No. 20-968

In the

Supreme Court of the United States

ROSA SNYDER

Petitioner,

v.

THE ALABAMA MADISON COUNTY DEPARTMENT OF HUMAN RESOURCES

Respondent.

ON PETITION FOR A WRIT OF CERTIORARI TO

THE SUPREME COURT OF ALABAMA

PETITION FOR A WRIT OF CERTIORARI

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QUESTIONS PRESENTED

First Question Presented: When a State initiates child custody proceedings, does 28 U.S.C. §1738A(e), the national standard for custody determinations between states, give a grandparent a *federal statutory right of notice* to the custody proceedings?

Second Question Presented: Does a State's *federally-funded* social service agency violate 42 U.S.C. §671(a)(19), 42 U.S.C. §671(a)(29), by *purposely excluding* a grandparent from its custody proceedings, placing the grandchild with legal strangers, never considering the grandparent for placement before strangers, and never considering if the grandparent is a viable alternative to dependency or termination of parent rights?

Third Question Presented: If a State violates federal laws and regulations during its bifurcated child custody proceedings, the State violates a parent's rights of due process, equal protection, and to be secure in effects and papers, and the State *purposely excludes* a grandparent from its custody proceedings, if the State then terminates the parent's rights, which also terminates the grandparent's rights, on appeal, must the State provide all of the records from its bifurcated custody proceedings, which were initiated, and bifurcated, without notice to the parent and grandparent?

LIST OF PARTIES

All parties appear in the caption of the case on the cover page.

RELATED CASES

Christopher v. Harbury, 536 U.S. 403 (2002)

M.L.B. v. S.L.J., 519 U.S. 102, 104 (1996)

Smith v. Organization of Foster Families, 431 U.S. 816, 824-47 (1977)

Troxel v. Granville, 530 U.S. 57 (2000)

V.L. v. E.L., 136 S. Ct. 1017, 1020 (2016)

TABLE OF CONTENTS

INDEX TO APPENDICES

TABLE OF AUTHORITIES

CASES

FEDERAL STATUTES

FEDERAL REGULATIONS

ALABAMA STATUTES

IN THE

SUPREME COURT OF THE UNITED STATES

PETITION FOR WRIT OF CERTIORARI

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

OPINIONS BELOW

The opinion of the Alabama Supreme Court denying a review of the merits appears at Appendix C and is unpublished. The opinion of the Alabama Court of Civil Appeals appears at Appendix B and is unpublished.

JURISDICTION

The date on which the highest state court decided my case was July 10, 2020. A copy of that decision appears at Appendix C. The jurisdiction of this Court is invoked under 28 U.S.C. §1257(a).

CONSTITUTIONAL & STATUTORY PROVISIONS

U.S. Constitution

FIRST AMENDMENT APPENDIX D

FOURTEENTH AMEND. APPENDIX D

Federal Statutes

18 U.S.C. §241 APPENDIX E

Federal Regulations

Other

STATEMENT OF THE CASE

General Background

I'm a retired engineer with no legal background, so I'll just tell my story in plain language, as I understand it. Alabama removed my grandchild without notice to my son (the child's legal father), without notice to me, and without notice to any paternal relative, as required by federal law. After Alabama removed my grandchild, she was

declared "dependent," and then Alabama petitioned to terminate my son's parental rights, which terminates my grandparental rights, again without notifying him, paternal relatives or myself.

After Alabama initiated child custody proceedings without notice, it unilaterally bifurcated proceedings: (1) child dependency and permanency and (2) parental fitness. After obtaining a dependency determination, Alabama petitioned to terminate my son's parental rights, *which also terminates my grandparental rights*, again without notice. When Alabama terminated my son's parental rights, and denied my petitions for custody and visitation, I appealed. During my appeal, I discovered Alabama violated my son's and my due process, and federal laws & regulations during its custody proceedings.

Alabama refused to hear my grievances about the violations that occurred during the dependency and permanency part of the bifurcated custody proceedings, from which my son and I were entirely, and purposely, excluded. Alabama denied my request to consolidate the records from the bifurcated proceedings for my appeal. So then I separately appealed the dependency and permanency determination, and the appellate court stated there was "no final order to appeal," and dismissed it.

Without consolidating the records of the bifurcated custody proceedings, or without the ability to directly appeal the dependency and permanency proceedings, there was no way to show a *cumulative effect* of the violations during the custody proceedings.

My son was married December 26, 2016, and nine months to the day, September 26, 2017, my grandchild was born. Regrettably, my son and daughter-in-law were addicted to opiates; however, to their credit, their child was born healthy, full-term, and with no drugs in her system. Alabama became involved with them because my daughter-in-law had three small children (my step-grandchildren), and she and my son were arrested earlier that year for possession of drug paraphernalia. This misdemeanor was my son's first arrest. The Madison County Department of Human Services ("DHR") took custody of my daughter-in-law's three older children (my step-grandchildren), and my son and daughter-in-law were evicted from their home due to the incident.

This was a tumultuous time. I did not approve of their lifestyle, but they lost their home after the arrest, my son's wife was pregnant, so I allowed them to stay, rent free, in an apartment building I owned. About 60 days after moved in the apartment, I discovered they were stealing from me and

made them move out. This caused a riff between my daughter-in-law and myself, but my son and I remained cordial.

During this time, I contacted DHR about the pending birth of my grandchild. I called, emailed, and personally went to their office. I also contacted the DHR headquarters in Montgomery, Alabama. DHR HQ responded that because my grandchild was yet not born, and they could not help.

When the baby was born on September 26, 2017, my daughter-in-law did not want me at the hospital, because she was still upset that I had evicted them. At the hospital was the Alabama DHR caseworkers, my daughter-in-law's cousins and my son. DHR, my son, and daughter-in-law devised and agreed to a written "safety plan" for maternal cousins to take the child while DHR rehabilitated the parents for safe family reunification.

After my grandchild's birth, I again contacted Madison County DHR, with no response. However, my son, who visited his child at DHR and attended DHR ISP meetings there, told me the DHR caseworker asked him to relay a message to me, which was, "Stop bugging us!" Shocked and confused, I decided to back off for a couple of weeks, and maybe DHR would be more receptive. Unfortunately, several weeks later, I was diagnosed with breast cancer. In

November 2017, I relocated to Derry NH, where I owned residential property, to begin cancer treatment at the Dana Farber Cancer Institute in Boston, Massachusetts.

It was a difficult decision to leave Alabama at that particular time. However, my thoughts were, "The baby is in a safety plan devised by DHR with the child's maternal cousins. My son says the cousins are good people and the baby is safe with them." So, considering all these facts, I left Alabama for New Hampshire to focus on fighting cancer.

Between September 2017 and August 2018, DHR was supposed to rehabilitate my son and his wife for a "safe family reunification." That didn't happen. My son called me in August 2018 and said he wanted to leave Alabama. He wanted to come to NH to get medical treatment for his addiction. He felt he could help me through chemo, which was about to start soon. He said he received minimal outpatient treatment at the free clinic in Madison County, i.e., Wellstone, Inc. ("Wellstone"). At the time, Wellstone was qualified to treat addiction, but not opiate addicts. It had no detoxification program, and no inpatient treatment program. He said he was still homeless and unemployed, and DHR offered no housing support or any training or resources for his chronic unemployment. He said he needed to be

medically detoxed and then admitted to an inpatient substance use disorder ("SUD") treatment program. I agreed. I helped him relocate by buying him a one-way bus ticket from Alabama to Manchester NH and giving him a place to sleep once he arrived.

My son came to New Hampshire in the beginning September 2018. It was evident he was still in the grips of addiction. He acted exactly like an untreated addict would act: he was paranoid and drank alcohol furtively, hiding empty bottles around my house. Even though he broke my "no drugs or alcohol" rule, I was actually relieved it was not heroin he was on. I knew from watching the news that Mexican heroin was laced with fentanyl, which could (and did) kill people in an instant. Alcohol usually takes years to kill someone. My son did get it together enough to accompany me to my chemo treatments in Boston, while he struggled with his addiction. I did not know how to help him.

The first course of my dose dense chemo ended December 2018. The second course was to start in January 2019. I decided to return to Alabama for the second course because my properties there needed my attention. My son checked into the Hampstead Psychiatric Hospital on January 5, 2019 (his sober day) for three weeks of medically supervised detox. After being

released from the Hampstead Hospital, he checked into "Turning Point," a 90-day residential treatment program, at the Southeastern New Hampshire Services, which is a substance use disorder treatment program, as defined by 42 C.F.R. §2.11 and §2.12(b). After completing the 90-day program at Turning Point, my son went to live at Bonfire's Recovery Services, sober living program, where they regularly conducted random urinalysis tests, and he passed every test. These New Hampshire agencies treated my son physical addiction; moreover, they spent a considerable amount of time educating him about his condition, provided a strong networked support group, and provided support and resources to help him get a job. My son sincerely wanted to kick his addiction so he could reunite with his daughter. His actions in New Hampshire proved that to me.

Today, two years after getting proper treatment, my son is clean, sober and gainfully employed. I am very thankful for his recovery. After completing my second chemo in Alabama in March 2019, from June to August 2019 I received 35 radiation treatments there. Today, I'm in remission and cancer free.

Events Leading to First Question

However, while all this was happening, and unbeknownst to my son and myself, thirty-two (32) days after he signed the "safety plan," DHR filed a petition to declare my grandchild "dependent," which means the state wanted custody. DHR claimed my granddaughter was "in physical danger" although she was still with the "maternal cousins" who also signed the "safety plan." Although DHR had my name, address, phone number and email address in their case files, they never contacted me, as required by 28 U.S.C. §1738A(e), which is the national standard for custody determinations between the states.

I ask this court to determine whether I had a *right of notice* to the dependency and permanency proceedings of my grandchild, which DHR initiated November 2, 2017. In addition to my not receiving notice of the dependency and permanency proceedings, in October 2018 when DHR filed a petition to terminate my son's parental rights, paving the way for legal strangers to adopt my grandchild, my son and I *again* were not notified. Alabama DHR initiated two child custody proceedings without giving my son or myself notice. I ask this court to determine if I had a right of notice the custody proceedings. This leads to my first question, which is, perhaps, a question of

first impression, pursuant to U.S. Supreme Court Rule 10(c).

First Question Presented: When a State initiates child custody proceedings, does 28 U.S.C. §1738A(e), the national standard for custody determinations between states, give a grandparent a *federal statutory right of notice* to the custody proceedings?

DHR knew I existed. DHR knew my contact information. DHR knew I wanted to be involved. Although I had relocated to New Hampshire in November 2017, my email address and phone number were the same. My U.S.P.S. mail was forwarded to New Hampshire. Furthermore, DHR admitted, *on record*, it purposely excluded me. DHR could have notified me, if it had wanted to d o so.

I claim 28 U.S.C. §1738A(e) entitles me with a *right of notice* to my grandchild's custody proceedings because I am a "contestant," as defined by 28 U.S.C. §1738A(b). [See APPENDIX E] I claim Alabama's custody determinations are not valid in New Hampshire because Alabama purposely failed to give me notice. *Theoretically speaking*, if my granddaughter was in New Hampshire, and I went to the NH courts and showed I was never notified of Alabama's custody proceedings, the NH courts could declare the Alabama custody determinations invalid and not honor them. The fact that

Alabama *purposely* failed to notify me creates the very scenario that 28 U.S.C. §1738A was designed to prevent: parental kidnapping. I ask this court to make a determination whether 28 U.S.C. §1738A(e) bestows me with a right of notice of my grandchild's custody proceedings, and if so, I ask the court for a declaration that Alabama violated my right of notice.

While not exactly like my case, I found a case where this court reversed a decision regarding 28 U.S.C. §1738A, aka as a "full faith and credit act."

> "The Constitution provides that "Full Faith and Credit shall be given in each State to the public Acts, Records, and judicial Proceedings of every other State." U.S. Const., Art. IV, § 1. That Clause requires each State to recognize and give effect to valid judgments rendered by the courts of its sister States. It serves "to alter the status of the several states as independent foreign sovereignties, each free to ignore obligations created under the laws or by the judicial proceedings of the others, and to make them integral parts of a single nation." *Milwaukee County v. M.E. White Co.*, 296 U.S. 268, 277, 56 S.Ct. 229, 80 L.Ed. 220 (1935)."

V.L. v. E.L., 136 S. Ct. 1017, 1020 (2016)

Alabama admits it *purposely excluding me from its custody proceedings*. I contend its custody determination violated 28 U.S.C. §1738A(e) and is not enforceable in New Hampshire, or any other state for that matter, except maybe in Alabama. Please decide this issue. I ask for a declaratory statement from this court.

Events Leading to Second Question

Moving forward to June 5, 2019, when I was in Alabama finishing chemo, and planning to return to NH for radiation, my son informed me of a hearing in two weeks, June 19, 2019. That was the first time I'd heard an inkling of any child custody proceedings. The hearing was to decide whether to terminate my son's parental rights *forever*. I reeled from the flood of all this new information. I learned the "maternal cousins" named in DHR's "safety plan" were not cousins at all; they were distantly related to the maternal family, and legal strangers to my grandchild. I learned DHR petitioned for a dependency determination thirty-two (32) days after my son signed their "safety plan," claiming my grandchild was in physical danger. I learned DHR petitioned to terminate my son's parental rights nine (9) months earlier, in October 2018. My son discovered all of this

after he had 90-days of sobriety and started thinking clearly with the drugs and alcohol purged from his system. Records show he contacted DHR the end of March 2019. DHR took his contact information and sent a certified letter April 2019, which is first notice he received of custody proceedings. That letter was the first notice *anyone* in our family received about custody proceedings that had been going on for 17 months.

I hired a lawyer and my motion to intervene was granted. I petitioned for custody but the trial court ignored the petition. My lawyer asked for continuance since I'd known of the case for one (1) week, but the trial court ignored that motion too. I attended the trial wearing a scarf because I was bald from chemo. I testified DHR had rebuffed me when I repeatedly tried to be involved with my grandchild before my cancer diagnosis. As evidence, I submitted the emails I sent DHR between August and October 2017.

DHR testified they knew of my existence, but their new DHR caseworker[1] said her records showed my son and daughter-in-law did not want me involved. However, the dependency and permanency proceedings record does not

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[1] Record shows the caseworker took over the case in 2018, midway in the custody proceedings.

corroborate her statement, and my son denies saying that. The record shows that my son had provided DHR contact information of his brother and myself as his "family resources." The record also shows DHR *never searched* for a viable alternative during the dependency and permanency proceedings, and *never searched* for a viable alternative during termination proceedings, as required by 42 U.S.C. §671(a)(19) and 42 U.S.C. §671(a)(29). [See APPENDIX E]

I attended the trial to adjudicate my son's parental rights, but he could not attend because he was in a 42 C.F.R. Part 2 substance use disorder treatment program in NH. So I witnessed the trial firsthand. At the time, I did not realize I was witnessing three (3) lawyers, DHR, and the trial court violate federal laws and regulations while they were adjudicating my son's parental rights *forever*.

At trial, before any other testimony, the judge allowed a lawyer from Wellstone to approach the bench. That lawyer brought the *originals* of all of my son's substance use disorder treatment records in the custody Wellstone, which is a Part 2 federally-funded substance use disorder treatment program, pursuant to 42 C.F.R. §2.11 and 42 C.F.R. §2.12(b), because it accepts federal money for its services (i.e., Medicare and Medicaid). [See APPENDIX F] The Wellstone lawyer

brought all of my son's federally-protected treatment records in response to a subpoena duces tecum that was issued to DHR by the court only three (3) business days before the trial. DHR's lawyer had served the subpoena on Wellstone the same day it was issued to him. The subpoena was directed to Dr. Tim Cheplen, who no longer worked there. My son and I, the other parties received no notice that DHR intended to subpoena the production of my son's treatment records, violating our rights to notice and be heard.

The day after receiving the subpoena (two (2) days before trial) the record shows another Wellstone lawyer submitted a motion to quash, correctly arguing the subpoena was invalid: (a) it was directed to an ex-employee, (b) three days notice was an undue burden, and (c) 42 U.S.C. §290dd-2(c) strictly prohibited Wellstone from acknowledging whether they had my son's records or not. [See APPENDIX E] These were sound legal arguments for not disclosing my son's federally-protected records; however, for some reason on the day of trial, Wellstone sent in this young, fresh-out-of-law-school lawyer who carried the *originals* of all my son's federally-protected substance use disorder treatment records, including extra-sensitive, extra-protected psychotherapy notes, pursuant to 42 C.F.R. §2.63. [See APPENDIX F] That lawyer asked for an

order to disclose the records, and the judge issued a hasty, verbal, bench order.

Weeks before trial, my son requested to attend remotely since he in treatment in NH and had no travel money, but the court denied his request, although the court stated, on record, that it had the technical capability to grant his request. So my son was not there to object or assert his privilege, and his court-appointed lawyer did not object or try to assert his privilege for him. At the time, I did not understand I was witnessing violations of the following federal laws and regulations: 42 U.S.C. §290dd-2(a), 42 U.S.C. §290dd-2(c), 42 C.F.R. §2.13(a), 42 C.F.R. §2.13(b), 42 C.F.R. §2.13(c), 42 C.F.R. §2.63(a), 42 C.F.R. §2.64(a), 42 C.F.R. §2.64(b), 42 C.F.R. §2.64(c), 42 C.F.R. §2.64(d) and 42 C.F.R. §2.64(e) [See APPENDICES E and F][2]

Later on in the trial, the guardian ad litem, who is an attorney licensed in Alabama, ("AGAL") was questioning the DHR caseworker on the witness stand. The AGAL produced a document and asked if the DHR

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[2] We also complained to the Alabama Bar Association ("ABA") about the three (3) attorneys' violations. The ABA responded that they would take no action.

caseworker recognized it. The caseworker recognized the document as my son's discharge report she received from "Turning Point," the substance use disorder treatment facility in New Hampshire. The discharge report had been emailed to the caseworker a couple of weeks earlier. My son had given consent for the New Hampshire counselor to email his discharge report to the caseworker because, in good faith, he was trying to show DHR that he was making progress in his addiction treatment program. However, DHR used his report as evidence against him at trial. After learning DHR used the report against him, my son immediately rescinded his consent for any other of his treatment records to be disclosed to DHR.

Federal laws and regulations state that a person who receives federally-protected records shall not redisclose them to anyone for any purpose, *period*. At the end my son's discharge report there is a federal warning, 42 C.F.R. §2.32(a)(1), stating the record is federally protected and redisclosure is strictly prohibited. The DHR caseworker ignored the federal warning and shared my son's federally-protected report with the AGAL, who used it as evidence against him at his trial. Federal regulations 42 C.F.R. §2.13(a) and 42 C.F.R. §2.13(b) state that its federally-protected records may not be used as evidence against a patient, *period*. The

AGAL chose to ignore federal regulations and introduced my son's protected report as evidence against him. [See APPENDIX F]

While all of this was occurring, my daughter-in-law's lawyer (not my son's) objected to the introduction of the NH discharge report as hearsay and "hearsay within hearsay." Apparently, this was so blatant this lawyer couldn't stand by and do nothing. However, under further questioning by the AGAL, the caseworker testified the report was one she regularly maintained in her files at DHR business. So the court overruled the other lawyer's objections and allowed the admission of yet another unlawfully obtained and disclosed, federally-protected record to be used for an unlawful purpose, i.e. as evidence against my son. I repeat: the trial court allowed a federally-protected substance use treatment report, created and maintained by a 42 C.F.R. Part 2 addiction treatment facility in New Hampshire, to be admitted as evidence as a DHR business record and an exception to hearsay.

Next, at the request of the AGAL, the DHR caseworker read portions of the discharge report that were unfavorable to my son, out loud. The DHR caseworker read specific sentences that the AGAL had underlined beforehand. The sentences discussed my son's diagnosis, treatment and referral. Any

favorable sentences were omitted when it was read. It was clear the DHR caseworker and AGAL conspired to violate federal laws and regulations to unlawfully disclose my son's federally-protected report.

There is a criminal penalty for violating Part 2 regulations. 42 C.F.R. §2.3 "Criminal penalty for violation. Under 42 U.S.C. 290dd-2(f), any person who violates any provision of this section or any regulation issued pursuant to this section shall be fined in accordance with Title 18 of the U.S. Code."[3] [See APPENDIX E]

There is a criminal penalty for conspiring to violate my son's constitutional rights. 18 U.S.C. §241, "If two or more persons conspire to injure, oppress, threaten, or intimidate any person in any State, Territory, Commonwealth, Possession, or District in the free exercise or enjoyment of any right or privilege secured to him by the Constitution or laws of the United States, or because of his having so exercised the same." [See APPENDIX E]

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[3] We submitted written complaints about these violations to the U.S. Attorney for Northern Alabama, (who was then) Jay Town, but did hear back from them.

Three weeks later, the judge terminated my son's parental rights, which terminated my grandparental rights. The judge denied my motion for grandparent visitation, and just as he ignored my motion for continuance, he never ruled on my petition for custody. My son and I appealed and the Alabama Court of Civil Appeals consolidated our cases. We were now "co-appellants."

During our appeal, we learned that in addition to 28 U.S.C. §1738A(e), 42 U.S.C. §671(a)(29) also required DHR to notify me. We learned 42 U.S.C. §671(a)(19) required DHR to give me preference when placing my grandchild. We learned 42 U.S.C. §290dd-2 and 42 C.F.R. Part 2, protected my son's treatment records. We also learned the subpoena used to disclose my son's federally-protected records, without notice, violated 42 C.F.R. §2.64(b). [See APPENDICES E & F]

During appeal, I asked for access to the records of the dependency and permanency proceedings. I was certain if DHR, three lawyers, and the court violated federal laws and regulations during the adjudication of my son's parental rights while I was present and watching them, the records from the dependency and permanency proceedings, from which my son and I were entirely and purposely excluded, would be rife with legal errors and violations. The trial court denied

my request for the records, stating the proceedings were a separate case to which I was not a party.

Next, my son and I directly appealed the dependency and permanency determination, but the Alabama Court of Civil Appeals dismissed them, stating there was no final judgment to appeal. However, before the appellate court had the chance to dismiss our appeals, we received the dependency and permanency case records and closely scrutinized them. Just as we thought, the dependency and permanency proceedings were rife with legal errors and federal violations. To wit:

(1) DHR attempted service of the dependency and permanency proceedings on my son one time, which failed due to his transient and homeless lifestyle. Under oath, DHR stated they used "due diligence" to locate him for service of process, but were unable to ascertain his whereabouts. However, the record shows DHR did not use due diligence to locate him, because it shows that my son was at DHR's facility to visit his child, and/or attend DHR Individual Service Plan ("ISP") meetings, eleven (11) times during the eight (8) months after signing their "safety plan," waiting for DHR to provide the promised "reunification services" to him, which DHR spectacularly failed to do. DHR could have,

and should have, notified my son during any of the eleven times he was at their facility, but they chose not to, and proceeded regardless, violating my son's right to notice, and equal protection.

(2) The judge did not make the required, timely, federal judicial determinations, pursuant to 45 C.F.R. §1356.21(b)(1)(i)(ii) and 45 C.F.R. §1356.21(c).

(3) Seventy-five percent (75%) of DHR reports the court used to make its dependency and permanency determinations are completely missing from the record.

(4) Fifty-three percent (53%) of AGAL reports the court used to make its dependency and permanency determinations are completely missing from the record.

(5) The trial court did not assign my son's court appointed attorney to the dependency and permanency proceedings, but only to the termination proceedings, violating Alabama Code §12-15-305(b) and my son's right to equal protection.

[See APPENDICES E, F & G for the above authorities cited.]

The violations listed, supra, affected my son's rights and the integrity of the dependency and permanency proceedings;

however, the record shows more legal errors and violations that specifically affected me:

(1) On November 2, 2017 DHR submitted a UCCJEA affidavit with knowingly false information. DHR stated, under oath, they knew of no other person who could claim custody or visitation, but the record also shows that DHR knew about me.

(2) DHR never notified me of the dependency and permanency proceedings, in violation of 28 U.S.C. §1738A(e) & 42 U.S.C. §671(a)(29).

(3) DHR never searched for a viable alternative to the dependency determination; it never searched for a viable alternative to the termination of my son's parental rights. *DHR never searched for viable alternatives*.

DHR is required by 45 C.F.R. §1356.21(b) to try to prevent removal. One way to do that is to search for viable alternatives. DHR admits, on record, they *purposely excluded* me from its custody proceedings. DHR also violated 42 U.S.C. §671(a)(19) by never considering me, an adult relative, for placement of the child before strangers. This leads to my second question, which is, perhaps, a question of first impression, pursuant to U.S. Supreme Court Rule 10(c):

Second Question Presented: Does a State's *federally-funded* social service agency violate 42 U.S.C. §671(a)(19), 42 U.S.C. §671(a)(29),

by *purposely excluding* a grandparent from its custody proceedings, placing the grandchild with legal strangers, never considering the grandparent for placement before strangers, and never considering if the grandparent is a viable alternative to dependency or termination of parent rights?

I claim DHR violated 42 U.S.C. §671(a)(19) and 42 U.S.C. §671(a)(29) (aka as Part E §471(a)(19)(29) of the United States Social Security Act). Those laws are mandates by the federal government, which funds every State's equivalent to Alabama DHR. Federal law stipulates for a State to receive federal funds for adoption and foster care, it must implement certain minimum standards and requirements, as requisites for the funds. Pursuant to 45 C.F.R. §1356.21(a), every State's social service agency must comply with 42 U.S.C. §671 and 42 U.S.C. §672. Although 42 U.S.C. §671(a)(29) does not bestow me the right of notice (as 28 U.S.C. §1738A(e) does), it mandates DHR to provide me notice of custody proceedings *because 28 U.S.C. §1738A(b) defines me as a "contestant" in the custody proceedings and DHR accepts federal foster care and adoption funds.*

42 U.S.C. §671(a)(29) mandates for DHR to provide notice to me, and 42 U.S.C. §671(a)(29)(D) requires DHR to include information of the Alabama kinship

guardianship program. Alabama elected the option to receive kinship guardianship assistance federal payments, codified by Alabama Code §38-12-2(b). [See APPENDIX H] I contend federal law mandates DHR to search for alternatives to removal, search for relatives when placing a child, and search for viable alternatives to the termination of a parent's rights, which DHR did not do, even though the State accepts federal adoption and foster care funds.

45 C.F.R. §1356.21(a) stipulates DHR must comply with these standards in order to received federal foster care and adoption money. [See APPENDIX G]

45 C.F.R. §1356.21(b) stipulates DHR must make "reasonable efforts" to prevent the removal of a child. [See APPENDIX G]

45 C.F.R. §1356.21(b)(1)(i)(ii) and 45 C.F.R. §1356.21(c) requires specific judicial determinations to be made at specific times during custody proceedings in order for the state to receive federal adoption/foster care funds, but the trial court did not comply with those regulations. [See APPENDIX F]

45 C.F.R. §1356.21(d) stipulates the required federal judicial determinations, supra, must be properly documented. [See APPENDIX F]

There should be some adverse consequence to Alabama for violating federal laws and

regulations during its custody proceedings. I contend that Alabama should not get away with blatantly violating federal laws and regulations during custody proceedings, especially when the violations also violate a citizen's rights. Alabama, at the very least, is supposed to *consider and investigate* my fitness, as a willing grandparent, for the child's placement. They are supposed to consider whether I was a viable alternative to dependency and termination. DHR ignored their legal duties. In court, they almost boastfully admit they *purposely excluded* me from the custody proceedings, with impunity. DHR goes on as if nothing happened. I am left in their disastrous wake.

I claim *Smith v. Organization of Foster Families*, 431 U.S. 816, 824-47 (1977) determines that my rights, as the legal, natural grandparent of the child, outweighs the rights of the foster parents and outweighs DHR's "wishes." [See *Smith v. Organization of Foster Families*, 431 U.S. 816, 824-47 (1977) APPENDIX H]

I ask for a declaratory judgment whether Alabama's custody determinations are valid since the State violated federal laws and regulations during its custody proceedings.

Events Leading to Third Question

When I realized DHR *purposely excluded* me from its custody proceedings, I had three recourses: (1) consolidate the records from the two proceedings for my appeal (denied), (2) directly appeal the dependency and permanency determination (dismissed), and (3) report the violations to the Department of Health and Human Services ("HHS"), the federal agency that funds DHR. So I sent a letter to HHS detailing DHR's federal violations during my grandchild's removal and custody proceedings. I received a letter in reply from a Mr. Joe Bock. He said HHS could not help me and would not be taking any action concerning my allegations.

The penalty for DHR violating federal laws and regulations is defined at 45 C.F.R. §1356.50 and 45 C.F.R. §1356.86. It is paltry. Alabama simply has to return the federal funds it received for my grandchild's foster care, but Mr. Bock confirmed even that would not happen. I am left with no recourse than this appeal. [See APPENDIX F]

When the Alabama Court of Civil Appeals affirmed the trial court's decision to terminate my son's parental rights (affirmed, no opinion), which terminated my grandparental rights, that court provided comparable cases. After examining the cases, I gather the appellate court believes no legal errors occurred during the custody

proceedings. When the Alabama Supreme Court denied my petition for a writ of certiorari, it confirmed that court's opinion. I believe these decisions are WRONG.

In my brief to the Alabama Court of Civil Appeals, and my petition for writ of certiorari, I asked the Alabama courts to consider the "*cumulative adverse effect*" of all of the legal errors and violations by the State during its dependency and permanency and termination proceedings. However, the courts chose not to do that. Moreover, and more egregiously, Alabama courts actively prevented me from filing my grievances about the legal errors discovered during the dependency and permanency proceedings.

So after all the denials and dismissals, I launched a collateral attack on the dependency and permanency determination, reasoning the courts said it was a separate case. However, the trial court refused to release the record on appeal, now stating the dependency and permanency case was "already decided" by the appellate court. The message in Alabama is loud and clear: the two custody proceedings are separate when trying to consolidate the bifurcated records on appeal; however, they are one case that has "already been decided," when launching a collateral attack on the dependency and permanency portion of the proceedings. I'm

in a no-win position in Alabama and ask this court intervene to decide what is right.

I claim the unilateral bifurcation of my grandchild's custody case, without notice to the father, myself, or anyone in the paternal family, thwarts my ability to file a grievance about the legal errors and federal violations impacting me *during the entire custody proceedings*. I claim that the federal violations that occurred in the courtroom, in my plain view, during the trial to adjudicate my son's parental rights *forever,* should have been more than enough to invalidate the order that terminated my son's parental rights. However, in Alabama, in 2019 and 2020, it was not enough. This leads to the third question presented, which is perhaps a question of first impression, pursuant to U.S. Supreme Court Rule 10(c):

Third Question Presented: If a State violates federal laws and regulations during its bifurcated child custody proceedings, and the State violates a parent's rights of due process, equal protection, and to be secure in effects and papers, and the State *purposely excludes* a grandparent from its custody proceedings, if the State then terminates the parent's rights, which also terminates the grandparent's rights, on appeal, must the State provide all of the records from its bifurcated custody proceedings, which were

initiated, and bifurcated, without notice to the parent and grandparent?

I claim Alabama's trial and appellate courts denied my right to access their courts to file my grievances of the violations that occurred during the dependency and permanency proceedings, from which my son, the child's legal parent, myself the child's legal grandparent, and the entire paternal family were purposely excluded. I claim Alabama violated my first amendment right to access the courts and file a grievance. [See APPENDIX E, *Christopher v. Harbury*, 536 U.S. 403 (2002) and *M.L.B. v. S.L.J.* 519 U.S. 102, 104 (1996)] I also claim Alabama violated my right to equal protection under the law by purposely excluding me from my grandchild's custody proceedings.

I looked up cases on grandparent rights. There's not a lot out there. However, I found *Troxel v. Granville*, 530 U.S. 57 (2000) [See APPENDIX E], which is sort of similar, but different from my situation. In *Troxel*, that grandparent wanted more visitation than the mother, Granville, was willing to provide. This court ruled that a state is prohibited from awarding a grandparent more visitations and going against a parent's wishes, because in this country parents have a *fundamental right* to decide how to raise their own children. I agree with the Troxel

decision. However, because I am going against the wishes of a *State* that purposely excluded me from my grandchild's custody proceedings. I claim Alabama violated my fundamental rights as a grandparent when it violated federal law and purposely excluded me from its custody proceedings. I ask this court for help.

Thank you for considering my case.

REASONS FOR GRANTING PETITION

Because no Alabama court would, or could, explain why the questions presented here are irrelevant, and in the interest of justice for all grandparents, in Alabama and nationwide, who are similarly situated, I respectfully request for the U.S. Supreme Court to grant a Writ of Certiorari.

If Alabama can do this so easily to me, an educated woman, there must be other grandparents out there suffering the same fate, especially in wake of the nationwide Perdue Pharma opiate crisis.

There is no recourse for justice other than being heard by the U.S. Supreme Court. I submitted complaints to the Alabama Bar about the three attorneys' federal violations during the adjudication—they responded that they would take no action, no

reprimand, no warning, nothing. I complained to the U.S. Attorney for Northern Alabama—as directed by 42 C.F.R. §2.3—about federal violations by the three attorneys, DHR, and Wellstone; however, their office never responded. I notified HHS of the violations but they took no action either. If this court grants a writ to hear my case, it means the law still matters when a State takes legal action against a vulnerable parent and blatantly breaks federal laws and regulations to accomplish an agenda.

This issue is of nationwide importance to all grandparents who are similarly situated. I respectfully request the U.S. Supreme Court to issue a writ to hear and decide this case.

CONCLUSION

The petition for a writ of certiorari should be granted.

Respectfully submitted,

Rosa Snyder

December 7, 2020

No. _____

IN THE

SUPREME COURT OF THE UNITED STATES

ROSA SNYDER

Petitioner,

v.

THE ALABAMA MADISON COUNTY DEPARTMENT OF HUMAN RESOURCES

Respondent.

PROOF OF SERVICE

I, Rosa Snyder, do swear that on this date, December 4, 2020, as required by Supreme Court Rule 29, I have served the enclosed PETITION FOR A WRIT OF CERTIORARI on the responding party's counsel, who is the only person required to be served, by depositing an envelope containing the above documents in the United States mail properly addressed to her with first-class postage prepaid. The name and address of the person served is Elizabeth Hendrix, P.O. Box 304000, Montgomery, AL 36130. I declare under penalty of perjury that this is true and correct. Executed December 7, 2020.

Rosa Snyder

APPENDIX

APPENDIX A Decision of the Alabama Court of Civil Appeals

APPENDIX C Decision of the Alabama Supreme Court Denying Review

APPENDIX D U.S. Constitutional Provisions

First Amendment

"Congress shall make no law respecting an establishment of religion, or prohibiting the free exercise thereof; or abridging the freedom of speech, or of the press; or the right of the people peaceably to assemble, and to petition the Government for a redress of grievances."

Fourteenth Amendment

"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."

APPENDIX E Federal Statutory Provisions

18 U.S.C. §241. Conspiracy against rights. "If two or more persons conspire to injure, oppress, threaten, or intimidate any person in any State, Territory, Commonwealth, Possession, or District in the free exercise or enjoyment of any right or privilege secured to him by the Constitution or laws of the

United States, or because of his having so exercised the same."

42 U.S.C. §290dd-2(a) "Requirement. Records of the identity, diagnosis, prognosis, or treatment of any patient which are maintained in connection with the performance of any program or activity relating to substance use disorder education, prevention, training, treatment, rehabilitation, or research, which is conducted, regulated, or directly or indirectly assisted by any department or agency of the United States shall, except as provided in subsection (e), be confidential and be disclosed only for the purposes and under the circumstances expressly authorized under subsection (b)."

42 U.S.C. §290dd-2(c) "Use of records in criminal, civil, or administrative contexts. Except as otherwise authorized by a court order under subsection (b)(2)(C) or by the consent of the patient, a record referred to in subsection (a), or testimony relaying the information contained therein, may not be disclosed or used in any civil, criminal, administrative, or legislative proceedings conducted by any Federal, State, or local authority, against a patient, including with respect to the following activities:

"(1) Such record or testimony shall not be entered into evidence in any criminal

prosecution or civil action before a Federal or State court.

"(2) Such record or testimony shall not form part of the record for decision or otherwise be taken into account in any proceeding before a Federal, State, or local agency.

"(3) Such record or testimony shall not be used by any Federal, State, or local agency for a law enforcement purpose or to conduct any law enforcement investigation.

"(4) Such record or testimony shall not be used in any application for a warrant."

42 U.S.C. §671(a)(19) "provides that the State shall consider giving preference to an adult relative over a non-related caregiver when determining a placement for a child, provided that the relative caregiver meets all relevant State child protection standards."

42 U.S.C. §671(a)(29) "provides that, within 30 days after the removal of a child from the custody of the parent or parents of the child, the State shall exercise due diligence to identify and provide notice to the following relatives: all adult grandparents, all parents of a sibling of the child, where such parent has legal custody of such sibling, and other adult relatives of the child (including any other adult relatives suggested by the parents), subject to exceptions due to family or domestic violence..."

(A) specifies that the child has been or is being removed from the custody of the parent or parents of the child;

(B) explains the options the relative has under Federal, State, and local law to participate in the care and placement of the child, including any options that may be lost by failing to respond to the notice;

(C) describes the requirements under paragraph (10) of this subsection to become a foster family home and the additional services and supports that are available for children placed in such a home; and

(D) if the State has elected the option to make kinship guardianship assistance payments under paragraph (28) of this subsection, describes how the relative guardian of the child may subsequently enter into an agreement with the State under section 673(d) of this title to receive the payments;

42 U.S.C. §672(a) "In general

"(1) Eligibility. Each State with a plan approved under this part shall make foster care maintenance payments on behalf of each child who has been removed from the

home of a relative specified in section 606(a) of this title (as in effect on July 16, 1996) into foster care if—

"(A) the removal and foster care placement met, and the placement continues to meet, the requirements of paragraph (2); and

"(B) the child, while in the home, would have met the AFDC eligibility requirement of paragraph (3).

"(2) Removal and foster care placement requirements

"The removal and foster care placement of a child meet the requirements of this paragraph if—

"(A) the removal and foster care placement are in accordance with—

"(i) a voluntary placement agreement entered into by a parent or legal guardian of the child who is the relative referred to in paragraph (1); or

"(ii) a judicial determination to the effect that continuation in the home from which removed would be contrary to the welfare of the child and that reasonable efforts of the type described in section 671(a)(15) of this title for a child have been made."

28 U.S.C. §1738A(b) "contestant" means a person, including a parent or grandparent,

who claims a right to custody or visitation of a child;"

28 U.S.C. §1738A(e) "Before a child custody or visitation determination is made, reasonable notice and opportunity to be heard shall be given to the contestants, any parent whose parental rights have not been previously terminated and any person who has physical custody of a child."

Part E §471(a)(19)(29) of the United States Social Security Act [See 42 U.S.C. §671(a)(19)&(29)]

APPENDIX F Federal Regulatory Provisions

42 C.F.R. §2.11 "Part 2 program means a federally assisted program (federally assisted as defined in §2.12(b) and program as defined in this section)."

42 C.F.R. §2.12(b) "Federal assistance. A program is considered to be federally assisted if:

"(1) It is conducted in whole or in part, whether directly or by contract or otherwise by any department or agency of the United States (but see paragraphs (c)(1) and (2) of this section relating to the Department of Veterans Affairs and the Armed Forces);

"(2) It is being carried out under a license, certification, registration, or other authorization granted by any department or

agency of the United States including but not limited to:

"(i) Participating provider in the Medicare program;

"(ii) Authorization to conduct maintenance treatment or withdrawal management; or

"(iii) Registration to dispense a substance under the Controlled Substances Act to the extent the controlled substance is used in the treatment of substance use disorders;

"(3) It is supported by funds provided by any department or agency of the United States by being:

"(i) A recipient of federal financial assistance in any form, including financial assistance which does not directly pay for the substance use disorder diagnosis, treatment, or referral for treatment; or

"(ii) Conducted by a state or local government unit which, through general or special revenue sharing or other forms of assistance, receives federal funds which could be (but are not necessarily) spent for the substance use disorder program; or

"(4) It is assisted by the Internal Revenue Service of the Department of the Treasury through the allowance of income tax deductions for contributions to the program

or through the granting of tax exempt status to the program."

42 C.F.R. §2.13(a) "Confidentiality restrictions and safeguards.

"(a) General. The patient records subject to the regulations in this part may be disclosed or used only as permitted by the regulations in this part and may not otherwise be disclosed or used in any civil, criminal, administrative, or legislative proceedings conducted by any federal, state, or local authority. Any disclosure made under the regulations in this part must be limited to that information which is necessary to carry out the purpose of the disclosure."

42 C.F.R. §2.13(b) "Unconditional compliance required.

"The restrictions on disclosure and use in the regulations in this part apply whether or not the part 2 program or other lawful holder of the patient identifying information believes that the person seeking the information already has it, has other means of obtaining it, is a law enforcement agency or official or other government official, has obtained a subpoena, or asserts any other justification for a disclosure or use which is not permitted by the regulations in this part."

42 C.F.R. §2.13(c) "Acknowledging the presence of patients: Responding to requests.

"(1) The presence of an identified patient in a health care facility or component of a health care facility which is publicly identified as a place where only substance use disorder diagnosis, treatment, or referral for treatment is provided may be acknowledged only if the patient's written consent is obtained in accordance with subpart C of this part or if an authorizing court order is entered in accordance with subpart E of this part. The regulations permit acknowledgement of the presence of an identified patient in a health care facility or part of a health care facility if the health care facility is not publicly identified as only a substance use disorder diagnosis, treatment, or referral for treatment facility, and if the acknowledgement does not reveal that the patient has a substance use disorder."

42 C.F.R. §2.3 "Criminal penalty for violation. Under 42 U.S.C. 290dd-2(f), any person who violates any provision of this section or any regulation issued pursuant to this section shall be fined in accordance with Title 18 of the U.S. Code."

42 C.F.R. §2.32(a)(1) "This record which has been disclosed to you is protected by federal confidentiality rules (42 CFR part 2). The federal rules prohibit you from making any further disclosure of this record unless

further disclosure is expressly permitted by the written consent of the individual whose information is being disclosed in this record or, is otherwise permitted by 42 CFR part 2. A general authorization for the release of medical or other information is NOT sufficient for this purpose (see §2.31). The federal rules restrict any use of the information to investigate or prosecute with regard to a crime any patient with a substance use disorder, except as provided at §§2.12(c)(5) and 2.65."

42 C.F.R. §2.63 "Confidential communications. (a) A court order under the regulations in this part may authorize disclosure of confidential communications made by a patient to a part 2 program in the course of diagnosis, treatment, or referral for treatment only if:

"(1) The disclosure is necessary to protect against an existing threat to life or of serious bodily injury, including circumstances which constitute suspected child abuse and neglect and verbal threats against third parties;

"(2) The disclosure is necessary in connection with investigation or prosecution of an extremely serious crime allegedly committed by the patient, such as one which directly threatens loss of life or serious bodily injury, including homicide, rape, kidnapping, armed

robbery, assault with a deadly weapon, or child abuse and neglect; or

"(3) The disclosure is in connection with litigation or an administrative proceeding in which the patient offers testimony or other evidence pertaining to the content of the confidential communications."

42 C.F.R. §2.64 "Procedures and criteria for orders authorizing disclosures for noncriminal purposes. (a) Application. An order authorizing the disclosure of patient records for purposes other than criminal investigation or prosecution may be applied for by any person having a legally recognized interest in the disclosure which is sought. The application may be filed separately or as part of a pending civil action in which the applicant asserts that the patient records are needed to provide evidence. An application must use a fictitious name, such as John Doe, to refer to any patient and may not contain or otherwise disclose any patient identifying information unless the patient is the applicant or has given written consent (meeting the requirements of the regulations in this part) to disclosure or the court has ordered the record of the proceeding sealed from public scrutiny."

42 C.F.R. §2.64(b) "Notice. The patient and the person holding the records from whom disclosure is sought must be provided:

"(1) Adequate notice in a manner which does not disclose patient identifying information to other persons; and

"(2) An opportunity to file a written response to the application, or to appear in person, for the limited purpose of providing evidence on the statutory and regulatory criteria for the issuance of the court order as described in §2.64(d)."

42 C.F.R. §2.64(c) "Review of evidence: Conduct of hearing. Any oral argument, review of evidence, or hearing on the application must be held in the judge's chambers or in some manner which ensures that patient identifying information is not disclosed to anyone other than a party to the proceeding, the patient, or the person holding the record, unless the patient requests an open hearing in a manner which meets the written consent requirements of the regulations in this part. The proceeding may include an examination by the judge of the patient records referred to in the application."

42 C.F.R. §2.64(d) "Criteria for entry of order. An order under this section may be entered only if the court determines that good cause exists. To make this determination the court must find that:

"(1) Other ways of obtaining the information are not available or would not be effective; and

"(2) The public interest and need for the disclosure outweigh the potential injury to the patient, the physician-patient relationship and the treatment services."

42 C.F.R. §2.64(e) "Content of order. An order authorizing a disclosure must:

"(1) Limit disclosure to those parts of the patient's record which are essential to fulfill the objective of the order;

"(2) Limit disclosure to those persons whose need for information is the basis for the order; and

"(3) Include such other measures as are necessary to limit disclosure for the protection of the patient, the physician-patient relationship and the treatment services; for example, sealing from public scrutiny the record of any proceeding for which disclosure of a patient's record has been ordered."

45 C.F.R. §1356.10 "Scope. This part applies to title IV-E agency programs for foster care maintenance payments, adoption assistance payments, related foster care and adoption administrative and training expenditures,

and the independent living services program under title IV-E of the Act."

45 C.F.R. §1356.21(a) "Statutory and regulatory requirements of the Federal foster care program. To implement the foster care maintenance payments program provisions of the title IV-E plan and to be eligible to receive Federal financial participation (FFP) for foster care maintenance payments under this part, a title IV-E agency must meet the requirements of this section, 45 CFR 1356.22, 45 CFR 1356.30, and sections 472, 475(1), 475(4), 475(5), 475(6), and for a Tribal title IV-E agency section 479(B)(c)(1)(C)(ii)(II) of the Act."

45 C.F.R. §1356.21(b) "Reasonable efforts. The title IV-E agency must make reasonable efforts to maintain the family unit and prevent the unnecessary removal of a child from his/her home, as long as the child's safety is assured; to effect the safe reunification of the child and family (if temporary out-of-home placement is necessary to ensure the immediate safety of the child); and to make and finalize alternate permanency plans in a timely manner when reunification is not appropriate or possible. In order to satisfy the "reasonable efforts" requirements of section 471(a)(15) (as implemented through section 472(a)(2) of the Act), the title IV-E agency must meet the

requirements of paragraphs (b) and (d) of this section. In determining reasonable efforts to be made with respect to a child and in making such reasonable efforts, the child's health and safety must be the paramount concern."

45 C.F.R. §1356.21(b)(1)(i)(ii) "(1) Judicial determination of reasonable efforts to prevent a child's removal from the home.

"(i) When a child is removed from his/her home, the judicial determination as to whether reasonable efforts were made, or were not required to prevent the removal, in accordance with paragraph (b)(3) of this section, must be made no later than 60 days from the date the child is removed from the home pursuant to paragraph (k)(1)(ii) of this section.

"(ii) If the determination concerning reasonable efforts to prevent the removal is not made as specified in paragraph (b)(1)(i) of this section, the child is not eligible under the title IV-E foster care maintenance payments program for the duration of that stay in foster care."

45 C.F.R. §1356.21(c) "Contrary to the welfare determination. Under section 472(a)(2) of the Act, a child's removal from the home must have been the result of a judicial determination (unless the child was

removed pursuant to a voluntary placement agreement) to the effect that continuation of residence in the home would be contrary to the welfare, or that placement would be in the best interest, of the child. The contrary to the welfare determination must be made in the first court ruling that sanctions (even temporarily) the removal of a child from home. If the determination regarding contrary to the welfare is not made in the first court ruling pertaining to removal from the home, the child is not eligible for title IV-E foster care maintenance payments for the duration of that stay in foster care."

45 C.F.R. §1356.21(d)(1)(2)(3) "Documentation of judicial determinations. The judicial determinations regarding contrary to the welfare, reasonable efforts to prevent removal, and reasonable efforts to finalize the permanency plan in effect, including judicial determinations that reasonable efforts are not required, must be explicitly documented and must be made on a case-by-case basis and so stated in the court order.

"(1) If the reasonable efforts and contrary to the welfare judicial determinations are not included as required in the court orders identified in paragraphs (b) and (c) of this section, a transcript of the court proceedings is the only other documentation that will be

accepted to verify that these required determinations have been made.

"(2) Neither affidavits nor nunc pro tunc orders will be accepted as verification documentation in support of reasonable efforts and contrary to the welfare judicial determinations except for a Tribal title IV-E agency for the first 12 months that agency's title IV-E plan is in effect as provided for in section 479B(c)(1)(C)(ii)(I) of the Act.

"(3) Court orders that reference State or Tribal law to substantiate judicial determinations are not acceptable, even if such law provides that a removal must be based on a judicial determination that remaining in the home would be contrary to the child's welfare or that removal can only be ordered after reasonable efforts have been made."

45 C.F.R. §1356.50 "Withholding of funds for non-compliance with the approved title IV-E plan.

"(a) To be in compliance with the title IV-E plan requirements, a title IV-E agency must meet the requirements of the Act and 45 CFR 1356.20, 1356.21, 1356.30, and 1356.40 of this part.

"(b) To be in compliance with the title IV-E plan requirements, a title IV-E agency that chooses to claim FFP for voluntary

placements must meet the requirements of the Act, 45 CFR 1356.22 and paragraph (a) of this section; and

"(c) For purposes of this section, the procedures in § 1355.39 of this chapter apply."

45 C.F.R. §1356.86 "Penalties for noncompliance.

"(a) Definition of Federal funds subject to a penalty. The funds that are subject to a penalty are the CFCIP funds allocated or reallocated to the State agency under section 477(c)(1) of the Act for the Federal fiscal year that corresponds with the reporting period for which the State agency was required originally to submit data according to section 1356.83(a) of this part."

APPENDIX G Alabama Statutory Provisions

Alabama Code §12-15-305(b) "Right to counsel for petitioners or respondent parents, legal guardians, or legal custodians in dependency proceedings. In dependency and termination of parental rights cases, the respondent parent, legal guardian, or legal custodian shall be informed of his or her right to be represented by counsel and, if the juvenile court determines that he or she is indigent, counsel shall be appointed where the respondent parent, legal guardian, or

legal custodian is unable for financial reasons to retain his or her own counsel."

Alabama Code §38-12-2(b) "When a child has been removed from his or her home and is in the care, custody, or guardianship of the department, the department shall attempt to place the child with a relative for kinship foster care. If the relative is approved by the department to provide foster care services, in accordance with rules and regulations adopted by the department regarding foster care services, and a placement with the relative is made, the relative may receive payment for the full foster care rate only as provided by federal law for the care of the child and any other benefits that might be available to foster parents, whether in money or in services. Foster care payments shall cease upon the effective date of the kinship subsidiary payments or as provided by the department.

APPENDIX H Case Law

"(a) Access-to-courts claims fall into two categories: claims that systemic official action frustrates a plaintiff in preparing and filing suits at the present time, where the suits could be pursued once the frustrating condition has been removed; and claims of specific cases that cannot be tried, no matter

what official action may be in the future. Regardless of whether the claim turns on a litigating opportunity yet to be gained or an opportunity already lost, the point of recognizing an access claim is to provide some effective vindication for a separate and distinct right to seek judicial relief for some wrong. Thus, the access-to-courts right is ancillary to the underlying claim, without which a plaintiff cannot have suffered injury by being shut out of court. It follows that the underlying claim is an element that must be described in the complaint as though it were being independently pursued; and that, when the access claim (like this one) looks backward, the complaint must identify a remedy that may be awarded as recompense but not otherwise available in some suit that may yet be brought. The underlying cause of action and its lost remedy must be addressed by allegations in the complaint sufficient to give the defendant fair notice."

Christopher v. Harbury, 536 U.S. 403 (2002).

"(d) Guided by Lassiter, Santosky, and other decisions acknowledging the primacy of the parent-child relationship, the Court agrees with M.L.B. that Mayer points to the disposition proper in this case: Her parental termination appeal must be treated as the Court has treated petty offense appeals, and

Mississippi may not withhold the transcript she needs to gain review of the order ending her parental status. The Court's decisions concerning access to judicial processes, commencing with Griffin and running through Mayer, reflect both equal protection and due process concerns. See Ross v. Moffitt, 417 U.S. 600, 608-609. In these cases, "[d]ue process and equal protection principles converge." Bearden v. Georgia, 461 U.S. 660, 665."

M.L.B. v. S.L.J., 519 U.S. 102, 104 (1996)

"Under the New York scheme children may be placed in foster care either by voluntary placement or by court order. Most foster-care placements are voluntary. They occur when physical or mental illness, economic problems, or other family crises make it impossible for natural parents, particularly single parents, to provide a stable home life for their children for some limited period. Resort to such placements is almost compelled when it is not possible in such circumstance to place the child with a relative or friend, or to pay for the services of a homemaker or boarding school.

"It is one thing to say that individuals may acquire a liberty interest against arbitrary governmental interference in the family-like

associations into which they have freely entered, even in the absence of biological connection or state-law recognition of the relationship. It is quite another to say that one may acquire such an interest in the face of another's constitutionally recognized liberty interest that derives from blood relationship, state-law sanction, and basic human right — an interest the foster parent has recognized by contract from the outset. Whatever liberty interest might otherwise exist in the foster family as an institution, that interest must be substantially attenuated where the proposed removal from the foster family is to return the child to his natural parents."

Smith v. Organization of Foster Families, 431 U.S. 816, 824-47 (1977)

"In affirming, the State Supreme Court held, inter alia, that §26.10.160(3) unconstitutionally infringes on parents' fundamental right to rear their children. Reasoning that the Federal Constitution permits a State to interfere with this right only to prevent harm or potential harm to the child, it found that § 26.10.160(3) does not require a threshold showing of harm and sweeps too broadly by permitting any person to petition at any time with the only

requirement being that the visitation serve the best interest of the child."

Troxel v. Granville, 530 U.S. 57 (2000)

"With respect to judgments, "the full faith and credit obligation is exacting." Baker v. General Motors Corp., 522 U.S. 222, 233, 118 S.Ct. 657, 139 L.Ed.2d 580 (1998). "A final judgment in one State, if rendered by a court with adjudicatory authority over the subject matter and persons governed by the judgment, qualifies for recognition throughout the land." Ibid. A State may not disregard the judgment of a sister State because it disagrees with the reasoning underlying the judgment or deems it to be wrong on the merits. On the contrary, "the full faith and credit clause of the Constitution precludes any inquiry into the merits of the cause of action, the logic or consistency of the decision, or the validity of the legal principles on which the judgment is based." Milliken v. Meyer, 311 U.S. 457, 462, 61 S.Ct. 339, 85 L.Ed. 278 (1940)."

V.L. v. E.L., 136 S. Ct. 1017, 1020 (2016)