

No. 20-849

In the
Supreme Court
of the
United States

P.F.,
Petitioner,

v.

J.S., et al.,
Respondents.

On Petition for Writ of Certiorari
to the Kansas Supreme Court

PETITION FOR REHEARING

P.F.
Pro Se
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PETITION FOR REHEARING

Per Rule 44.2, Petitioner respectfully requests rehearing on the Mar. 1, 2021 order denying a petition for writ of certiorari.

"I cannot think of any need in childhood as strong as the need for a father's protection." - Sigmund Freud

"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."

Articles of ignoble defamation and depictions of this case are fictional and lack substantiation.

Civil liberties do not vanish with an entity's emolument, nor does a child's best interests navigate with deceitful influence. See *Couple v. Girl*, 570 U.S. 637, 668 (2013) ("This father wants to raise his daughter, and the statute amply protects his right to do so. There is no reason in law or policy to dilute that protection.")

Conflicting case law and verifiable instances of misconduct violative of constitutional rights were abridgedly presented. Intentional misdirection is neither erroneous nor misapplication.¹

"The right of parents to make decisions concerning the care, custody, and control of their children is deeply rooted and has been described by [this] Court as a fundamental right. Despite lofty language in the case law aiming to protect this right, and despite [this] Court's usual role of providing an applicable level of scrutiny, the Court has not articulated a consistent level of scrutiny for judicial review of restrictions on the parental right." See Ryznar, "A Curious Parental Right," 71 SMU L. Rev. 127, 128 (2018)

An impartial decisionmaker is an essential right, ensuring that life, liberty, or property will not be taken based on an unethical conception of the law.² Many essential rights were unequivocally absent. It is morally imperative that cases of this nature are decided by impartial authorities. These are circumstances in which “the probability of actual bias on the part of the decisionmaker is too high to be constitutionally tolerable.” See *Caperton v. A.T. Massey Coal Co.*, 556 U.S. 868, 872 (2009)

When unwed fathers satisfy amorphous statutes and execute every action to parent, only to have judiciaries slight laws and the Constitution, fathers’ and children’s fundamental rights are violated. See *In re Adoption of A.C.B.*, No. 2018-1300, 21 (Ohio 2020) (“The concurring opinion therefore fails to acknowledge, much less safeguard, the fundamental right of a natural parent to the care and custody of [their] child.”)

When unfit mothers abruptly cease communication, deceptively induce birth, and lie under oath to vilify fathers, these rights are violated.³ See Seymore, “*Adopting Civil Damages: Wrongful Family Separation in Adoption*,” 76 Wash. & Lee L.R. 895, 941 (2019) (“[B]irth mothers, together with adoption [attorneys], sought to hide the birth and location of the child despite knowing that the birth fathers intended to assert an interest in parenting.”)

“Legal paternity should not be lost by fathers of nonmarital children because the mothers wish to parent alone or wish strangers to parent.” See Parness, “*Systematically Screwing Dads: Out of Control Paternity Schemes*,” 54 Wayne L. Rev. 641, 670 (2008)

When attorneys and their associates act extensively aggressive to interfere with these rights, they are violated. See *R.M. v. Supreme Court*, 185 N.J. 208, 215 (N.J. 2005) (“Unethical conduct involves a more serious breach of attorney ethics, such as when the respondent attorney commits a crime or an act involving dishonesty, fraud, or deceit.”)

² (https://www.law.cornell.edu/wex/procedural_due_process)

³ 18 U.S. Code § 1621 - Perjury generally

When courts carry out judicial hypocrisy, these rights are violated. See *Scheuer v. Rhodes*, 416 U.S. 232, 237 (1974)⁴ (“[W]hen a state officer acts under a state law in a manner violative of the Federal Constitution, he ‘comes into conflict with the superior authority of that Constitution, and he is in that case stripped of his official character and is subjected in his person to the consequences of his individual conduct. The State has no power to impart to him any immunity from responsibility to the supreme authority of the U.S.’.”)

Statutes are to be construed in favor of natural parents and decisions to terminate parental rights must be based on clear and convincing evidence. When courts work contrariwise, as here, these rights are violated.⁵ See *Harper v. Caskin*, 265 Ark. 558, 561 (Ark. 1979) (“The law is solicitous toward maintaining the integrity of the natural relation of parent and child, and where the absolute severance of the relation is sought without the consent of the parent, the inclination of the courts is in favor of maintaining the natural relation.”)

Mother’s subterfuge and respondents’ rapacity irrefutably jeopardize his daughter’s health and welfare. Accounting lists “reasonable living expenses” for \$3,000. (R. Vol. II at 51-52.) However, Mother had minuscule expenditure living bill-free, with medical costs fully covered by insurance Father helped her choose. Payment in adoption is illegal.

Children deserve to be with parents that embrace their responsibilities. See *Matter of Delaney*, 617 P.2d 886, 890 (Okla. 1980) (“Parents have a fundamental, constitutionally-protected interest in the continuity of the legal bond with their children. The integrity of familial status is a value to be regarded with great solicitude.”)

⁴ 28 U.S. Code § 455 - Disqualification of justice, judge, or magistrate judge

⁵ “Raising Your Daughter as a Single Dad,” (<https://www.verywellfamily.com/raising-daughter-as-single-dad-1270848>); “Dads, Childcare and Changing the Stereotypes,” (<https://fathers.com/s5-your-situation/c17-at-home-dad/dads-childcare-and-changing-the-stereotypes/>); et al. all Internet materials as visited Mar. 6, 2021.

With repetition a recognized sign of prevarication, opposing counsel's machination is readily perceived. See *In re Landrith*, 280 Kan. 619, 631 (Kan. 2005) ("[Counsel] engaged 'in a common enterprise to kidnap babies through deception and coercion and sell the infants in an illicit commerce that is entirely dependent upon the participation of some officials in the Kansas Judicial Branch.'")

"Although much has been written about dual representation in adoption, other issues of professional responsibility in adoption cases have not been as carefully explored." See Seymore, "*Ethical Blind Spots in Adoption Lawyering*," University of Richmond Law Review, Vol. 54, Iss. 2, Texas A&M University School of Law Legal Studies Research Paper No. 19-34, 464 (2020)

"The purpose of requiring support during the last six months of pregnancy is *not so that one adult can provide support for another adult . . .* The prospective father's *commitment to the child—not to the mother*—is at issue . . . The statute and case law are concerned with *support for the fetus, not whether there is a familial relationship between the father and the mother*." (Response to motion for rehearing at 12-13, 16.)

"Father did these things for his own benefit . . ."
(Kan. Ct. App. at 13.) (Emphasis added.)

Contrarily, the referenced actions were for his daughter's benefit. See Parness, "*Participation of Unwed Biological Fathers in Newborn Adoptions: Achieving Substantive and Procedural Fairness*," 5 J.L. & Fam. Stud. 223, 228-29 (2003) ("Relevant conduct has been described statutorily in adoption settings as involving 'a concerned natural father who has demonstrated a reasonable degree of interest, concern, or responsibility as to the welfare of the child,' or a 'father who has provided, or has attempted to provide, the child or the mother during pregnancy with support in a repetitive, customary manner.'")⁶

⁶ "Ethics Over Economics," (<https://rewirenewsgroup.com/article/2019/05/31/ethics-over-economics-building-a-better-adoption-system/>) as visited Mar. 21, 2021.

“Any legal approach that ignores the biological father devalues the importance of a child’s placement in the paternal family unit, the significance of the medical history on the father’s side, the emotional link between a father and his child, and the father’s legal right to parent his own child.” See Ryznar, *“Two to Tango, One in Limbo: A Comparative Analysis of Fathers’ Rights in Infant Adoptions,”* Duquesne Law Review, Vol. 47, pp. 89-114, 90 (2009)

At least four judges involved (M. Luckert, A. Powell, R. Rumsey, M. Ward) have previously been implicated in judicial misconduct.⁷ See *Pierson v. Ray*, 386 U.S. 547, 567 n.6 (1967) (“The presence of malice and the intention to deprive a person of his civil rights is wholly incompatible with the judicial function. When a judge acts intentionally and knowingly to deprive a person of his constitutional rights, he exercises no discretion or individual judgment; he acts no longer as a judge, but as a ‘minister’ of his own prejudices.”)

Respondents’ immodest actions hold them accountable for any distress.⁸ An integrous couple would find avariciousness a mistake, putting the child first. The importance of the parent-child relationship has been implicitly spurned.⁹ See Craig, *“Establishing the Biological Rights Doctrine to Protect Unwed Fathers in Contested Adoptions,”* 25 Fla. St. U. L. Rev. 391, 406-407 (1998) (“The child may suffer psychological problems because of the adoption and separation from her biological parents. These difficult issues are not always resolved and may be more difficult when the adoptee knows that a court forced a biological parent to surrender his parental rights.”)

⁷ “Compromised Kansas Judges,” (<http://kansasjudicialsystem-casemanagers.blogspot.com/p/compromised-kansas-judges.html>) as visited Mar. 16, 2021.

⁸ “Contested Adoptions That Weren’t,” (<https://www.adoptionbirthmothers.com/ripped-away-from-the-only-home-the-child-has-ever-known/>) as visited Mar. 3, 2021.

⁹ “The Significance of a Father’s Influence,” (<https://www.focusonthefamily.com/family-qa/the-significance-of-a-fathers-influence/>) as visited Mar. 15, 2021.

Despite intense aspersion and massive obstruction, Father's devotion to his child has not relented, further proving his fitness, and finding his having custody is in her best interests.¹⁰ Volume 11 of the record displays the bond they quickly developed. See *Christlieb v. Christlieb*, 179 Kan. 408, 409 (Kan. 1956) ("[A] parent who is able to care for his children and desires to do so, and who has not been found to be an unfit person to have [custody], is entitled to the custody of his children.")

The U.S. finally legalized same-sex marriage, yet unwed fathers are still held to a superannuated standard.¹¹ The U.S. Census Bureau listed 7 million fathers were absent from their children's lives in 2019, yet Father continues vying to parent his daughter.¹²

"A father who has taken every possible step toward demonstrating willingness to parent has a constitutional right to 'the fullest possible relationship' with his child and should have an equally protected interest in preventing adoption by strangers." See MacIsaac-Bykowski, "*Men Deserve More: Applying the Biological Rights Doctrine to Adoption Law*," 7 Stetson J. Advoc. & L. 253, 11 (2020)

"The shift toward easy adoption and away from rights of biological parents has not helped children, and in many cases, has hurt them." See Berger, "*In the Name of the Child: Race, Gender, and Economics in Adoptive Couple v. Baby Girl*," 67 Fla. L. Rev. 295, 348 (2015)

A significant body of literature suggests that adoptees are at risk for psychopathology problems.

¹⁰ "Fathers' Maternal Instinct Just as Reliable as a Mother's," (<https://www.discovermagazine.com/planet-earth/fathers-maternal-instinct-just-as-reliable-as-a-mothers>) as visited Mar. 5, 2021.

¹¹ "Paternal Instinct: what is it (and why is it important)," (<https://knowyourarchetypes.com/paternal-instinct/>) as visited Mar. 5, 2021.

¹² "The Two Extremes of Fatherhood," (<https://www.census.gov/library/stories/2019/11/the-two-extremes-of-fatherhood.html>) as visited Mar. 20, 2021.

A meta-analysis examined studies comparing the adopted with non-adopted peers on domains of functioning, and adoptees had significantly higher representations in clinic samples including externalizing disorders, academic problems, and general severity.¹³ See Kirschner, “*The Adopted Child Syndrome: What Therapists Should Know*,” *Psychotherapy in Private Practice*, vol. 8 (3) Hayworth Press (1990) (“[I] believe that most adoptees have the same emotional vulnerabilities that are seen in dramatic form in the Adopted Child Syndrome, and that all adoptees are at risk.”)

Domestic adoption can mimic legalized kidnapping and those with power to intervene are often among the beneficiaries. See, e. g., *Gibson v. Berryhill*, 411 U.S. 564 (1973); *Kelson v. City of Springfield*, 767 F.2d 651, 655 (9th Cir. 1985) (“[A] parent has a constitutionally protected liberty interest in the companionship and society of their child. The state’s interference with that liberty interest without due process of law is remediable.”)

“This Court has long recognized that freedom of personal choice in matters of [family] life is one of the liberties protected by the Due Process Clause of the 14th Amendment.” See *Cleveland Board of Education v. Lafleur*, 414 U.S. 632, 639-40 (1974)

“A parent’s right to ‘the companionship, care, custody, and management of their children’ is an important interest that ‘undeniably warrants deference and, absent a powerful countervailing interest, protection.’” See *Lassiter v. Department of Social Services*, 452 U.S. 18, 27 (1981)

“The unwed father’s interest in developing a custodial relationship with his child is entitled to substantial constitutional protection if he has early on, and continually, done all that he could reasonably have been expected to do under the circumstances to pursue that interest.” See *Kessel v. Leavitt*, 204 W. Va. 95, 124 (W. Va. 1998)

¹³ Nilsson, et al. “Conduct Problems in Adopted and Non-adopted Adolescents and Adoption Satisfaction as a Protective Factor,” *Adoption quarterly* vol. 14,3: 181-198. (2011)

Father has made every reasonable effort to convey commitment and perform his responsibilities, but each court has performed in stark contrast of proper direction. See *Santosky v. Kramer*, 455 U.S. 745, 753-54 (1982) (“When the State moves to destroy weakened familial bonds, it must provide parents with fundamentally fair procedures.”)

Displacing parents who aptly secure their rights is unlawful. This child is being deceived and denied family that has sustainably wanted her. Years of anguish indubitably outweigh any temporary discomfort in expeditious transfer. See *Quilloin v. Walcott*, 434 U.S. 246, 255 (1978) (“We have recognized on numerous occasions that the relationship between parent and child is constitutionally protected.”)

“As the final arbiter of the law, the Court is charged with ensuring the American people the promise of equal justice under law and, thereby, also functions as guardian and interpreter of the Constitution.”

The Constitution and equal justice are defiled in these proceedings, yet this Court has not exercised its duty on these matters since 1989. A proper level of scrutiny for review of interference with parental rights has not been articulated, and in reprise, parenthood has not been constitutionally defined nor have the rights of unwed fathers to newborns been properly addressed. This Court has a duty to ensure that fundamental values are not undermined. See *Prince v. Massachusetts*, 321 U.S. 158, 166 (1944) (“It is cardinal that the custody, care and nurture of the child reside first in the parents, whose primary function and freedom include preparation for obligations the state can neither supply nor hinder.”)

“The facts of this case illustrate the harshness of classifying unwed fathers as being invariably less qualified and entitled than mothers to exercise a concerned judgment as to the fate of their children. Section 111 both excludes some loving fathers from full participation in the decision whether their children will be adopted and, at the same time, enables some alienated mothers arbitrarily to cut off the rights of fathers.” See *Caban v. Mohammed*, 441 U.S. 380, 394 (1979)

“Parents and children have a well-elaborated constitutional right to live together without governmental interference.” See *Brokaw v. Mercer County*, 235 F.3d 1000, 1018 (7th Cir. 2000)

“[T]he Constitution requires that putative fathers be given the opportunity to demonstrate that they are willing to parent their children before the court can entertain an adoption action.” See MacIsaac-Bykowski, “*Men Deserve More: Applying the Biological Rights Doctrine to Adoption Law*,” 7 Stetson J. Advoc. & L. 253, 13 (2020)

“[U]nder the parental preference principle, a parent’s natural right to the custody of their child trumps the interests of strangers to the parent-child relationship.” See *In re Interest of Lakota Z*, 282 Neb. 584, 590 (Neb. 2011)

“Only exceptional circumstances involving proof of [harm] will negate the superior right of a fit parent who has not forfeited parental rights to custody under the parental preference doctrine.” See *State v. Joshua C. (In re A.A.)*, 307 Neb. 817, 846 (Neb. 2020)

“Children whose fathers are involved with their rearing have higher IQ’s, possess stronger cognitive abilities, and attain higher academic achievement.” See Beck, “*Prenatal Abandonment: ‘Horton Hatches the Egg’ In the Supreme Court and Thirty-Four States*,” 24 Mich. J. Gender & L. 53, 71 (2017)

“Not only is the parental preference doctrine one of long standing in Kansas, but it is also the rule, in one form or another, in many of the jurisdictions in this country. See *Ex Parte Terry*, 494 So.2d 628 (Ala. 1986); *Buness v. Gillen*, 781 P.2d 985 (Alaska 1989); *Schuh v. Roberson*, 302 Ark. 305 (1990); *Root v. Allen*, 151 Colo. 311 (1962); *In re R.L.L. and J.M.L.*, 258 Ga. 628 (1988); *Stockwell v. Stockwell*, 116 Idaho 297 (1989); *In re custody of Peterson*, 112 Ill.2d 48 (1986); *Glass v. Bailey*, 233 Ind. 266 (1954); *Davis v. Collinsworth*, 771 S.W.2d 329 (Ky. 1989); *Pastore v. Sharp*, 81 Md. App. 314, 567 A.2d 509 (1989); et al.” See *In re Guardianship of Williams*, 254 Kan. 814, 827 (Kan. 1994)

“Bias against fathers represents a highly visible sign of a deep negative societal bias about men’s caregiving that belies the supposed legal preference for gender neutrality and shared parenting. This perception may seem especially ironic given the continued dominance of male judges; the systemic bias comes from predominantly male decisionmakers.” See Dowd, *“Fathers and the Supreme Court: Founding Fathers and Nurturing Fathers,”* 54 Emory L.J. 1271, 1272 (2005)

District Court’s actions and ruling were inharmonious with case law, testimony, and evidence. Kansas Court of Appeals and Supreme Court continued that theme, further adding falsehoods and drawing fallacious conclusions, at the expense of familial sanctity. Simultaneously, respondents continued to boldly display profligacy, with no concern for the child’s actual best interests.

If the word ‘adoption’ were removed from the equation, each advocate involved in interfering with Father’s parental rights would be convicted.

“*One has not only a legal, but a moral responsibility to obey just laws. Conversely, one has a moral responsibility to disobey unjust laws. I would agree with St. Augustine that ‘an unjust law is no law at all.’*” - Martin Luther King, Jr.

CONCLUSION

For the foregoing reasons, the petition for rehearing should be granted.

Respectfully submitted,
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CERTIFICATE PURSUANT TO RULE 44.2

As the Petitioner, Paul Fiscus III, I hereby certify that this Petition for Rehearing from denial of certiorari is presented in good faith and not for delay, and that it is restricted to the grounds specified in Rule 44.2.

Executed on March 22, 2021

Paul Fiscus III

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