioner's spouse visa?

2.

If the Court holds passport should issue, does the DOS' failure to reissue passport for more than two years, or, the DC courts' failure to order passport issuance, amount to arbitrary, or capricious abuses of power or discretion that falls under the Administrative Procedures Act, and, if so, should money damages be paid, including 161,000.00 USD damages due loss of employment salary, and other monetary damages, including legal fees, losses that would not have occurred, but for failure of the DOS, or the DC courts, to act upon passport reissuance?

SECOND ISSUE

THE QUESTION PRESENTED IN THIS ISSUE PERTAINS TO PETITIONER'S WIFE'S APPROVED VISA, SUBSEQUENTLY DENIED, AND LENGTHY DELAYS IN FINALIZING THE MATTER, RESULTING IN THE WIFE FLEEING TO JAPAN, AND ABDUCTING PETITIONER'S CHILD IN THE PROCESS.

Petitioner's wife's visa was approved May 30th 2018. All relevant interviews and fees were paid, in excess of more than 3500.00 USD, including an additional 1225.00 USD to expedite the process. All that was required of Petitioner and his wife were completed successfully. The final interview was to be scheduled by the DOS, but

never was, at that time more than two-years time had elapsed, as of this filing, more than four years has elapsed.

While awaiting the final interview to be scheduled, January 4th 2019, USCIS sent a threatening letter, demanding the wife leave the U.S. within 33-days, or be subject to removal proceedings. The letter stated the matter was not appealable. The wife has no criminal history, and was in the U.S. lawfully.

The question is, after paying fees in excess of 3500.00 USD to process Petitioner's wife's visa, which was approved and then subsequently denied months later, while awaiting final interview to be scheduled by the DOS, which never was, does this amount to final agency action that is arbitrary, or capricious abuses of power or discretion, and if so, are their damages permitted under the Administrative Procedures Act?

THIRD ISSUE

THE QUESTIONS PRESENTED IN THIS ISSUE PERTAIN TO INA 301-309, AND THE U.S. DEPARTMENT OF STATE REFUSING TO PROVIDE PETITIONER'S U.S. CITIZEN CHILD CITIZENSHIP DOCUMENTS, AFTER ALL RELEVANT FEES HAD BEEN PAID, AND ALL RELEVANT DOCUMENTS PROVIDED.

1.

Under an unprecedented pandemic, and where Japan's government has issued a state of emergency, forbidding travel into Tokyo, where the U.S. Embassy is located, is it permissible for the DOS to demand the child be brought into Tokyo to be interviewed for CRBA and Social Security Card issuance, and, if the child is not taken to the Tokyo Embassy to be interviewed, even where the DOS is fully aware Petitioner doesn't have access to the child, is it permissible to refuse to issue the citizenship documents, which without, essentially amounts to the child remaining, without proof of citizenship, and conditions of statelessness?

2.

Does failure to issue Social Security Card to the child, during an unprecedented pandemic, resulting in loss of Cares Act stimulus relief, which is provided to all U.S. citizens, except Petitioner's child, amount to an equal protection violation, and if so, should Social Security Card issue, and should Cares Act stimulus relief be provided to the child?

FINAL ISSUE

THE QUESTION PERTAINS TO A CM/ECF ACCOUNT WHICH PETITIONER HOLDS, BUT IS NOT PERMITTED TO USE, EVEN WHERE EMERGENCY MATTERS ARE AT ISSUE AND REQUIRE EXPEDIENCY IN FILINGS AND COURT RESPONSES.

Is it a due process and equal protection violation, resulting in a subclass to deny use of CM/ECF where a litigant has met all requirements for use, especially in emergency cases, such as in the underlying matter, where denial of use results in failure to be heard timely, and failure to timely respond to court orders, where the resulting consequences is often case dismissal, time deadline elapsing to file appeals, and other prejudicial results, and unnecessary delays?

ii.

PARTIES TO THE PROCEEDINGS

Jack Stone, Miyuki Suzuki, minor children M.S. and S.S., the U.S. Department of State, and the U.S. Embassy in Tokyo.

iii.

LIST OF PROCEEDINGS

Hague Convention Division
Consular Affairs Bureau
Ministry of Foreign Affairs
Central Authorities of Japan
Case Number A-19115

...

United States Court of Appeals
for the District of Columbia
Case No. 20-5102

United States District Court
for the District of Columbia
Case No. 19-3273

...

United States District Court
for the District of Hawaii
Case No. V 19-00065 JAO-RLP

...

Unites States District Court
for the District of Hawaii
Case No. 19-00065 JAO-WRP

Second District Court of Appeal, Florida
Case No. 2D20-0451

...

Highlands County Circuit Court, Florida
Case No. 28-2019-000903

United States Court of Federal Claims
Case No. 1:20-cv-01173

...

Circuit Court of the First District of Hawaii
Jack Stone vs Brian Schatz and Jennifer Wooten
Case Number: 1CCV-21-0000103

iv.

JUDICIAL ORDERS BELOW

September 3rd 2019, Japan Central Authorities refused to order the return of Petitioner's minor child under The Hague Convention.

September 10th 2019, Highlands County Family Court issued Final Order Dismissal, wrongfully claiming it lacked jurisdiction over emergency custody matters.

November 27th 2019, Japan's Sendai Family dismissed custody matters holding the court was an improper venue and lacked personal jurisdiction under Article 16 of the Convention.

July 25th 2020, the DC lower court issued an "Opinion and Memorandum" Ordering summary judgment in favor of government defendants, refusing to order passport issuance, that there was no final agency action in the wife's visa matter, that citizenship documents must not issue to Petitioner's U.S. citizen minor child, and that there are no Administrative Procedures Act damages.

November 16th 2020, the DC lower court denied Leave to Amend Third Amended Complaint, to include wife visa and child citizenship document matters.

December 4th 2020, the DC appellate court denied writ of mandamus to compel the lower court judge to address motions that had not been responded to in more than a year, including Hague Convention return order motions and motion for Petitioner's child to obtain a passport to return to the U.S.

December 23rd 2020, the Second District Court of Appeals Reversed and Remanded the case back to the Highlands County Family Court.

January 8th 2021, the DC lower court refused to order passport issuance, even where Petitioner's visa to remain in Japan had expired and proceedings in Sendai District Court had been initiated to evict Petitioner and child from housing.

January 20th 2021, the DC lower court again refused to order passport issuance, upon Petitioner's emergency motion, and where eviction was to occur within 48 hours. The result of denial cost Petitioner a 161,000.00 USD employment contract, and eviction was carried out, which the court was fully aware was to occur.

January 22nd 2021, the Court of Federal Claims revoked Petitioner's right to use CM/ECF account, on the same day Petitioner and minor child M.S. was evicted from housing in a foreign country.

January 28th 2021, the Highlands Family Court in Florida filed Intent to Dismiss, due Petitioner and child being evicted and cut off internet access.

January 28th 2021, the DC appellate court refused to hear the passport matter, resulting in the loss of 161,000.00 USD in employment salary, while Petitioner's visa had already expired, and Petitioner and M.S., had already been evicted from housing in a foreign country.

February 25th 2021, Petitioner sought this Court to intercede in the matters.

v.

JURISDICTION

This Court has jurisdiction to grant a writ of Mandamus. *See: 28 U.S.C. § 1651(a).*

vi.

CONSTITUTIONAL AND STATUTORY PROVISIONS

U.S. Const. art. I, § 4.

a) The Supreme Court and all courts established by Act of Congress may issue all writs necessary or appropriate in aid of their respective jurisdictions and agreeable to the usages and principles of law.

(b) An alternative writ or rule nisi may be issued by a justice or judge of a court which has jurisdiction. 28 U.S.C. § 1651.

vii.

STANDARDS OF REVIEW

The Supreme Court has the power to "issue all writs necessary or appropriate in aid of their respective jurisdictions and agreeable to the usages and principles of law." 28 U.S.C. § 1651(a). To obtain a writ of mandamus, the applicant must demonstrate that he has "no other adequate means to attain the relief he desires." *See: Cheney v. United States Dist. Court, 542 U.S. 367, 380 (2004).* The applicant must

demonstrate that the applicant's right to the writ is "clear and indisputable." Id. at 381. Finally, the applicant must demonstrate that the writ is otherwise appropriate under the circumstances. Id.

"A writ is appropriate in matters where the applicant can demonstrate a 'judicial usurpation of power' or a clear abuse of discretion. Id. at 380 (citations and quotations omitted); see also Roche v. Evaporated Milk Ass'n, 319 U.S. 21, 26 (1943) ("The traditional use of the writ in aid of appellate jurisdiction both at common law and in the federal courts has been to confine an inferior court to a lawful exercise of its prescribed jurisdiction or to compel it to exercise its authority when it is its duty to do so."). This Court has issued writs to restrain federal district courts from intruding into areas involving delicate federal-state relations. Id. at 381; see also Maryland v. Soper, 270 U.S. 9 (1926)."

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STATEMENT OF THE CASE

A.

FIRST ISSUE

This Court in Monasky v. Taglieri, 589 U.S. 2020, held, a child's residence is determined under the "totality of circumstances" in abduction cases.

In Troxel v. Granville, 530 U.S. 57 (2000), this Court held, a parent has the right to raise their child in a western form of civilization and government cannot intrude into parental rights in this regard.

In Jack Stone v. United States Department of State, the U.S. District Court for the District of Columbia, and the United States Court of Appeals for the District of Columbia, in Case No. 20-5360, have refused to order emergency passport issuance to Petitioner's minor child, who on November 11th 2018, at age four, was abducted into Japan, a nation Congress and the Department of State (DOS) hold noncompliant to the Convention on the Civil Aspects of International Child Abduction (Convention).

Congress also holds Japan noncompliant to The Sean and David Goldman International Child Abduction Prevention Act (Goldman Act).

There are currently more than 10,000 U.S. citizen children abducted into Japan. *Exhibit A., is partial list of U.S. citizen children currently abducted into Japan. Exhibit B., is a true and correct copy of a letter written by Brian Prager (Prager), regarding the inaction of the DOS concerning the abduction of Prager's child.*

Prager has had no contact with his child in over a decade.

Congress condemns Japan as a black hole regarding international child abductions.

Congress has repeatedly condemned the DOS for failing to implement sanctions against Japan, a power provided through the Goldman Act. Sanction powers include removal of preferential trade status and removal of security measures, which has never been implemented against Japan.

No child abducted into Japan has ever obtained a return order from Japan's Convention Central Authorities.

In July of 2020, the European Parliament voted 33-0, in a resolution to sanction Japan for its Convention noncompliance due the more than 50,000 European children abducted into Japan from Europe. The European Union concluded abduction is not only child abuse, but spousal abuse as well. *See: https://www.europarl.europa.eu/meetdocs/2014_2019/plmrep/COMMITTEES/PETI/RE/2020/06-16/1202746EN.pdf.*

Japan is a signatory to the Convention, and, the UN Rights of the Child, which forbids a nation from preventing a child from freely traveling to countries they hold citizenship. Petitioner's child, M.S. is stranded in Japan, unable to travel and being

wrongfully retained under hostage-like conditions. The DOS and the DC court refuse to act to protect the child.

At a recent congressional hearing on child abductions into Japan, the DOS "Office of Children's Issues" representative, Suzanne Lawrence, admitted that out of the hundreds of return order applications received from U.S. citizen parents seeking the return of their abducted children from Japan, only "eight" return order applications have ever been turned over to Japan's Central Authorities.

In Petitioner's matter, prior to abduction, the DOS failed to act to block abduction out of Florida, even with three-day advanced notice. Petitioner provided copies of the child's mother's Japan issued passport, the child's U.S. issued passport, photographs, and the date and airport abduction was to occur. Petitioner could not have made it easier for the DOS to prevent the abduction from occurring.

In violation of the Goldman Act, the DOS failed to prevent the abduction from occurring into Japan, a nation the DOS was fully aware was Convention noncompliant, and, that abducted children never returned from.

Petitioner, fully aware the DOS failed to aid parents of children abducted into Japan, and, that Japan's Central Authority had never issued a return order, located, and took custody of M.S., in Japan, with the intention of returning to the U.S. immediately. Prior to that, the child's whereabouts had been unknown for nearly two months, and the DOS failed to contact Japanese authorities to aid in locating the child, or aid in the child's return.

Early into the matter Petitioner filed three return order applications with the DOS, which failed to forward any of those applications to Japan's Central Authorities, even at the time M.S.'s whereabouts were unknown.

Moreover, after M.S. was abducted and wrongfully retained in Japan in violation of Article 3 of the Convention, the child's mother, a Japanese national, destroyed the child's U.S. issued passport, which was used to enter Japan. The purpose of the destruction of the passport was to prevent the child from returning to the child's "habitual residence" which was in the state of Florida. Of course, by that time, time was already tolling as to what "court" would have jurisdiction over custody matters.

January 4th and 6th of 2019, the child's mother interviewed with Tokyo Embassy consulates and admitted to bringing the child into Japan without Petitioner's consent, and, to withholding the passport to prevent the child from returning to the U.S. This matter is preserved in the administrative record of the DOS and cannot be disputed.

After Petitioner located M.S., and took custody of the child, he attempted to resolve the family matter with his wife, to no avail. The wife refused to return to the U.S. and the reasons why are discussed further below.

Petitioner would not learn until April of 2019, that his wife was pregnant with his second child, S.S., who the DOS is refusing to provide Consular Report of Birth Abroad of a U.S. Citizen (CRBA) and refusing to issue Social Security Card. This is discussed further below.

February 8th 2019, due to being stranded and homeless in Japan, and the wife not sustaining the family, Petitioner and M.S. went to the Tokyo Embassy where Petitioner paid 150.00 USD for passport reissuance and interviewed with consulate staff to obtain emergency passport so the child could return home. At that time Petitioner was studying for the Hawaii bar exam, and interviewing, and being offered positions at the Hawaii Judiciary and Hawaii's Attorney General's office. *Exhibit C., is a photograph of M.S., which shows the only articles of clothing the child had at the time he was taken to the Tokyo Embassy for passport interview. As well, it was February and cold. The child had to use slippers for gloves. This exhibit shows the child is distraught and crying. Exhibit D., is a true and correct copy of M.S.'s deposition statement, which was presented to the DC lower court and the DC appellate court, which have repeatedly refused to order passport issuance even where exigency and dire circumstances escalated exponentially, including Petitioner's visa to remain in Japan expiring as far back as August 29th 2019.*

February 15th 2018, the DOS refused to reissue passport under said conditions, absurdly claiming international child abduction doesn't rise to the level of exigency or special family circumstances to reissue passport without "two-parent" consent under CFR 2012 Title 22 Vol.1 §51-2.

The resulting consequences is that Petitioner and M.S. have been stranded in a noncompliant Convention country for more than two years, involvement in no less than nine courts, total financial ruin, and perpetual emergency motion filings, which are ignored, or denied and circumstances get worse and worse.

CFR 2012 Title 22 Vol.1 §51-28 provides for passport issuance under "exigent" or "special family circumstances" without two-parent consent. There can be no more exigent or special family circumstances than international abduction.

This Court held in Abbott v. Abbott, No. 08–645 (2010), at page 18, that child abduction is the worst form of child abuse.

The Department of Justice's (DOJ) website that addresses international child abduction concludes that child abduction is child and spousal abuse. Even so, DOS counsel at the U.S. Attorney General's office and their DOJ counsel, file motions contrary to the DOJ position on abductions, but instead, resort to filing repetitive motions demanding passport not issue.

Under mounting damages, including Petitioner's visa expiration to remain in Japan, where he could be arrested, detained deported, and permanently barred from entry into Japan, and, eviction from housing, which occurred January 22nd 2021, and where Petitioner was offered an employment contract in Dubai, that included salary of 161,000.00 USD, and which would have removed the family out of the conditions of poverty that the U.S. government officials are responsible for creating, instead, the DC lower court and DC appellate court have repeatedly refused to order passport issuance. The attached Appendix provides true and correct copies of the DC courts rulings, refusing to order passport reissuance, and providing no analysis as to why.

The refusal to issue passport by the DOS, and the refusal to order passport issuance by the DC courts, has resulted in Petitioner losing 161,000.00 USD in salary,

and other benefits, including airfare costs covered to Dubai, fully furnished housing and 100% medical coverage for up to five family members. The employment opportunity was lost because Dubai Immigration required a passport number for M.S., which the DOS and the DC Courts have refused to provide. Instead, the DOS and DC courts falsely imprison Petitioner and M.S. in the foreign country when at all times they have the power to provide passport and remove the dire conditions, which amount to false imprisonment, poverty and children endangerment.

Given the facts stated above, there can be no doubt the failure of the DOS to reissue passport, and the failure of the DC courts to act upon said emergencies filings, amounts to arbitrary final agency action, and are abuses of power and discretion.

Petitioner and child subsist under conditions of poverty, conditions the family had never known, prior to the DOS failing to block abduction out of Florida, failure to initiate return order proceedings and failure to reissue passport.

At all times Petitioner has attempted to mitigate damages, but the DOS, their innumerable counsel and the DC courts, fail to act appropriately.

Other applicable regulatory schemes that permit passport issuance under said circumstances includes 8 FAM 502.5-2e(4) or 8 FAM 502.5-3d(4).

8 FAM 502.5-2e(4) or 8 FAM 502.5-3d(4) provides the means to obtain passport where a child is stranded in a foreign nation, or, where the child's health, safety and welfare is at risk, or, where one of the child's parent is not sustaining the family. All of these prongs are obviously applicable, and would be recognizable as applicable to any reasonable person who was not overreaching or abusing the authoritative power vested in them.

Neither the DOS, their counsel, nor the DC courts have provided any analysis whatsoever as to why passport must not issue under CFR 2012 Title 22 Vol.1 §51-2, 8 FAM 502.5-2e(4) or 8 FAM 502.5-3d(4), but instead, issue conclusory statements while DOS counsel demands 8 FAM 502.5-2e(4) and 8 FAM 502.5-3d(4) be sealed under the pretentions that parents similarly situated to Petitioner would use the language in 8 FAM 502.5-2e(4) or 8 FAM 502.5-3d(4), to obtain passports for their abducted children, for "wrongful purposes."

Under relevant 8 FAM analysis, August 29th 2019, Petitioner's visa to remain in Japan expired. The wife is the only person who can renew the visa, but she refuses, fully aware that arrest, detention, and deportation would result, as well as permanent ejection from Japan.

January 22nd 2021, Japan's Sendai District Court ordered the eviction of Petitioner and M.S. from the only place the child has memory of residing. The child also has no memory of ever living with the mother.

Due visa expiration, Petitioner is unable to obtain employment in Japan. As such, Petitioner and child have been forced to hole up since March of 2019 in an empty apartment, without blinds, without furnishings, and without the means to pay rent.

Replacement housing in Japan is impossible to obtain, as all Japanese realtors require a Japanese national to sign on as guarantor for "gaijin" (foreigner) housing.

At all times in more than two years, Petitioner and the child have subsisted out of one piece of luggage.

Even further, Petitioner had to put his computer (an iMac) on a baby stroller and role it several kilometers to a train station in order to access the internet and file documents with the courts. In order to use the internet, Petitioner had to lock himself, the child and the computer into a toilet, and use the Wi-Fi service to connect online, until train staff would come along and eject them. *Exhibit E., are photographs that show the manner in which Petitioner has had to communicate with the courts.*

That the DOS, their counsel, and the DC court would conduct themselves in such a manner is disgraceful, especially when at all times they had the power to protect the child, but instead, chose not to protect the child, even to the point of the devastating loss of 161,000.00 USD employment salary and other benefits.

Prior to eviction, the Aoba Ward Office located "municipal" replacement housing that the Japanese government would have paid for. However, they required the child's mother to be guarantor. She refused.

There can be no greater examples that the mother is not sustaining the family than refusal to act upon spouse visa renewal, and refusal to be guarantor on housing for her minor child, fully aware eviction and homelessness would result. Moreover, the mother has had nearly no contact with M.S. in more than two years.

The replacement housing was offered to Petitioner because Japanese officials are fully aware the underlying legal proceedings are underway, that the matter is a human rights matter, and, because M.S. has dual U.S. and Japanese citizen.

It is important to note that replacement housing is ghetto housing and the OECD reports single parent poverty in Japan is the worst out of all OECD nation.

On January 22nd 2021, the eviction took place under violent conditions, which the DOS and DC courts were aware was to occur, as they had been given ample advanced notice through several emergency motions, which were ignored.

In the face of visa expiration, eviction and homelessness in the heart of winter, the DC courts refused to order passport issuance, so the child could be removed from the increasingly dangerous and hostile circumstances of instability that have been ongoing for more than two years and which U.S. officials are entirely responsible for creating. *Exhibit F., are true and correct copies of photos taken during the eviction process, which shows the child is completely distraught. What the images don't show is the child pissed himself in fear of being thrown out onto the streets. Petitioner resisted, and demanded Japanese officials permit the child leave Japan. Instead, Petitioner was punched in the face and thrown to the ground. The child who is barely age seven, and age four when this nightmarish debacle began, witnessed the violence.*

At all times the DOS, their counsel and the DC courts were fully aware the child had been diagnosed by one of Japan's leading child psychologist, Akiko Ohnogi PhD, as having suffered permanent, psychological, emotional and developmental harm due abduction, and abandonment. Ohnogi reported: *"Your son is devastated that his mother has treated him so poorly. It must be heartbreaking for you to see the emotional pain that your son is experiencing."*

What is truly devastating is that United States officials who have the power to protect children similarly situated as M.S., care not for their plight, no matter how much damage they suffer. *See: Exhibit B., Brian Prager's statement regarding his experience with the DOS and his child abducted out of New York more than a decade ago. At no time had the DOS aided Prager, regarding his child, whom Prager has had no contact with since abduction.*

Ohnogi's diagnosis was presented to the DOS, their U.S. AG and DOJ counsel, and to the DC courts. Even so, these abusive government employees refuse to consider Ohnogi's findings, and never considered the child's health, safety or well-being.

Exhibit G., is a true and correct copy of child doctor A. Shibasaki, who referred M.S. to Tohoku University Hospital for child development counseling.

After more than two years, none of the nine courts have accepted jurisdiction, or provided relief. Petitioner has yet to even be provided the right to be heard on any matter, at any proceeding, at any court.

Japan courts are improper venues and lack personal jurisdiction because the nation is a signatory to the Convention, and that nation's courts cannot rule on the merits of Petitioner's parental rights due Article 16 of the Convention.

For nearly a year and a half, the DC lower court remained silent upon numerous emergency filings, and failed to act upon Petitioner's Emergency Motion for a Return Order, or alternatively, for an order for passport issuance. Frantically, Petitioner repeatedly attempted to get the DC lower court to respond, but the numerous filings went unanswered. Finally, due inaction, Petitioner was compelled to file two writs of mandamus to the DC appellate court to compel a response, due the excessive delays. Thereafter, Petitioner motioned for the judge, Rudolph Contreras (Contreras) to be removed from the case, or to recuse himself, due he had been counsel for the DOS for fifteen years and held a supervisor position over the very department that represents the DOS in the underlying matter.

In September of 2019, because of the failure of the DC courts to act, Petitioner filed for emergency temporary custody at Florida's Highlands County Family Court, which held it lacked jurisdiction over the matter, because more than six months had elapsed since abduction.

The Highlands Court also wrongfully claimed Japan's family court was the proper venue, and dismissed the matter.

Petitioner filed appeal to Florida's Second District Court of Appeals (2DCA), resulting in further delays of more than a year and a half. A temporary custody order would have resulted in passport issuance under CFR 2012 Title 22 Vol.1 §51-28.

December 23rd 2020, the 2DCA reversed the lower court, and remanded the matter.

Rehearing on the emergency temporary custody matter was scheduled for January 27th 2021. However, due the January 22nd 2021 eviction, Petitioner was cut off access to the internet and was unable to appear at the "Zoom" hearing. The Florida family court then Ordered its Intent to Dismiss the matter, due Petitioner failing to

appear at the first hearing, after more than two years that Petitioner would have actually had a chance to hear a judge's voice, or, where a judge would have heard his.

After reobtaining access to the internet in mid-February 2021, Petitioner motioned for rehearing at the Highlands Court, and explained the circumstances as to why he had failed to appear at the hearing.

At the time of filing this writ, the Highlands Court had not scheduled rehearing, or responded to Petitioner's Rehearing Motion.

After Petitioner motioned for the DC lower court judge's recusal, which he refused, Petitioner filed a judicial qualifications complaint because Contreras had sat on emergency filings for a year-and-a-half, and for failing to respond to Petitioner's Emergency Convention Return Order motion. Thereafter, all communications from the DC lower court were hostile and Petitioner's anger began to show in his filings.

Contreras would rule immediately on DOS motions, which usually sought an extension of time to file, thereby delaying matters further. Contreras always granted an extension of time, no matter how dire the circumstances were.

Petitioner notified the DC lower court and the DC appellate court of his intention to file this emergency writ. Immediately thereafter, Contreras issued sixteen rulings on numerous motions he failed to respond to in over a year, and in each of those "Minute Orders" he denied relief sought, including, yet again, refusing to order passport issuance and confusing facts regarding different issues raised. Several of those Minute Orders are attached in the relevant Appendix.

January 20th 2021, Contreras' most recent refusal to order passport issuance resulted in the loss of the employment opportunity in Dubai, the loss of 161,000.00 USD in salary and other benefits, which would have removed M.S. from the current, ongoing dangerous circumstances.

Finally, Contreras "summarily dismissed" all issues, even going so far as to declare an indisputable final agency action was not a final agency action. This issue is discussed further below and no reasonable judge could refute the action was not final agency action.

After eviction on January 22nd 2021, on January 28th 2021, the DC appellate court refused to hear the passport matter, in a one sentence order, held, "Upon consideration of the petition for rehearing, styled as an "emergency motion for passport issuance" it is ORDERED that the petition be denied. Per Curiam, Millett, Pillard, Rao, Circuit Judges." This ruling is attached in the relevant Appendix.

Japan does not criminalize international or domestic child abductions. As well, there is no family body of law in Japan. Japan issues "custody" rulings based on the "continuity principle" which means abductors always get awarded sole parental custody, because they have the child, and in most cases, the child had been hidden from the non-abducting parent, which, is the case regarding Petitioner's second child.

It is important to note that Japan doesn't permit visitation to the parent who loses custody. Essentially, Japan courts permanently cut off access to the losing parent. There are growing protests in the streets of Japan by the thousands of parents who lost access to the children they love. *Exhibit H., is an image of a parent protest*

in Osaka, Japan, where parents demand access to their children. This exhibit is provided to show the court these matters are real, not exaggerated, and that the DOS and U.S. courts aware of these facts fail to recognize the gravity of such matters.

In March of 2019, U.S. citizen Jacob Wilson (Wilson), who the DOS failed to aid in the abduction of his child, and having no contact with his child for more than a year and a half, discovered secret custody hearings being held at Tokyo "family" court, without his participation, where the child's mother, the abductor, was seeking sole parental custody. Wilson knew he was about to lose access to his child forever.

Wilson discovered a court date, went to the court, and stabbed his wife to death after she entered the Tokyo courthouse. Wilson then fled to nearby Hibiya Park, cut both his wrists and attempted to set himself on fire. Now, Wilson is in prison for killing the abductor, and the child is left without either parent.

No court, no judge, is acting to protect parents similarly situated to Petitioner and no court, and no judge, is acting to protect children similarly situated as M.S.

This Court is the Court of last resort, and must take action to protect Petitioner and his children and those who are similarly situated.

At no time has any counsel who represents the DOS, attempted to communicate with Petitioner to resolve any of the underlying matters, but instead, file repetitive motions, demanding passport not issue, in the face of increasing damages the child has been forced to suffer, including at least two reabduction attempts. The child was seriously injured in those matters. *See: Exhibit I.*

There is nothing stated herein that is not backed with documentary or evidentiary proof, and which is not preserved in the DOS administrative record, and which has not been provided to the two underlying courts, or, which could not be taken under judicial notice.

The DOS even went so far as to call the injuries the child sustained as a result of abduction "sensitive skin." *See: Exhibit I.*

The serious injuries the child sustained and which the DOS calls "sensitive skin", were presented to the DC courts, but were never addressed. It is important to note, no doctor employed by the DOS called the injuries sensitive skin, but instead, a consulate, who was involved in the February 8th 2019 passport denial.

What the DOS calls sensitive skin, Japan's Sendai Police Headquarters investigating officials call child abuse. *See: Exhibit I., which show the extent of the injuries the child suffered, and suffered repeatedly. Some of the injuries were caused by Japan's Yonezawa police, who tried to rip the child from Petitioner's arms, attempting to turn the child over to the mother. In this matter, Petitioner preserved the attack in audio and video, and the child can be heard repeatedly screaming at officials to "go away" and to "leave us alone."*

In that matter, Petitioner was forced to pay one million yen (10,000.00 USD) to Japanese attorneys, including Yohei Suda (Suda), one of Japan's leading Convention and abduction attorneys. The child was turned back over to Petitioner, because he was relentless, and would not back down, threatened to take Japanese children hostage, and initiate and international scandal that Japanese officials would

not be able to hide from worldwide scrutiny, and which would most likely result in the nation's back finally being broken regarding its Convention noncompliant status. This Court may think such statements show instability, but until you face these circumstances, you can never know the psychological torture of being forced to endure such matters, for such a lengthy duration of time.

The one-million-yen payment to Suda exhausted Petitioner's finances.

Due M.S. being a duel citizen, Sendai officials began providing minimal financial assistance. Without it, Petitioner would have had to enter an embassy to use diplomatic channels to resolve the matter, or resort to other more drastic measures, such as putting the child on a dinghy and taking the child across the Nemuro Strait, to the Russian Island of Kunishir, merely to preserve the parent-child relationship. Petitioner has even had several discussions with Russian consulate regarding this matter, and the DOS, their counsel and the DC courts are aware these communications have taken place. Even so, they hold there is no exigency, and no special family matter to order passport issuance.

Japanese officials consider Petitioner's plight a "human rights" matter, which is why they have not acted upon the visa expiration. Even so, they could act upon it at any time. Japan's Ministry of Foreign Affairs continues to fail to act upon ordering M.S. be returned to the U.S., over numerous heated discussions with Petitioner.

The DOS administrative record shows repetitive and unconscionable conduct on the part of consulate in refusing to reissue passport, including considering Petitioner's FOIA request as part of the passport decision process.

Other matters not related to whether passport should issue or not were also considered in passport denial. This includes where Petitioner reached out to Hawaii Senator Brian Schatz to intercede. Instead, the senator's assistant, Jennifer Wooten, wrongfully interjected herself into the matter, and contacted the DOS, not on behalf of Petitioner, but instead, demanded passport not issue. Wooten also demanded the DOS do a "child welfare check" which never occurred. Wooten wanted the "child protective services" to take M.S. away from Petitioner.

February 15th 2019, even before Petitioner was notified that passport issuance had been denied, the DOS contacted Wooten via telephone, and told her passport would not issue. After hanging up on the call, the DOS staff sent emails to other staff not involved in the passport matter, notifying that the senator was "happy" passport would not issue. All of these matters are preserved in the administrative record and cannot be disputed by the DOS, their counsel or the DC courts.

Petitioner sought to include Wooten as a defendant for violating the Privacy Act, and for wrongfully interjecting herself into the matter, but the DC lower court refused to permit Petitioner amend his complaint to include Wooten.

Thereafter, Petitioner brought suit against Brian Schatz and Wooten in Hawaii court. Hawaii Revised Statutes §662-2, *"[W]aives immunity for liability for the torts of its employees and where such employees shall be liable in the same manner and to the same extent as a private individual under like circumstances." See: Jack Stone vs Brian Schatz and Jennifer Wooten, Case Number: 1CCV-21-0000103.*

The Court can see that instead of aiding Petitioner in any matter, every official he has turned to for help has instead chosen to ignore relevant Treaties, Acts of Congress and U.S. Supreme Court holdings, and instead, attack Petitioner.

Moreover, when the DC lower court ordered the full administrative record to be turned over, DOS representative, Scott Renner (Renner), provided the court a "sworn affidavit" where he falsely stated he turned over the "complete record."

Renner did not turn over the complete record, and specifically withheld communications Petitioner made directly to Renner, David Brizzee (Brizzee) and Greg Gardner (Gardner), who are the directors of DOS Convention Central Authorities. The withheld communications include three letters directed at Renner, Brizzee and Gardner to act upon Treaty mandates. Petitioner's letters prove Renner, Brizzee and Gardner failed to block abduction out of Florida, and thereafter failed to initiate Convention Return Order proceedings after abduction, and thereafter refused to issue passport, resulting in suit being brought.

Renner's failure to include those letters in the administrative record was done because those letters directly implicated Renner, Brizzee, and Gardner for failing to act upon Treaty mandates and Acts of Congress.

After discovering Renner's perjury, Petitioner sought sanction and contempt proceedings against Renner for perjury, and fraud on the court. February 22nd 2021, after Contreras was notified this writ was to be filed in this Court, his "Minute Order", pretends Renner had not withheld any relevant documents, and dismissed the sanction and contempt motion, ignoring the three letters presented as evidentiary proof of perjury.

Contreras' rulings are repeatedly insincere, all while feigning to opine the "unfairness" in the underlying matters.

As well, Contreras held none of the afore stated matters were bad faith actions, that they were not arbitrary, not capricious, nor abuses of power or discretion.

Those who feigned to opine the unfairness of the underlying matters include Millet, Pillard and Rao, who on December 4th 2020, refused to accept emergency mandamus for passport issuance, for a Convention return order, and again, on January 21st 2021. The following day, Petitioner and child were thrown out onto the streets in a Convention, noncompliant country and the DC courts were fully aware eviction was going to occur. The refusal to hear the emergency passport matter is in the attached relevant Appendix.

The DOS, their numerous counsel at the U.S. AGs office, their counsel at the DOJ, and the two DC courts engage in gross abuses of power, all while adhering to procedural minutia, and simultaneously ignoring substantive matters, including Treaty mandates, Acts of Congress and U.S. Supreme Court holdings.

The United States officials involved in the underlying matters are intentionally, and knowingly, falsely imprisoning Petitioner and M.S., in a noncompliant foreign nation, and forcing them to subsist under conditions of poverty, and under hostage-like conditions which amount to psychological torture, where at

all times Petitioner is forced to fear arrest, deportation, and being cut off access to his children forever.

Government officials, who are acting under color of office in the underlying matter are engaging in cruel and unusual punishment, heaping penalty after penalty on Petitioner who is a caring parent who has committed no wrongful act whatsoever.

In 2013, Juan E. Méndez, the former U.N. special rapporteur on torture and other cruel, inhuman or degrading treatment or punishment, called for a prohibition on prolonged solitary confinement citing "grave and irreparable harm" including "changes in brain functions" and other harmful psychological effects, which, he said, "can become irreversible."

Méndez classified "prolonged solitary confinement" as the "physical and social isolation of individuals who are confined for 22 to 24 hours a day" for "any period in excess of 15 days."

Petitioner sleeps at most two hours a night, is always exhausted, and is forced to file motion, after motion, after motion to courts that fail to act. Petitioner has been confined in an isolated state for well over two years. Petitioner cannot even turn to Japanese courts because of the language barrier, and because Japan's Ministry of Justice doesn't waive fees, which Petitioner cannot afford to pay. Petitioner is essentially left in a jurisdictional no-man's land.

That passport is not issued under said circumstances is without fail arbitrary, or capricious abuses of power and discretion, and this Court must reign in such horrific misconduct.

The collective conduct of these government bad actors endanger Petitioner who could be arrested at any time, and deported. At no time has any of these officials considered the harm they are causing M.S., and their misconduct amounts to child endangerment.

This Court in Abbott, and in Chafin v. Chafin No. 11–1347 (2012) recognized that parents who are similarly situated as Petitioner are forced to face a gauntlet of courts, all while being financially ruined, in indifferent courts of limited power, in different countries, all while judges ignore mandates of Treaties, Acts of Congress, and U.S. Supreme Court holdings. But for Petitioner holding a juris doctorate, he would have drowned in legality and illegality long ago and may well have become another Jacob Wilson.

This Court in Abbott and Chafin, recognized that parents similarly situated as Petitioner do all that is required of them to preserve their parent-child relationship, while the courts woefully fail them.

Moreover, this Court recognized the serious harm caused to children who are similarly situated as M.S., and concluded abduction is the worst form of child abuse. *See: Abbott at page 18.*

As no court has taken jurisdiction over these matters, and the DC courts fail to provide any relief, Petitioner turns to this Court, the Court of last resort.

Finally, if the Court fails to act upon this matter, more likely than not, Petitioner will be arrested, detained and deported from Japan, or may likely be killed

in an altercation with Japanese police, because at some point, enough is enough, and after more than two years, enough is already more than too much.

If Petitioner is deported, he will never be permitted entry into Japan again, and access to his children will be permanently denied, and, his parent-child relationship will be utterly destroyed. No government official, no judge, should be permitted the power to destroy a family, which is exactly what the DOS and the courts have done.

Given Japan's Convention noncompliant status, and that the entire civilized world is opposed to Japan's woeful violations, and given Congress has repeatedly condemned the DOS for failing to act upon such matters, there can be no doubt remaining that exigency exists, that special family circumstances exists, that M.S. has been stranded in a foreign nation, that the child's health, safety and welfare is not only at risk, but has been damaged irreparably, and, that the actions of the mother amounts to not sustaining the family.

Common sense and equity regardless of the Code of Federal Regulation, or 8 FAM, require passport issuance. Further, neither the Code of Federal Regulation, or 8 FAM, are authoritative, and review of final agency action is de novo.

Petitioner prays this Court take this matter away from the abusive DOS, their abusive counsel, and the abusive DC courts, which refuse to protect Petitioner or M.S.

QUESTIONS PRESENTED IN THIS ISSUE:

1.

Should passport issue to Petitioner's minor child under CFR 2012 Title 22 Vol.1 §51-28, due exigency or special family circumstances, or, under 8 FAM 502.5-2e(4) or 8 FAM 502.5-3d(4) where the child is stranded in a foreign country noncompliant to the Convention, or, where the child's health, safety or welfare is at risk, or, because the mother has abandoned the child, or, because the mother is not sustaining the family, where she has refused to be guarantor on housing and refused to be guarantor on Petitioner's spouse visa?

2.

If the Court holds passport should issue, does the DOS' failure to reissue passport for more than two years, or, the DC courts' failure to order passport issuance, amount to arbitrary, or capricious abuses of power or discretion that falls under the Administrative Procedures Act, and, if so, should money damages be paid, including 161,000.00 USD damages due loss of employment salary, and other monetary damages, including legal fees, losses that would not have occurred, but for failure of the DOS, or the DC courts, to act upon passport reissuance?

B.

SECOND ISSUE

Petitioner's wife is a victim of arbitrary DOS misconduct.

In May of 2018, Petitioner's wife's spouse visa had been approved for residency in the U.S. This cannot be disputed as a copy of the USICS notice of approval is part of the administrative record.

Every step of the visa process was finalized at the USCIS Kendal Branch in Miami, Florida.

After the wife's submitted her biometrics, USCIS turned the visa matter over to the DOS for "final interview" which was to be done at the Tokyo Embassy, where the wife was to receive her visa for residency in the U.S., and the matter put to rest.

More than four years has passed since initiating the visa process. The final interview was never scheduled. Federal courts have held that lengthy delays are equivalent to final agency action and Contreras cited such cases when he initially held the DOS' position was "untenable" before apparently changing his mind after Petitioner sought removal and filed unfitness complaints.

Petitioner paid nearly 3500.00 USD to obtain the visa, including paying an additional 1225.00 USD to "expedite" the matter.

After waiting for the DOS to schedule the final interview, which never came, the wife became fearful, as she was not permitted to work, or even travel to Japan to attend her sister's wedding.

At that time the wife was aware of the DACA debacle, including where mothers and children across the U.S. were being round up, arrested, separated, and held in cages, and that some children died in the cages ICE had been holding them in. Petitioner's wife was aware that mothers were being deported, while U.S. authorities retained the children, who remained in cages. The wife considered herself similarly situated as those being detained by ICE.

Moreover, Congress condemned Department of Homeland Security, Kirstjen Nielson (Nielson), arguing the children were being held in dog cages. Nielson proclaimed they "were not dog cages", they were "bigger than dog cages."

The wife contacted the Japanese consulate in Miami and communicated her fears. The consulate told Petitioner's wife to return to Japan to avoid arrest and deportation. She did, and took M.S. with her.

January 25th 2019, Robert Cowan a "director" from USCIS, working out of Los Angeles, who had nothing to do with the visa process in Miami, sent a letter to Petitioner's wife, demanding she leave the U.S. within 33-days, under the threat of arrest and removal proceedings. Cowan's letter threatened the matter was NOT APPEALABLE.

Contreras claims the communication in Cowan's letter was not "final agency action" when clearly it is. This is also the matter Contreras pretends was the subject of sanction and contempt of Renner, even where it was not, but instead, Renner's failure to include Petitioner's three letters as part of the administrative record that

proves Renner failed to block abduction out of Florida, and, Brizzee and Gardner's failure to initiate return order proceedings with any of three return order applications Petitioner filed. To have to deal with such a stacked deck of incompetency and denial of relevant facts is appalling.

Finally, after Petitioner sought passport issuance, he sought permission to amend his complaint at the DC lower court, to include the wife's visa issue. FRCP Rule 15 provides that amendments are to be "freely given." Instead, Contreras denied as "futile", the wife's visa matter, falsely holding Cowan's threatening, non-appealable removal proceedings were not final agency action.

QUESTION PRESENTED:

> The question is, after paying fees in excess of 3500.00 USD to process Petitioner's wife's visa, which was approved and then subsequently denied months later, while awaiting final interview to be scheduled by the DOS, which never was, does this amount to final agency action that is arbitrary, or capricious abuses of power or discretion, and if so, are their damages permitted under the Administrative Procedures Act?

C.

THIRD ISSUE

After abduction of M.S., Petitioner's second child, S.S. was born in Japan.

Under the Immigration and Naturalization Act (INA) 301-309, S.S. is a U.S. citizen, due Petitioner being born in Miami, Florida, and where Petitioner has met the minimum "residency" requirement within the United States of fourteen years. (Petitioner resided in the U.S. 49 years, the greater majority of his life.)

After the birth of S.S., Petitioner paid the 100.00 USD fee, and provided the required documentation to obtain Consular Report of Birth Abroad of a U.S. Citizen (CRBA) and Social Security Card for the child. The documents included Petitioner's birth certificate, Petitioner's U.S. issued passport, Petitioner's marriage certificate, and, S.S.'s birth registration, which shows Petitioner is the biological father. All of these documents were presented as exhibits to the DC lower court as well.

The CRBA and Social Security Card were issued to M.S., from the Tokyo Embassy without issue. The only thing that changed is the DOS has been sued.

The DOS refuses to issue CRBA or Social Security Card to S.S., leaving the child without any proof of U.S. citizenship.

The DOS initially demanded Petitioner bring to the Tokyo Embassy S.S.'s mother's Japan issued passport as "proof of Petitioner's citizenship", even where the DOS knows Petitioner has no contact with mother and no access to the foreign issued document. The DOS has since backed down from this absurdity as a foreign issued third-party document doesn't prove Petitioner's U.S. citizenship.

Thereafter, instead of issuing CRBA and Social Security Card, the DOS demanded Petitioner bring S.S. to the U.S. Tokyo Embassy, to be "interviewed", under the threat that CRBA and Social Security Card issuance would be denied.

At the time the infant's appearance at the Tokyo Embassy was demanded, the corona virus pandemic was well underway, and Japan's Prime Minister ordered a national state of emergency, which forbade travel into, or out of Tokyo, under threat of arrest, criminal charges and imprisonment.

The DOS argues "some" services remain available at the embassy and continues to demand Petitioner violate Japan's emergency decree, and bring the infant to the embassy and interview anyway.

There is no requirement under INA 301-309, for an infant to go to an embassy to be interviewed to obtain citizenship documents. As well, INA does not permit the DOS to refuse to issue citizenship documents under the afore stated demands.

Further, 8 FAM 503.1 pertains to issuance of CRBA, and there is no requirement for in-person interview to obtain citizenship documents.

Further still, the DOS made said demands after suit was brought, and was already aware Petitioner has no access to S.S., as the mother fears the DOS, fears losing her children, and does not permit Petitioner access to S.S. for these very reasons. Given how the DOS screwed up her visa, and caused her to flee the U.S., and how the DOS has destroyed the family, Petitioner's wife's fears are reasonable.

Finally, the DOS set an arbitrary date of December 19th 2020, for the child to appear at the embassy or the CRBA and Social Security Card would not be issued. At that time Japan's medical industry collapsed due to coronavirus and Tokyo is the epicenter for outbreak, the worst in all of Asia and deaths began to skyrocket.

What parent would bring their child into such a disastrous environment?

December 19th 2020 passed, and where the DOS is represented by counsel, the DOS contacted Petitioner directly, and communicated the CRBA and Social Security Cared issuance was denied. The DOS' innumerable counsel were not notified of the denial by the DOS, but learned of it from Petitioner instead.

The DOS' refusal to issue Social Security Card, also resulted in S.S. not being able to obtain Cares Act stimulus relief which all U.S. citizens received. This is a clear equal protection violation.

There is nothing in the INA, or 8 FAM that permits the DOS from issuing a Social Security number to a U.S. citizen born abroad. Because the DOS refused to issue Social Security Card, Petitioner applied directly to the Social Security office in Florida. However, the office in Florida communicated to Petitioner that he had to obtain the Social Security Card from the DOS.

The DOS, their counsel and the DC courts have left S.S. without proof of U.S. citizenship, and without such proof, the child is left in a de facto state of statelessness.

The DOS' staff's conduct regarding said citizenship documents is arbitrary abuse of power and discretion.

QUESTIONS PRESENTED:

1.

Under an unprecedented pandemic, and where Japan's government has issued a state of emergency, forbidding travel into Tokyo, where the U.S. Embassy is located, is it permissible for the DOS to demand the child be brought into Tokyo to be interviewed for CRBA and Social Security Card issuance, and, if the child is not taken to the Tokyo Embassy to be interviewed, even where the DOS is fully aware Petitioner doesn't have access to the child, is it permissible to refuse to issue the citizenship documents, which without, essentially amounts to the child remaining, without proof of citizenship, and conditions of statelessness?

2.

Does failure to issue Social Security Card to the child, during an unprecedented pandemic, resulting in loss of Cares Act stimulus relief, which is provided to all U.S. citizens, except Petitioner's child, amount to an equal protection violation, and if so, should Social Security Card issue, and should Cares Act stimulus relief be provided to the child?

D.

FINAL ISSUE

Petitioner has a juris doctorate and has had a CM/ECF account for several years. Petitioner has the required hardware and software, and has completed all training to use the CM/ECF account, and has used it properly in numerous filings.

No court has ever complained about Petitioner's use of his CM/ECF account.

Even so, in each court involved from the initial federal court in Hawaii, prior to transfer to the DC Courts, and in the Court of Federal Claims, Petitioner's use of the CM/ECF account has been denied.

Denial of use of the account is grossly prejudicial and only targets non-lawyers, or "pro se" parties.

The prejudice of not being permitted to use the account includes where Petitioner was forced to send emergency motions via regular mail, delaying court responses for several weeks.

Courts also issued orders that required timely responses. However, more often than not, the court orders would not arrive, or arrive long after the date to respond had passed, resulting in cases being dismissed, and appeal deadlines being missed.

Petitioner would then be forced to refile, through regular mail, resulting in a furtherance of delays.

Further, the Pacer account Petitioner has to access court dockets is often blocked due to the server where the court's websites are stored, not permitting access

from Petitioner, whose IP addresses is located outside of the United States.

Moreover, lawyers, and law firms did not pay for the government to set up the CM/ECF, or PACER websites. The general public paid for these services to be implemented by the courts, but they are denied access, merely because they don't hold a law license. This is equivalent to telling someone of color to get to the back of the bus.

The Court will note that even this Court denies access to CM/ECF to "pro se" parties, and only permits use to attorneys, who in reality are disinterested third-parties, who get paid for their service, whether they aid in winning a case or not, and, who would not be involved in those cases if they were not being paid.

As well, a brand new judge, Thompson M. Dietz (Dietz), who had been reassigned to Petitioner's action at the Federal Court of Claims, after only being a judge for less than one month, upon Petitioner's motion for permission to use his CM/ECF account instead, revoked use of the account.

Dietz, fully aware Petitioner is located in Japan, told Petitioner *"there is a drop box in the garage of the court, designated for "pro se" parties to drop off filings."*

Petitioner violated no rules regarding said use of the CM/ECF account.

Revocation of the use of the account is an abuse of power and irrational.

Dietz revoked use of the account on the same day Petitioner and M.S. were evicted from housing in Japan, which was January 22nd 2021.

Dietz claimed he revoked use of the account because Petitioner sent an angry email to DOS counsel, who has refused to negotiate resolving in any of the underlying matters directly with Petitioner. The email was sent after Petitioner lost a 161,000.00 USD employment contract, and facing imminent eviction, which the two DC courts refused to order passport issuance to prevent.

Further, what authority does a judge have to interject himself in email communications not directed at the court, and which was not associated with CM/ECF or PACER whatsoever?

Even further, numerous federal courts require all parties to file motions, notices or other communications via CM/ECF exclusively.

The technology exists for any party to utilize the CM/ECF system, and training makes certain its use is proper.

Petitioner asks the Court to consider that there are numerous parties involved in proceedings in federal courts, who are located outside of the U.S., and who are competent to use CM/ECF, but are denied use, and the denial of use is often highly prejudicial, especially where emergency motions must be filed timely, but are forced to be sent via regular mail, which creates a furtherance of exigency, and wastes time and resources, as filings are in regular mail transit.

Moreover, regular mail can be lost and has been lost in Petitioner's underlying matters, and include where court communications had been returned to the courts, several times, due to insufficient postage.

Use of the CM/ECF account prevents delays, or failures to communicate and saves natural resources, like trees.

Further, an attorney doesn't necessarily have greater computer skills to upload a file than a non-attorney.

The manner in which "pro se" parties are forced to communicate with courts create an unlevel playing field and seems to be designed to humiliate pro se litigants.

Finally, non-lawyers are already swimming upstream without the use of Westlaw or other services that attorneys are provided use through the firms that employ them, which are tools often taken for granted.

Petitioner asks the Court to consider that denying access to a CM/ECF account amounts to an equal protection violation, creates a subclass, results in due process failures, and results in prejudice the courts fail to recognize, including dismissal of cases, and deadlines to file appeals passing.

Imposing upon any party to submit filings via regular mail is as outdated as using a pager, or telephone booth to place a call.

QUESTION PRESENTED:

> Is it a due process and equal protection violation, resulting in a subclass to deny use of CM/ECF where a litigant has met all requirements for use, especially in emergency cases, such as in the underlying matter, where denial of use results in failure to be heard timely, and failure to timely respond to court orders, where the resulting consequences is often case dismissal, time deadline elapsing to file appeals, and other prejudicial results, and unnecessary delays?

CONCLUSION

There are several thousand parents who are similarly situated as Petitioner and his children.

Petitioner has no further options than review of this Court. On February 24th 2021, the Aoba Ward Office provided written notice that it cut off any further aid in the aforementioned matters. This results in Petitioner having exhausted all means to financially protect his children in the current situation.

Due the foregoing without this Court's intervention, and providing the relief required, Petitioner will be left with few options, including those which would endanger M.S. further and which would threaten Petitioner's parent-child relationship permanently regarding both M.S. and S.S.:

1. Petitioner's children will be stranded in a Convention noncompliant nation for at least the next 16 years.
2. Petitioner will be arrested, deported and have no access to his children for at least the next 16 years, and by that time neither child would have any memory of Petitioner, would not be able to communicate in the English language, and the parent-child relationship would be permanently destroyed.

3. Petitioner would be forced to enter Tokyo in violation of the nation's state of emergency order, risk arrest and imprisonment, and take the matter to the Foreign Correspondence Club and seek media intervention, and, hold a press conference, which would result in the underlying matters becoming an international spectacle, which Petitioner desires to avoid.
4. Petitioner would be forced to enter a foreign embassy with M.S., including those he has already been in contact with, including of Russia, Iran, Venezuela, Israel and the Vatican, and seek diplomatic channels to aid in resolving the issues.
5. If the above stated options fail, Petitioner would be forced to take custody of his second child through force, and bring his children to Hokkaido, and put the children on a dinghy, and cross the Nemuro Strait, to the Russian island of Kunishir, and thereafter hope the Russian government would intercede and negotiate with U.S. and Japanese officials to resolve the underlying issues.

To avoid endangering the children any further, or cause the wife to suffer further than she already has, Petitioner prays the following:

Petitioner prays for his wife's approved visa to be finalized, his children to obtain passports and for S.S. to obtain his CRBA and Social Security Card, and, Cares Act stimulus relief provided.

Petitioner prays the Court hold the actions of the DOS as arbitrary, or capricious abuses of power, or, discretion, and to be provided money damages, including reimbursement for the 10,000.00 USD fee paid to attorney Suda, and, 161,000.00 USD due loss of employment contract, which would not have occurred but for failure of the DOS to reissue passport, and but for failure of the DC lower and appellate courts to refuse to order passport issuance to Petitioner's minor child M.S. under exigent of special family circumstances, under CFR 2012 Title 22 Vol.1 §51-28, or due M.S. being stranded in a foreign nation, abandoned, and having to suffer irreparable psychological, emotional, and developmental harm, and, where the child's mother is not sustaining the family, under, 8 FAM 502.5-2e(4) and 8 FAM 502.5-3d(4).

Respectfully submitted on the 25th day of February 2021.

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