No. 21-1076

In the Supreme Court of the United States

SIVAGNANAM THAMILSELVAN,

Petitioner,

v.

VIJAYALAKSHMI THAMILSELVAN,

Respondent.

On Petition for a Writ of Certiorari to the Supreme Court of Michigan

PETITION FOR A WRIT OF CERTIORARI

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JANUARY 31, 2022
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QUESTIONS PRESENTED

1. Whether the petitioners' First and Fourteenth Amendment rights are violated, when Michigan Supreme Court, Michigan Court of Appeals and Trial Court prohibited petitioner, who is Hindu by religion, from following Hindu Law (one of the precepts of the Hindu Religion) in India for parties divorce, and forced the parties to go through American no-fault divorce? The petitioner claims that the parties divorce in the State of Michigan was unconstitutional. Since, Michigan States No-Fault divorce order abridged petitioner's right to the free exercise of his Hindu religion in violation of the First Amendment made applicable to the states by the Fourteenth Amendment. This Honorable Court can reverse/vacate Michigan Court of Appeals Opinion pursuant to three SCOTUS caselaws: *Wisconsin v. Yoder*, 406 U.S. 205 (1972); *Church of the Lukumi-Babalu Aye, Inc. v. City of Hialeah*, 508 U.S. 520 (1993), and *Sherbert v. Verner*, 374 U.S. 398 (1963).

2. Whether Michigan Supreme Court, Michigan Court of Appeals, and Trial Court overruled U.S. Federal Supreme Court (SCOTUS) Precedent, its own Michigan Supreme Court and Court of Appeals Precedent that supported Petitioner's Petition to dismiss the Respondent's divorce Judgment on grounds of (i) Comity and (ii) Lack of Subject Matter Jurisdiction. Since Court Precedents are overruled, this Honorable Court can reverse/vacate the opinion pursuant to *James v. City of Boise*, 577 U.S. 306, 136 S.Ct. 685, 193 L.Ed.2d 694 (2016); *Bosse v. Oklahoma*, 137 S.Ct. 1, 196 L.Ed.2d 1 (2016).

PARTIES TO THE PROCEEDINGS

Petitioner

- Petitioner is Sivagnanam Thamilselvan (Pro Se), who was the defendant in the trial court and the defendant-appellant in the Michigan court of appeals and Michigan Supreme Court.

Respondent

- Respondent is Vijayalakshmi Thamilselvan. She was represented throughout the case by two attorneys, Susan S. Lichterman (P42742) and Keri Middleditch (P63088).

LIST OF PROCEEDINGS

Michigan Supreme Court

SC 162388

Vijayalakshmi Thamilselvan, *Plaintiff-Appellee*, v. Sivagnanam Thamilselvan, *Defendant-Appellant.*

Date of Final Order: Jun 1, 2021

Date of Order Denying Reconsideration: Sept 8, 2021

State of Michigan Court of Appeals

No: 349037

Vijayalakshmi Thamilselvan,*Plaintiff-Appellee, v.* Sivagnanam Thamilselvan, *Defendant-Appellant.*

Date of Final Order: Sept 17, 2020

Circuit Court for the County of Oakland,
Family Division

Case No: 2018-860600-DM

Vijayalakshmi Thamilselvan, *Plaintiff, v.* Sivagnanam Thamilselvan, *Defendant.*

Date of Final Opinion and Order: Apr 12, 2019

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PETITION FOR A WRIT OF CERTIORARI

Sivagnanam Thamilselvan respectfully petitions for a writ of certiorari to review the opinion of the Michigan Supreme Court in this case. In light of that request, petitioner asks this court to consider granting certiorari, vacating the opinion of the MSC, MCOA, that denied petitioner's petition to dismiss the respondent's case based on (1) Hindus following Hindu Culture, (2) comity and (3) lack of subject matter jurisdiction and request this Honorable Court to forward the Respondent to Family Court of Madras, India, as she agreed to bound by the Indian Hindu Marriage Act for her marital disputes including divorce and remarriage as evidenced by signing her marriage certificate and registered the certificate in the Hindu Register of Government of Tamil Nadu, India.

OPINIONS BELOW

Michigan Supreme Court Order (Appendix B, MSC Docket #162388, Event #101&103). The MSC denied Petitioner Sivagnanam Thamilselvan's petition for reconsideration on 9-8-2021.

Michigan Supreme Court Order (Appendix A, MSC Docket #162388, Event #93: The Michigan Supreme Court (MSC) denied Petitioner Sivagnanam Thamilselvan's application for leave to appeal on 6-1-2021.

Michigan Court of Appeals (MCOA) Opinion (Appendix C, MCOA Docket #349037, Event#83): The

decisions by the MCOA denying Mr. Sivagnanam Thamilselvan appeal to dismiss the case based on (1) comity and (2) subject matter jurisdiction is reported as *Vijayalakshmi Thamilselvan v. Sivagnanam Thamilselvan* (Unpublished Opinion, No.349037), p.3a-14a, 9-17-2020.

Trial Court Order (Appendix E, OCCC, ROA dated 3-14-2019).: Trial court denied petitioner's revised second motion for summary disposition for lack of subject matter jurisdiction without any reason stated.

Trial Court order (Appendix F, OCCC, ROA dated 3-5-2019): Trial court denied petitioner's second motion for summary disposition for lack of subject matter jurisdiction, stating that this motion is the reconsideration of the petitioner's first motion (motion for summary disposition on the grounds of comity) which is not true.

Trial Court Opinion and Order (Appendix G, OCCC ROA dated 12-4-2018): Petitioner obtained antisuit injunction from High Court of Madras, India, that was issued after hearing on both the parties and the parties are bound by Hindu Marriage Act/Law, directing the respondent to file her divorce petition in India. Trial Court in its order denied petitioners motion for summary disposition by overruling United States Federal Supreme Court's Precedent that supported to enforce petitioners High Court of Madras Issued antisuit injunction (Appendix K, L, M, N & O) on the grounds of comity.

JURISDICTION

Petitioner's motion for reconsideration to the Michigan Supreme Court was denied on September 8, 2021. Petitioner invokes this Court's jurisdiction under 28 U.S.C. § 1257(a), having timely filed this petition for a writ of certiorari within ninety days of the Michigan Supreme Courts order, under rule 13.1 and 29.2 of this court. But the court returned this petition to the petitioner on December 9, 2021, stating that the petition was not followed the format under rule 33.1 and requested petitioner to submit the petition within 60 days from the date of December 9, 2021. Petitioner filed this petition for a writ of certiorari within 60 days of the Michigan Supreme Court Order.

CONSTITUTIONAL PROVISIONS INVOLVED

U.S. Const. amend. I

> 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.

The First Amendment of the United States Constitution protects the right to freedom of religion and freedom of expression from government interference. It prohibits any laws that establish a national reli-

gion, impede the free exercise of religion, abridge the freedom of speech, infringe upon the freedom of the press, interfere with the right to peaceably assemble, or prohibit citizens from petitioning for a governmental redress of grievances. Furthermore, the Court has interpreted the Due Process Clause of the Fourteenth Amendment as protecting the rights in the First Amendment from interference by state governments.

According to the First Amendment to the U.S. Constitution, a government can neither restrict a resident's right to practice their religion nor force a resident to practice someone else's religion. The Michigan Courts intentionally/willingly/discriminatively prohibited petitioner who is a Hindu by religion wanted to follow Hindu Marriage Act-1955, (which is one of the precepts of Hindu religion to maintain the integrity of the Hindu Culture) for his divorce which is applicable to all Hindu's by Hindu Religion. Respondent's attorneys, Trial Court, MCOA, and MSC forced the parties to go through the American no-fault divorce.

U.S. Const. amend. XIV

> No state . . . shall deprive any person of life, liberty, or property, without due process of law; nor deny to any person within its jurisdiction the equal protection of the laws.

The Michigan courts, who has the authority to carry out the administration of Justice in civil matters in accordance with the rule of law, intentionally/ independently and willingly deprived petitioners life, liberty and property without any federal law and without any Michigan State law support, denied petitioner's motion to enforce Indian order under

comity and motion for lack of subject matter jurisdiction.

STATEMENT OF THE CASE

The parties, who were both born in India and are Indian Citizens, were married on November 26, 1997 in Chennai/Madras, India under Hindu law, by way of an arranged marriage. Both parties' respective families continue to reside in India. They do not have families in the U.S. The parties married in India pursuant to the Hindu religious customs and legal requirements of the Hindu Marriage Act, which is applicable to all Indian citizens of the Hindu faith. They remain bound by that law, which means the parties agreed that the Act has exclusive authority over the parties' marriage and issues related to it, including their divorce.

The parties' marriage was solemnized under the customary rights and ceremonies of the Hindu Marriage Act of 1955, specifically section 7(A) of the act. On December 15, 1997 the parties' marriage was registered, both the parties signed the marriage certificate. Two witnesses for petitioner (one of them is petitioner's mother) and two witnesses for respondent (one of them is respondent's father) also signed the marriage certificate which constitutes the parties marriage is binding under Hindu law.

The certificate of marriage was then registered with the Hindu Marriage Register and it was counter signed by the registrar of Hindu Marriage according to section 8(1) of the Hindu Marriage Act-1955, and

kept by Sub Registrar Office, Thiruvottiyur under Government of Tamil Nadu, India. Since the parties registered their marriage certificate with the appropriate Registrar, this provides conclusive proof of the marriage, giving a legal status to the parties' wedlock, strengthening the institution of marriage, and further demonstrating the parties' agreement to be bound by the Hindu Marriage Act-1955. Jurisdiction for hearing their Indian divorce is granted through Section 19 of the Act, because their marriage was held under sacred ceremony under the Hindu Culture. In this case, the jurisdiction is the Family Court in Madras, India, where the marriage was solemnized and the parties are domiciled in Madras, India.

Petitioner wanted respondent to honor her obligation under Hindu law and go through a Hindu divorce. Despite what respondent has asserted in prior pleadings, Hindu culture does not force a party to register under the Hindu Marriage Act. However, if the parties want the benefits of Hindu culture to solve their matrimonial disputes under Hindu law, then the party should register under Hindu pursuant to Section 8 of the act. Without the proof that the parties fall within the control of Hindu Law, the Indian court cannot interfere in the parties' marital disputes under Hindu Law.

Only the Hindus having permanent residence/ domiciled in India will be covered by the Hindu Marriages Act. The parties' primary residence is located in India at Old No. 126, New No. 20, New Market Street, Choolaimedu, Chennai. Petitioner identifies that his legal residency is in India, since 1994, and attests that respondent identified her legal residency to be in India. On the parties' wedding date

of November 26, 1997, the Choolaimedu house in Madras, India became the primary marital home for both the parties. The parties maintained bank account with Citibank in Madras for primary property maintenance. Additionally, both petitioner and respondent obtained a *Family Card* from the Government of Tamil Nadu Civil Supplies Corporation, India in 1998-2003 to get essential commodities in a reduced price whenever the parties return to their home in Madras. On 8-29-2018, at the Deposition, in the presence of petitioner's attorney and respondent's attorney, respondent identified the Choolaimedu house in Madras, India as her house, which shows her intent to maintain her domicile in India (MSC Brief, Docket#162388, Event #93, Attachment-5, Ex-25, deposition testimony, p.61a-62a).

Petitioner came to the United States for a faculty position at the University of Florida and obtained his permanent resident/green card in 1998. Following their marriage, respondent came to the U.S. on a dependent visa (H4) in July 1998 and obtained her permanent resident/green card through petitioner in 1999, and lived with petitioner in Florida, until they moved to Michigan in August 2000. In 2006, the parties purchased a secondary house in Farmington Hills, Michigan for employment purposes. Despite being eligible to become naturalized U.S. citizens, since 2003 the parties have maintained their Indian citizenship.

Once the parties have selected Hindu Marriage Act as their personal law, they cannot abdicate their binding obligations. Irretrievable breakdown of the marriage (no-fault divorce) is not one of the grounds recognized by the Act for dissolution of marriage. Hence, the decree of divorce passed by the foreign

court was on a ground unavailable under the Act. Clause (a) of section 13 of the Indian Penal Code states that "a foreign judgment shall not be recognized if it has not been pronounced by a court of competent jurisdiction". This clause should be interpreted to mean that only that court will be a court of competent jurisdiction which the Act or the law under which the parties are married recognizes as a court of competent jurisdiction to entertain the matrimonial dispute. Any other court should be held to be a court without jurisdiction unless both parties voluntarily and unconditionally subject themselves to the jurisdiction of that court.

Petitioner wanted respondent to participate in Indian divorce proceedings because; he could not consent to the no-fault divorce, as his marriage was created by a sacred ceremony under the Hindu Marriage Act, Section 7&8. Additionally, the parties will face heavy sanction if they violate the Hindu law under which they agreed to follow the Hindu Marriage Act for their marital disputes. Even if the no-fault divorce issued to the respondent, the parties are still married according to the Hindu Marriage Act, and if any one of the parties are married with the no-fault divorce-it is considered Bigamy, he or she will face 7 to 10 years prison time. At the moment petitioner cannot remarry, until this Honorable Court dismiss the respondent's no-fault divorce and direct the respondent to go through Indian Hindu divorce proceedings (Please see the open court argument transcript of petitioner's attorney at the trial court on 1-9-2019– Appendix I, p.54a-55a; MCOA Docket#349037, Event #13; OCCC ROA dated 4-26-2019).

If one of the party deviates from the Hindu Law and filed the divorce petition under no-fault divorce, the aggrieved party can bring the matter to the Indian court, which will take serious actions and impose heavy sanctions including non-bailable arrest warrant (Please see the open court argument on non-jury trial transcript at the trial court on 4-5-2019; MCOA docket #349037, Event #13; OCCC ROA dated 4-26-2019), until the party in violation will comply with the Hindu law for their divorce proceedings.

Respondent chose to file for no-fault divorce in Oakland County Circuit Court (OCCC), Michigan on 2-12-2018. So, petitioner brought respondent's violation of Hindu marriage Act-1955 before the Indian court at Madras. On 3-3-2018, petitioner filed a petition in India under Section 9 of the Hindu Marriage Act of 1955 for Restitution of Conjugal Rights in order to try for possible reconciliation. If reconciliation is not possible, then petitioner will move on to divorce proceedings in India. Petitioner also filed a petition in India to enjoin the divorce proceedings in the Oakland County Circuit Court on the basis that India had proper jurisdiction to hear the divorce pursuant to the Hindu Marriage Act-1955.

Petitioner filed petition at the High Court of Judicature at Madras, India (the equivalent of the Supreme Court in Michigan) on 4-6-2018, for an anti-suit injunction prohibiting respondent from continuing the Oakland County Circuit Court litigation. On 4-16-2018, the High Court issued an interim injunction restraining respondent and her attorney Keri Middleditch from further proceedings in this case or any case other than the one in India, and sent notice.

Respondent and her current Michigan Council acknowledged service of the petition on 4-19-2018.

As Indian Nationals, respondent clearly acknowledged this fact by hiring a lawyer in Madras, to represent her with respect to petitioner's petition. Respondent's Indian attorney participated in the court hearing on 4-27-2018 and 6-21-2018. On 7-12-2018 the High Court of Judicature at Madras (India) issued a final anti-suit injunction or in the Language of the injunction, "absolute" after a hearing on the merits of both the parties, which prohibited respondent from continuing any legal proceedings in the Oakland County Circuit Court case and requesting her to file the divorce proceedings in India as she is agreed to bound by Hindu Law (Appendix K, L, M, N &O).

I First Summary Disposition

Petitioner filed his first motion for summary disposition pursuant to MCR 2.116(C)(10) (Brief & Motion, OCCC, ROA dated 9-5-2018) in the trial court to enforce the final antisuit injunction order (The order that was issued by the High Court of Madras, India is based on the parties are Hindu Religion and based on the parties agreement to follow Hindu Law for their marital disputes including divorce) under principles of international comity. Petitioner requested the trial court to dismiss the case in its entirety and direct the respondent to file her divorce petition in India, since she agree to bound by the Indian Hindu Marriage Act by signing her marriage certificate and registering it in the Hindu Register of Government of Tamil Nadu. The trial court refused to honor this order under comity. Petitioner argued that the issuance of the restraining order from the High Court of Madras, India satisfied the United States Federal

Supreme Court's rules of comity (*Hilton v. Guyot* 159 U.S. 113, 164-164; 16 S.Ct. 139; 40 L.Ed. 95 (1895). Petitioner pointed out the Michigan Supreme Court cases (*Dart v. Dart*) and other Court of Appeals cases that followed rules of comity for enforcing foreign orders/judgments. During oral argument petitioner stated the court that Indian Law controls parties' marriage and divorce (Appendix O). But, trial court overruled *Hilton v. Guyot* (the precedent that was followed historically in the entire USA) and prohibited petitioners religious practice of Hindu Law. OCCC independently without any law support denied the petitioner's enforcement of Indian court's final anti-suit injunction.

II Second Summary Disposition

Petitioner filed a second motion for summary disposition to dismiss the case, in its entirety for lack of subject matter jurisdiction pursuant to MCR 2.116(C)(4) on 2-20-2019 (Motion & Brief, OCCC, ROA dated 2-18-2019 & 2-20-2019). Petitioner argued that both parties failed to meet the mandatory 180-day residency requirement laid out in MCL 552.9 since both parties were domiciled in India and had intent to return to their residence in India. A praecipe was submitted for motion hearing on 2-27-2019. But on 3-4-2019 the court did not issue a scheduling order and instead issued the order (Appendix F) denying petitioner's motion for lack of subject matter jurisdiction. The court intentionally/willingly lied that it was denying the motion without a hearing and oral argument because, it is a reconsideration of the previously filed summary disposition.

On 10-24-2018, during the oral argument on the First Summary Disposition, petitioners' then attorney

Amy Spilman, in the open court, clearly stated that the motion filed is to enforce the antisuit injunction under comity only, but not contesting jurisdiction on this motion. Please see the oral argument statement below:

> "The parties are the citizens of–are citizens of India and of the Hindu faith. They've maintained their legal cultural, familial and financial ties to their country of origin, despite having lived in the United States for a number of years. The issue here is comity. It's not jurisdiction, it's whether the court should order that the Indian order that was issued should be granted comity. So, I'm not contesting the jurisdiction of the court. (Appendix J, Transcript October 24, 2019, p.62a).

Meaning, if the trial court refuses to enforce the High Court of Madras issued anti suit injunction order under doctrine of international comity, petitioner's next aim is to file a second motion to dismiss the case for lack of subject matter jurisdiction. Petitioner resubmitted revised motion for summary disposition for lack of subject matter jurisdiction (Motion & Brief, OCCC, ROA dated 3-6-2019). Even though petitioner clearly told the court that this was not a motion for reconsideration of the previous summary disposition, the trial court intentionally/willingly/independently denied petitioner's motion without indicating a reason for denial and without hearing and oral argument. The denial order was issued on 3-13-2019 (OCCC, ROA dated 3-14-2019).

Petitioner appealed as a appeal of right on 6-12-2019, but the Court of Appeals also overruled both

Federal court and State court precedent that supported petitioners" appeal. The Court of Appeals, in its opinion, admitted that both the parties did not meet the 180 days statutory residential requirements and indicated that the trial court jurisdiction of the court is purely statutory in accord with MCL 552.9, it cannot be conferred on the court by consent of the parties, but did not reverse the trial court's denial of Petitioner's summary disposition. Petitioner appealed at MSC on 12-22-2020, but the court stated that they are not persuaded that the questions presented should be reviewed by this Court.

ARGUMENT

A. MICHIGAN COURTS VIOLATED PETITIONER'S FIRST AMENDMENT RIGHTS TO FREE EXERCISE OF RELIGION.

MSC & MCOA forcing petitioner to go through American no-fault divorce is unconstitutional as applied to the Hindu Religion because it violated petitioners' First Amendment right to free exercise of religion.

Petitioner in his trial brief (Brief & Motion, OCCC, ROA dated 9-5-2018) and appeal brief (MSC Docket #162388, Event #93; MCOA Docket #349037, Event #39) clearly stated that despite having lived in the United States for a number of years, the parties to this matter have steadfastly maintained their Indian citizenship as well as strong familial, cultural and financial ties to their country of origin. In accordance with long-held cultural traditions, the parties were married pursuant to the customs and legal require-

ments of the Hindu Marriage Act which is applicable to all Indian citizens of the Hindu faith; as Indian citizens, the parties remain bound by it. In fact, the High Court of Judicature at Madras has issued an absolute (final) anti-suit injunction barring respondent from proceeding with this case on this basis. Principles of comity require that this Court should not allow her to ignore that injunction. Because the Indian law is structured around the precepts of the Hindu religion, and therefore has a profound cultural basis, it provides a more appropriate legal setting to resolve the parties' legal dispute and divorce.

Respondent's attorneys and Trial Court completely prohibited the petitioner's request to follow his Hindu Religion to file for his divorce. But intentionally encouraged respondent to move forward her to follow American no-fault divorce in the state of Michigan. When Petitioner brought this information to MCOA, the court simply prohibited petitioner's request to follow his Hindu Law and upheld the trial court's ruling on American no-fault divorce. Respondent's attorneys without any legal precedent's support, simply made an oral statement that the respondent is not seeking divorce under Hindu Law. The MSC and MCOA committed "clear error" and violated petitioners First Amendment rights to free exercise of religion, when it mischaracterized evidence presented as to petitioner filing a petition for dissolution of the marriage in India. On p.10a of the opinion the Court stated:

> "We reject defendant's last jurisdictional argument that since the parties' marriage was solemnized under the Hindu marriage act of 1955, the Indian court had exclusive jurisdiction over any dissolution. The cited

> reference to the act presented by the defendant addresses "petitions under this act," This defendant did not petition for dissolution in India" (Appendix C, unpublished opinion, p.10a).

The Michigan Court of Appeal's assertion that petitioner did not petition the Indian Court for dissolution of the marriage is just plain wrong and unacceptable, especially in light of the following exchange that took place between Judge and respondent's attorney (Ms. Lichterman) during open court oral argument at MCOA where the Court seemed to agree that the parties divorce should be adjudicated in India because their marriage was registered under Hindu Law (MCOA docket #359037, Event #80 oral argument audio; *see* attachment 37 from MSC Appeal Brief-MCOA Oral Argument Transcript).

> JUDGE REDFORD: As your understanding of the law in India, is a no-fault divorce even available?
>
> MS. LICHTERMAN: Again, I am not–I don't purport to be an Indian lawyer, but my understanding is that it-there is not no–fault. And that was one of the reasons that the appellant was arguing it should be in India 'cause he didn't agree to no-fault, and–
>
> JUDGE STEPHENS: Did–
>
> MS. LICHTERMAN:–to the contrary, there's–I'm sorry.
>
> JUDGE STEPHENS: There's actually a special law regarding Hindi marriages, as opposed to register marriages. And because this was

> a Hindi marriage, it had to be adjudicated according to the Hindi canon, which does not include default. Why do I know this? Three other cases between India and Michigan.

JUDGE REDFORD: Gotcha.

This Honorable Federal Supreme Court should note that during the MCOA oral argument, the respondent's attorney did not produce any caselaws to support respondent's divorce action to be held in the State of Michigan. Attorney presented only fact statement. Whereas, petitioners attorney presented both Federal and State caselaws to support petitioner (Please *see* MCOA Docket #359037, Event #80 oral argument audio).

Michigan courts should not be wrongfully exercising jurisdiction over marriages, which have been duly registered under Hindu Law, especially where anti suit injunctions from India have been properly ordered after due process has been given.

The process for obtaining a divorce in India requires the parties to file a mandatory petition for restoration of conjugal rights in the absence of abuse in the family. The petition for restoration provides a process for exploring the possibility of reconciliation that, admittedly, does not exist in the Michigan divorce process.

The Sec 23(2) of the Hindu Marriage Act states that,

> "before proceeding to grant any relief (divorce) under this Act, it shall be the duty of the court in the first instance, in every case, where it is possible so do to consistently

> with the nature and circumstance of the case, to make every endeavor to bring about a reconciliation between the parties."

Further Section 23 (3) Hindu Marriage Act explains that,

> "if the parties so desire or if the Court thinks it just and proper so to do adjourn the proceedings for a reasonable period not exceeding fifteen days." After 15 days if the reconciliation is not successful, then the party can enter into divorce proceedings."

It hardly offends the conscience for the proceedings to be paused for a maximum 15-day period; indeed, MCL 552.9 imposes a 60-day waiting period for cases without minor children and six months in cases with minor children, "so that the parties have time to consider their responsibilities to their children and consider reconciliation." *Hood v. Hood*, 154 Mich App 430, 436; 397 N.W.2d 557 (1986). The only thing Indian law arguably "forces" is that an effort be made to preserve the marriage. Indian law strongly favors preservation of the marriage, but it does not prohibit divorce. Allowing the Indian process to proceed would not have deprived respondent of the ability to divorce even in India. Due to respondent's refusal to further participate in proceedings in the High Court of Madras, the divorce could not be litigated and, therefore, a judgment of divorce could not be obtained. The above exchange is a strong proof that Michigan Courts violated petitioner's First Amendment rights by refusing to allow the parties who is Hindu by religion, to get divorce under Hindu Marriage Act.

Additionally, respondent's attorneys insulted more than 2000 years old Hindu Culture as (1) the petitioner is forum shopping and (2) petitioner asking the Indian court to order sex with the respondent, and the Trial Court and the MCOA erroneously supported respondent's attorneys to deny petitioners motion/appeal, as a result the court violated petitioners' First Amendment rights of free exercise clause of religion.

Petitioner obtained the antisuit injunction from the High Court of Madras, India after hearing on the Merits of the both the parties, the High Court of Madras issued anti suit injunction that meets the United States Federal Courts requirements to enforce the order under comity in the State of Michigan. But, Trial Court in its order, instead of following the Federal Law on comity, insulted/discriminated petitioner's enforcement of antisuit injunction and stated as follows:

> The Court notes that Husband obtained the Injunction after Wife filed the Complaint and that it appears that Husband is merely endeavoring to forum shop because, unlike Wife, he wants to reconcile (Appendix G, p.44a).

Additionally, Respondent and her Michigan counsel inflame the passions of the court of appeals by misleading the Court with regard to the conjugal right petitions filed in India by the petitioner. Both the Michigan Trial Court and respondent's Michigan Counsel have attempted to portray petitioner as a villain by intimating that, due to the fact that he filed a conjugal rights petition in India, he is some kind of a rapist who wanted the court to force respondent to have sex with him. The Michigan trial court committed clear error when it misinterpreted

and misconstrued petitioner's response to respondent's counsel's question regarding why he filed a petition to restore his conjugal rights in India. Specifically, the following exchange took place: Obviously the Michigan Trial Court in Michigan insulted the 2000 year old Indian Hindu culture.

> Respondent's (Vijayalakshmi Thamilselvan) Michigan ATTORNEY: Were you ordering the Indian court to have my client come back and live with you and sleep with you or have sex with you?
>
> Petitioner (Thamilselvan Sivagnanam): As a family, yes.
>
> COURT: So you–
>
> Petitioner (Thamilselvan Sivagnanam): As a family member, as a wife.

(*See* Appendix H, trial transcript dated 2-11-2019, p.51a)

From that exchange the trial court, in its Opinion and Order Following Trial, concluded that, "He stated affirmatively that he wants the Indian court to order Wife to live with him, sleep with him, and have sex with him." (Appendix D, Opinion and Order Following Trial, p.30a). However, the court took his statements out of context and it completely ignored what petitioner testified to immediately before that. Specifically, the testimony was as follows:

> Respondent's (Vijayalakshmi Thamilselvan's) Michigan ATTORNEY: Okay. <u>What are conjugal rights, Siva</u>?

> Petitioner (Thamilselvan Sivagnanam): To come and stay with me at the house as a family.
>
> Respondent's (Vijayalakshmi Thamilselvan's) Michigan ATTORNEY: Does that mean that– you are familiar with what the common definition here in this country is of conjugal rights?
>
> Petitioner (Thamilselvan Sivagnanam): No.
>
> Respondent's (Vijayalakshmi Thamilselvan's) Michigan ATTORNEY: Do you have any reason to dispute that here it means the sexual rights or privileges conferred upon spouses in marriage, do you have any reason to dispute that?
>
> Petitioner (Thamilselvan Sivagnanam): (Undecipherable)–that point yeah.

(Appendix H, trial transcript dated 2-11-2019, p.51a)

The respondent's attorneys and the trial courts' sexual insult to the more than 2000 years old Hindu Culture was brought to the attention of MCOA during the open court oral argument, but the MCOA simply ignored it (oral argument audio at MCOA docket #349037, Event #80; Pl *see* attachment 37 from MSC Appeal Brief–MCOA Oral Argument Transcript). In the instant case, the parties' marriage is considered as a sacrament in Hinduism and not a social contract, unlike Christianity or Islam. Although the marriage is held to be divine, the Hindu marriage act-1955 does permit either party to divorce on the grounds of unhappiness. Both MCOA and Trial Court engaged in an egregious discrimination against petitioner and prohibiting to allow him to file his

divorce petition under Hindu Law and forced him to go through American no-fault divorce. The petitioner claims that the parties divorce in the State of Michigan was unconstitutional because, Michigan States No-Fault divorce order abridged petitioner's right to the free exercise of his Hindu religion in violation of the First Amendment made applicable to the states by the Fourteenth Amendment. The petitioner is thus compounded by the religious discrimination.

B. MICHIGAN COURTS OVERRULED SCOTUS PRECEDENT AND STATE COURT'S PRECEDENTS THAT SUPPORTED PETITIONERS PETITION TO DISMISS THE RESPONDENTS DIVORCE PROCEEDINGS/JUDGMENTS ON THE GROUNDS OF COMITY AND LACK OF SUBJECT MATTER JURISDICTION.

i Comity

In the instant case, the respondent attorneys distorted/deformed the *Hilton v. Guyot* 159 U.S. 113, 164-164; 16 S.Ct. 139; 40 Led 95 (1895) that supported petitioners summary disposition and the trial court, who has the authority to enforce the rules of law erroneously supported respondent attorneys and affirmed the distorted united states supreme court precedent and used in favor of respondent to deny petitioners' motion to dismiss the respondent's case on the grounds of comity. The MCOA also overruled the SCOTUS precedent.

The following statement is the cut-out piece of the full paragraph from the respondents' attorney and trial court:

> "Comity," in the legal sense, is neither a matter of absolute obligation, on the one hand,

> nor of mere courtesy and good will, upon the other". (Appendix G, p.42a).

But the original full paragraph statement of Hilton and Guyot that supported petitioner's summary disposition is as follows:

> "The U.S. Supreme Court in *Hilton v. Guyot* said that "Comity," in the legal sense, is neither a matter of absolute obligation, on the one hand, nor of mere courtesy and good will, upon the other. But it is the recognition which one nation allows within its territory to the legislative, executive or judicial acts of another nation, having due regard both to international duty and convenience, and to the rights of its own citizens or of other persons who are under the protection of its laws."

Hilton further defines comity as follows:

> [W]here there has been opportunity for a full and fair trial abroad before a court of competent jurisdiction, conducting the trial upon regular proceedings, after due citation or voluntary appearance of the Defendant-Appellant, and under a system of jurisprudence likely to secure an impartial administration of justice between the citizens of its own country and those of other countries, and there is nothing to show either prejudice and the court, or in the system of laws under which it was sitting, or fraud in procuring the judgment, or any other special reason why the comity of this nation should not allow it full effect, the merits of the case should not,

> in an action brought in this country upon the judgment, be tried afresh, as on a new trial or an appeal, upon the mere assertion of the party that the judgment was erroneous in law or in fact. *Id.*, at 202-203.

According to the above United States Federal Supreme Court Precedent, there are three factors a court should consider in determining whether a foreign judgments/orders including restraining orders should be accorded comity: (1) whether the basic rudiments of due process were followed, (2) whether the parties were present in court, and (3) whether a hearing on the merits was held. [*Dart v. Dart*, 224 Mich App 146 (1997); *Dart v. Dart*, 597 N.W.2d 82 459 Mich. 573 (1999); *Growe v. Growe,* 2 Mich App 25, 33; 138 N.W.2d 537 (1965); *Bang v. Park,* 116 Mich App 34, 38-39; 321 N.W.2d 831 (1982); *Gaudreau v. Kelly,* 298 Mich App 148; 826 N.W.2d 164 (2012)]. Petitioner's anti-suit injunction issued by the Madras High Court followed the factors that the Federal court considers for comity and should, therefore, be accorded comity and should be enforced in the Michigan courts. Petitioner in his appeal reported the above incident to the Michigan Court of Appeals (MCOA docket #349037, Event #39). But MCOA overruled Federal Supreme Court Precedent (*Hilton v. Guyot*, 1892) and independently/willingly/intentionally denied petitioner's appeal. MCOA ruled as follows:

> In *Dart*, the wife filed for divorce in Michigan four days after the husband had filed for divorce in England. 224 Mich App at 148. After the English court entered a judgment of divorce, the husband moved for a stay of the Michigan proceedings and enforcement

> of the English order under the doctrine of comity. *Id.* at 149-150. This Court reversed the trial court and granted the husband relief where it found the requirements of due process were complied with in the English court proceedings. *Id.* at 151-155. Defendant's case is not like *Dart*. A divorce proceeding was never filed in India and the parties were not granted a divorce in India thus, there is no final judgment of divorce to enforce. (Appendix C, p.14a).

The above statement from the MCOA is an act of independent ruling, refusing to follow the law on comity. MCOA who is an authority to enforce the law simply abandons/overruled the Supreme Court precedent (*Hilton v. Guyot*, 1895) that was followed historically in the state of Michigan to enforce the order/judgment on the grounds of comity, and denied petitioner's petition independently. This is obviously a discrimination against petitioner who is an Indian Citizen with Hindu Faith.

In fact *Dart v. Dart* supported petitioner's application to enforce the antisuit injunction on the grounds of comity. Upon careful review of *Dart*, it should be understood that the Dart's property distribution order was enforced not based on who filed first and not based solely on the fact that Defendant father was seeking to enforce a foreign judgment of divorce. The COA, MI only looked at whether the Federal Comity rules were followed in the issuance of an English order. In making their decision to apply the law of comity and uphold an English divorce judgment in Michigan, the Michigan Supreme Court in *Dart* cited

the case of *Hilton v. Guyot*, 159 U.S. 113; 16 S.Ct. 139; 40 Led 95 (1895) as the seminal case concerning comity.

In *Dart v. Dart* case (1999), Regardless the type of order, both MCOA and MSC reviewed whether the Dart's judgment was followed United States Federal law precedent (*Hilton v. Guyot*) on comity. To apply comity in *Dart* case, the court cited *Growe v. Growe* in which the non divorce order was enforced under comity. When petitioner reviewing the MCOA's opinion of *Dart v. Dart*, it was very clearly stated that the Dart's divorce order was enforced under comity citing the case law of *Growe v. Growe,* 2 Mich App 25, 33; 138 N.W.2d 537 (1965), because the basic rudiments of due process was followed and not because it is a divorce order.

Both MCOA and Michigan Supreme Court, to enforce the judgment of divorce in *Dart*, they extensively cited *Growe v. Growe* case law, in which the order does not involve the judgment of divorce that was enforced through comity. It should be noted that *Growe*, *supra*, did not involve a judgment of divorce, it involved a judgment for alimony, which was permissible under Ontario law. In Ontario, at that time, one could file for a judgment of alimony without a judgment of divorce. This fact is in opposition to Court of Appeals assertion, that in order to invoke the rule of comity in a divorce, it is necessary to obtain a judgment of divorce. This simply is not the case, as illustrated by *Growe cited in Dart v. Dart supra*.

Petitioner is now raising the question here: If *Dart* divorce case was enforced under comity by citing *Growe v. Growe* in which the judgment is a non divorce order, why not petitioner's non divorce order

cannot be enforced citing *Dart v. Dart* in which the judgment is a divorce order. Both in *Thamilselvan v. Thamilselvan* and in *Dart v. Dart*, the basic rudiments of due process were followed to obtain the order.

To deny petitioner's appeal on comity, the respondent attorneys and the MCOA intentionally/ willingly stated as follows:

> "The rule of comity is not allowed to operate when it will contravene the rights of a citizen of the State where the action is brought." *Keehn v. Rogers*, 311 Mich 416, 425 (1945) and *Kircher v. Kircher*, 288 Mich 669, 671 (1939) (Appendix C, Unpublished Opinion, p.12a)
>
> Further MCOA stated that "the trial court here rightly asserted its discretion of whether or not to enforce that injunction because enforcement would infringe upon Plaintiff's legal right to obtain a divorce in the state of Michigan." (Appendix C, Unpublished Opinion, p.13a)

The above statement is again intentional misinterpretation from MCOA-An act of independent rule. MCOA throwing petitioner out of the court even if his request is legally sounds strong. What MCOA saying is that, the respondent is a citizen of Michigan State and so the rules of comity are not allowed to operate against her. However, petitioner points out that the respondent is not a citizen of Michigan State. Both parties are citizens of India and the citizens of the State of Madras in India. The case law of United States Supreme Court clearly states (*Gilbert v. David*, 235 U.S. 561 (1915) (35 S.Ct. 164); *Kantor*

v. Wellesley Galleries, Ltd., 704 F.2d 1088 (9th Cir. 1983) that to become a citizen of the state, that person should be a citizen of United States and also be domiciled in the state (*i.e.* Michigan), otherwise they are not considered as a citizen of Michigan. Now petitioner is questioning, why MCOA who is the authority to enforce the law honestly, lying in its opinion that the respondent is citizen of Michigan State.

ii Subject Matter Jurisdiction

The United States Caselaw (*Matter of Newcomb,* 192 N.Y. 238; *vide* 250, 251. described the domicile as follows:

> "As domicile and residence are usually in the same place, they are frequently used, even in our statutes, as if they had the same meaning, but they are not identical terms, for a person may have two places of residence, as in the city and country, but only one domicile."

Leader court in Michigan (*Leader v. Leader* 251 N.W.2d 288, 290, 73 Mich. App. 276, 28 (1977) states that:

> "Domicile is the union of residence and intention, and residence without intention, or intention without residence, is of no avail. Mere change of residence, although continued for a long time, [emphasis added] does not effect a change of domicile. In 25 AM. JUR. 2d, Domicile, § 4, pp. 7-8; 6A *Dunnell,* Dig. (3d ed.) § 2816; *In re Estate of Smith*, 242 Minn. 85, 64 N.W.2d 129 (1954), Moreover, a domicile, once shown to exist, is

> presumed to continue until the contrary is shown. *See*, *Lusk v. Belote*, 22 Minn. 468 (1876)" The change of a person's domicile is considered a serious matter. A domicile once acquired continues until a new one is perfected by the concurrence of three essential elements: (1) a definite abandonment of the former domicile [emphasis added]; (2) actual removal to, and physical presence in the new domicile; (3) a bona fide intention to change and to remain in the new domicile permanently or indefinitely (*Julson v. Julson*, 255 Iowa 301, 122 N.W.2d 329 (1963), as cited in *Leader* at 283, Footnote 3"

Leader case law states that the trial court should determine the two jurisdictional prerequisites necessary to maintain the parties' action for divorce. (1). One of the parties should be resided in the Michigan state for 180 days immediately preceding the filing of the complaint. If this fails, (2) trial court can uphold the finding that the parties primary resident/domicile for purposes of jurisdiction for divorce, based on the following *Leader's* legal analysis.

According to the *Leader* Court Law above, the Thamilselvan parties (petitioner and respondent) in the instant case, their former resident is in Madras, India. Thamilselvans have permanent house/domicile/ intent to remain is in Madras, India before coming to Michigan for employment commitment and maintained as a primary domicile as of today. Thamilselvan parties bought a second house in Michigan however they did not abandon their former domicile/house/resident in Madras, India. Buying a home in Michigan and paying mandatory taxes does not necessarily

show that the parties intended to abandon their former domicile in Madras, India. According to *Leader v. Leader*, the jurisdiction for divorce is in Madras, India that is former domicile. The first *Leader* Court's legal prerequisite failed because Thamilselvan party did not meet the 180 days jurisdictional requirements. According to the *Leader* Court's second legal prerequisite, the parties are domiciled in Madras, India. But Court of Appeals acted independently and refused to follow Michigan *Leader* Court's Law that supported petitioner's application to move his case to Madras, India.

To hold respondent's divorce judgment in the State of Michigan MCOA wrongly/independently/willingly, without any case law support makes the oral/fact statement as follows:

1. The parties had lived in Michigan for over 18 years, having moved here from Florida in August 2000, with their one-month old daughter.
2. The parties obtained continuous employment in Michigan from 2000 forward.
3. The parties' daughter was born in the United States and educated in Michigan.
4. The parties purchased the marital home in Farmington Hills in 2006 and also purchased an investment property in Detroit.
5. They paid Michigan resident income taxes each year

(unpublished opinion, Appendix C, p.9a).

The MCOA's above statement is only the fact statement that is not supported with existing Michigan or any other U.S. Supreme Court Case Law. Petitioner is questioning "Where is the Michigan Law Support? MCOA who has the authority to enforce the rules of law and has the authority to analyze whether the existing Michigan law to support the respondent's fact statement, intentionally/independently saying that Michigan law support is not required, but only fact statement of the respondent is enough to get divorced in Michigan. Now petitioner is questioning? –Why MCOA did not consider petitioner's fact statement? Why MCOA throwing out petitioner's fact statement that was even *supported with Michigan caselaw Precedent.* If law is not required, how Michigan people will seek justice from the court. Where is the justice and, where is the law?

To Support Respondent's Fact Statement, MCOA is even cunningly /intentionally/ discriminatively point out only the fact statement of two previous Michigan cases [*Leader v. Leader* 251 N.W.2d 288, 290, 73 Mich.App. 276, 28 (1977); *Berger v. Berger*, 277 Mich App 700, 702; 747 N.W.2d 336 (2008)] and hid the law that was supported the fact statement of *Leader* and *Berger*.

First we will see how MCOA point out the fact statement and how smartly hiding the law that was supported the fact statement in the *Teresa M. Leader* case (Pl. *see* MCOA docket #349037, Event #101 & 103).

> MCOA states: "On another occasion, this Court held that the plaintiff had satisfied the 180–day state residency requirement of MCL 552.9(1) despite a four-month absence

> from Michigan where the plaintiff had shown an intent that her residence remained in Michigan. *Leader*, 73 Mich App at 280." (Appendix C, Opinion, p.8a-9a)

The above statement is the facts of plaintiff-Teresa M. Leader. These are not the law. The court in Leader carefully analyzed the above Plaintiff-Teresa M. Leader's facts, whether the fact is supported by the existing caselaw precedent from the state of Minnesota, Iowa and Kentucky. The *Leader* court found that the existing legal analysis supports plaintiff-Leader's facts and ruled that divorce jurisdiction is in Michigan and not in Kentucky. According to the *Leader* Court's legal analysis, plaintiff-Teresa M. Leader's first/domicile/intent to remain/primary house was in Michigan. She temporarily moved to her second house in Kentucky for four month however as stated in *Leader* law analysis, plaintiff-Teresa M. Leader did not abandon her primary/former Michigan house. Therefore court ruled that the law is perfectly fits with the fact statement of Teresa M. Leader and so divorce should be held in Michigan.

MCOA intentionally hid this *Leader* Courts' legal analysis and pointed out only the fact statement of Teresa M. Leader to support fact statement of Respondent-Thamilselvan. If we apply the same legal analysis in Respondent's facts, the *Leader* court identify Respondent's jurisdiction for divorce is in Madras, India because their former domicile is in Madras, India. The Thamilselvan-party did not abandon former Madras resident/domicile.

Now, we will see the *Berger v. Berger* case law that MCOA citing to support respondent:

> The MCOA states: In *Berger v. Berger*, this Court held that MCL 552.9(1) did not require a plaintiff's continuing physical presence. 277 Mich App at 703. The Court held that once the plaintiff had shown an established residency and intent to remain, a temporary absence from the jurisdiction had not divested the court of jurisdiction. (Appendix C, Opinion, p.8a)

The above statement that was pointed out by the MCOA is the fact statement of Kristen Berger–plaintiff. MCOA hid the law that supported above fact statements of Kristen Berger. Please *see* the *Berger* Court's legal analysis below. The Court of Appeals in *Berger* (MCOA docket #349037, Event #101 & 103) applied the following two important principles/law of *Leader v. Leader*.

> "*First*, determining residence or domicile requires a multi-factor analysis, but the preeminent factor is the person's intent. *Second*, an established domicile is not destroyed by a temporary absence where the person has no intention of changing his/her domicile. *Berger* Court Legal analysis states: First principle in finding that plaintiff established Jackson County as her residence on December 16, 2005. The court applied the second principle in finding that plaintiff "resided in the county in which the complaint is filed for 10 days immediately preceding the filing of the complaint" even if plaintiff slept one night in her Ann Arbor apartment during that 10-day period." (MCOA docket #349037, Event #101 & 103)

Indeed these two *Leader* Court's law principles are supporting the plaintiff-Kristen Berger's facts/statements. So her domicile jurisdiction is remains in Jackson County in Michigan.

If applying the *Leader* principle in *Berger v. Berger*, the first principle of *Leader* to *Thamilselvan*, it is clear that the parties established Madras, India as their residence with no intention to permanently reside elsewhere. In applying the second principle of *Leader*, the established domicile/residence in Madras, India was not destroyed by a temporary absence for employment in Michigan, with no intention of changing their primary domicile in Madras, India. Therefore, *Berger* indeed supports petitioner's position that the MCOA should've granted petitioner's request to move his divorce case to Madras, India.

Indeed, MCOA did not produce "Legal Analysis" to support respondent's fact statement to hold jurisdiction /domicile in Michigan as did in *Leader* and *Berger* Court. Further, the Smith Court (*Smith v. Smith*, 218 Mich App 727, 729; 555 N.W.2d 271 (1996) states that if the trial court did not have jurisdiction to hear the case, it did not have authority to enforce associated support matters.

REASONS FOR GRANTING THE PETITION

The issues are National Interest. This Honorable Court should take immediate action because, Michigan Courts independently denied petitioner's appeal and absolutely did not (zero percent) follow the law of the United States that supported petitioners following three claims: 1. The Michigan Court prohibited petitioner's right to the free exercise of his religion, in violation of the First Amendment, made applicable to the states by the Fourteenth Amendment. MCOA overruled both Federal Supreme Court and Michigan State Supreme Court and caselaws of MCOA precedent that supported petitioners claim (2) on the enforcement of Indian antisuit injunction under comity, and (3) to dismiss the respondent's case based on lack of subject matter jurisdiction. This act of Michigan courts is not only harming the petitioner, if not prevented, will also be continued against the people of the Michigan State who are lawfully seeking justice, in the State of Michigan.

The picture of vertical "stare decisis," in which the court issues formal precedents that lower courts are absolutely obliged to follow–and absolutely may not overrule. The federal supreme court further affirm that if state courts were permitted to disregard this Court's rulings on federal law, "the laws, the treaties, and the constitution of the United States would be different in different states, and might, perhaps, never have precisely the same construction, obligation, or efficacy, in any two states. The public mischiefs that would attend such a state of things would be truly deplorable." (*Bosse v. Oklahoma*, 137 S.Ct. 1, 196 L.Ed.

2d 1 (2016); *James v. City of Boise*, 577 U.S. 306, 136 S.Ct. 685, 193 L.Ed.2d 694 (2016).

In Sherbert v. Verner (1963), Appellant, a member of the Seventh-Day Adventist Church, was discharged by her South Carolina employer because she would not work on Saturday, the Sabbath Day of her faith-one of the precepts of her religion to maintain the integrity of the Seventh-Day Adventist religion. Because the appellant refuses to accept available jobs which would require her to work on Saturdays, South Carolina has declined to pay unemployment compensation benefits to her.

This honorable Supreme Court, states that the South Carolina statute abridged appellant's right to the free exercise of her religion, in violation of the First Amendment, made applicable to the states by the Fourteenth Amendment.

In *Church of the Lukumi Babalu Aye, Inc, v. City of Hialeah* (1993), the Petitioner church and its congregants practice the Afro-Caribbean-based Santeria religion employs animal sacrifice as one of its principal forms of devotion to maintain the integrity of Santeria religion. The city council in Florida undertook legislative action and declared to oppose the ritual sacrifices of animals" within Hialeah, and announced that any person or organization practicing animal sacrifice "will be prosecuted." This Honorable Supreme Court states that, When a law discriminates against religion as such, as do the ordinances in this case, it automatically will fail strict scrutiny under *Sherbert v. Verner*, 374 U.S. 398, 402-403, 407. This is true because a law that targets religious practice for disfavored treatment both burdens the free exercise of

religion and, by definition, is not precisely tailored to a compelling governmental interest.

In *Wisconsin v. Yoder (1972)*, members of the Old Order Amish religion and the Conservative Amish Mennonite Church, were convicted of violating Wisconsin's compulsory school-attendance law (which requires a child's school attendance until age 16) by declining to send their children to public or private school after they had graduated from the eighth grade. The evidence showed that the Amish provide continuing informal vocational education to their children designed to prepare them for life in the rural Amish community. The evidence also showed that respondents sincerely believed that high school attendance was contrary to the Amish religion and way of life and that they would endanger their own salvation and that of their children by complying with the law. The respondents' claim that application of the compulsory school-attendance law to them violated their rights under the Free Exercise Clause of the First Amendment, made applicable to the States by the Fourteenth Amendment. This Honorable Supreme Court affirmed and stated that the State's requirement of compulsory school attendance until age 16 was in irreconcilable conflict with the religious beliefs of the Amish defendants.

Similar to the above religion, *i.e.* (1) Seventh-Day Adventist religion, (2)Afro-Caribbean-based Santeria religion, and (3) Old Order Amish religion, in the instant case Hindus also practicing Hindu Law for the integrity of Hindu culture. The Michigan Courts prohibited Thamilselvan parties from filing divorce under Hindu Marriage Act, (one of the precepts of Hindu religion, to maintain the integrity of the Hindu

culture (MSC Appeal Brief, MSC Docket #162388, Event #93 Attachment-3, Ex-4-Hindu Marriage Act-1955), which is a violation of the petitioners' First Amendment right to free exercise of religion, made applicable to the states by the Fourteenth Amendment. This Honorable Court can reverse/vacate Michigan Courts' opinion pursuant to above three SCOTUS precedents.

Similarly, the Idaho Supreme court in *James v. City of Boise (2016)*, overruled Federal supreme court precedent *Hughes v. Rowe,* 449 U.S. 5, 101 S.Ct. 173, 66 L.Ed.2d 163 (1980) that states that "To permit a prevailing defendant in such a suit to recover fees only if "the plaintiff's action was frivolous, unreasonable, or without foundation," and awarded attorney's fees to a prevailing defendant without first determining that the plaintiff's action was frivolous, unreasonable, or without foundation. The SCOTUS vacated the judgment of Idaho Supreme Court because of overruling *Hughes v. Rowe, Supra.*

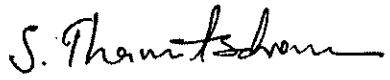
Next, the Oklahoma Court of Criminal Appeals in *Bosse v. Oklahoma (2016)*, overruled federal supreme court precedent (*Booth v. Maryland,* 482 U.S. 496, 107 S.Ct. 2529, 96 L.Ed.2d 440 (1987). That states that "the Eighth Amendment prohibits a capital sentencing jury from considering victim impact evidence" and admitting the opinions of the victim's family members about the appropriate sentence in a capital case. The federal supreme court vacated the judgment of the Oklahoma Court of Criminal Appeals and states that the Oklahoma Court of Criminal Appeals remains bound by the federal court precedent. The above case law strongly supports that the petitioners' requests can be granted.

Petitioner has been severely and materially harmed by Michigan Courts' decision. Petitioner is racially discriminated. It would be a manifest injustice to allow the MSC, MCOA and trial courts decision to stand. If allowed to stand it will greatly impact a larger group of current and future cases. The Michigan People wanted to know the outcome of petitioners appeal. So that they can seek appropriate measures before approaching Michigan Court to get justice with more confidence. If justice is not granted to the petitioner, the peoples in the Michigan state will lose faith on Michigan court systems. Not only Michigan State, the people in the other states in the United States of America will also be greatly impacted.

CONCLUSION

For the foregoing reasons, Petitioner respectfully requests that this Court issue a writ of certiorari to review the opinion of the Michigan Court of Appeals.

Respectfully submitted,



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JANUARY 31, 2022