No. 21-5075

THE SUPREME COURT OF THE UNITED STATES

Elizabeth Shaw,

Petitioner,

vs.

Derek Shaw,

Respondent.

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

---

AMENDED PETITION FOR REHEARING

Elizabeth Shaw
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I. OPINIONS BELOW
continued

- *Elizabeth Shaw v. Derek Shaw*, No. 21-5075, Supreme Court of the United States. Judgment entered October 4, 2021[1].

II. JURISDICTION

This Court's jurisdiction rests on Rule 44 which allows a petition for rehearing of judgment or decision to be filed. An order denying Petition for a Writ of Certiorari was entered by this Court on October 4, 2021, but to date has not been received.

III. CONSTITUTIONAL AND STATUTORY PROVISIONS INVOLVED

continued

IV. STATEMENT OF THE CASE

continued

On June 25, 2021, a Petition for a Writ of Certiorari, Motion for Leave to Proceed in Forma Pauperis, Proof of Service, and Appendix were mailed to the Clerk of the Supreme Court of the United States ("SCOTUS"), but were returned due to corrections needing to be made. The April 15, 2020 SCOTUS order, entered in light of COVID-19, was enclosed. I emailed said order strongly encouraging electronic service to both respondents on July 6, 2021 and requested current contact information (App AD, 182-183). Neither party replied to the email.

[1] No order was provided with the Clerk's letter. To date, no order has been served.

CERTIFICATE

I, Elizabeth Shaw, certify that my *AMENDED PETITION FOR REHEARING* is prepared in accordance with Supreme Court Rules 15.8 and 33.2(b) and is presented in good faith. The contents of my *PETITION FOR REHEARING* are true to the best of my knowledge, understanding, and belief. I further extend this declaration to the additional Statement of the Case that is available in Appendix J, pages 85-131

I declare under penalty of perjury that the foregoing is true and correct.

Executed on _____, 2021.

Respectfully Submitted,

Elizabeth Shaw
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QUESTIONS

1. In violation of court orders, federal law, state law, and tribal law, the Tribe illegally seized my children from their school and refuse to return them to my custody. The immediate return of the children to me, their mother, Elizabeth Shaw is required by 25 USC § 1920 and MCL 712B.19. **As a court of competent jurisdiction, 25 USC § 1914, will the Supreme Court of the United States order the immediate return of my children?**

2. Orders violating Elizabeth's constitutionally protected rights were entered in excess of the court's jurisdiction, absent due process, and contrary to equal protection under the law. "An order that exceeds the jurisdiction of the court, is void, or voidable, and can be attacked in any proceeding in any court where the validity of the judgment comes into issue." *Rose v. Himely (1808) 4 Cranch 241, 2 L ed 608.* See also *Vallely v. Northern Fire and Marine Ins. Co.,* 254 U.S. 348 (1920); Fed Rules Civ. Proc., Rule 60(b)(4), 28 U.S.C.A.; U.S.C.A. Const Amend. 5. *Klugh v. U.S.,* 620 F.Supp. 892 (D.S.C. 1985). **Will the Supreme Court of the United States enter an order vacating the void orders and subsequent proceedings?**

3. Elizabeth is not a respondent in the MCPP case initiated against father, Derek Shaw for the sexual abuse of MS. The children were ordered to remain home with Elizabeth under the jurisdiction of the divorce case. The Michigan Supreme Court

abolished the one-parent doctrine deeming it a violation of due process. See *In re Sanders,* 495 Mich. 394, 407 (2014). According to Title 5, US Code Sec. 556(d), Sec. 557, Sec.706, the state courts and tribal courts have lost jurisdiction for not following Due Process. **Will the Supreme Court of the United States provide the active custody order and status of proceedings?**

PARTIES

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

Derek Shaw
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RELATED CASES
continued

- *Elizabeth Shaw v. Derek Shaw*, No. 21-5075, Supreme Court of the United States.

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CASE LAW

Neither party responded, but following said email, the corrected documents were accepted for service by tribal counsel's assistant, Michelle Lankford, and were also accepted at the same last known address for Derek, rather than being returned to sender. Proof of personal service was mailed to SCOTUS (App AP, 211-212).

Neither respondent filed a response. According to Rule 15.4, if the respondents wanted to object to the jurisdiction of SCOTUS, they would have needed to do so in their opposition brief. Likewise, in their opposition brief and not later, it is the respondents' obligation to the Court to point out any perceived misstatement made in the petition. See Rule 15.2. By failing to file any documents, both Derek and the Tribe are in effect admitting to this Court that my petition does not contain misstatements and they are disqualified from receiving relief. See Rule 12.6.

Neither Derek nor the Tribe returned the waiver indicating they were not going to file a response. Since both respondents were properly served, their failure to return the waiver and failure to file an opposition brief should be viewed as a purposed delay to proceedings. See Rule 29. See also TC § 217(f) and TC § 224.

Void Orders & Proceedings

I realize that the Order of Transfer is *void ab initio,* as are the subsequent proceedings held and orders entered in both the state court system and the tribal court system. I have provided extensive record of the cases showing that Judge Ross was without jurisdiction and violated my due process rights upon entry of the Order of Transfer, as well as, of the fraud involved in the attempted procurement of jurisdiction in tribal court, which is sufficient for the orders to be void. *Potenz Corp. v. Petrozzini,* 170 Ill. App. 3d 617, 525 N.E. 2d 173, 175 (1988). The law has stated

that the orders are *void ab initio* and not voidable because they are already void. See also *Vallely v. Northern Fire and Marine Ins. Co.,* 254 U.S. 348 (1920).

An order of the court does not determine whether an order is void, but it does makes it legally binding and voids out all previous orders returning the case to the date prior to action leading to *void ab initio.* Courts do not simply have the judicial power to correct void judgments, they have the responsibility to. See *People v. Massengale,* 870N. W.2d720. See also *In re Sandel,* 64 Cal.2d 412. Even though a void order is in effect no order at all, and cannot be appealed, the U.S. Supreme Court stated that, "to permit the appellate court to ignore it ... [Would be an] unlawful action by the appellate court itself." *Freytag v. Commissioner,* 501 U.S. 868 (1991); *Miller, supra.* The United States Supreme Court has clearly, and repeatedly, held that any judge who acts without jurisdiction is engaged in an act of treason. *U.S. v. Will,* 449 U.S. 200, 216, 101, S. Ct. 471, 66 L.Ed. 2d 392, 406 (1980): *Cohens v. Virginia,* 19 U.S. (6 Wheat) 264, 404, 5 L.Ed 257 (1821).

To date, the Supreme Court of the United States has not presented or served a signed denial order. Therefore, my original petition is still pending decision.

Ripple Effect

For several months prior to the DHHS petition initiating the MCPP, I had motioned Judge Ross in the divorce case repeatedly pleading for him not to allow Derek visitation with the children. Despite being provided with evidence of MS's disclosures, medical reports, a letter wrote by the children's counselor inclusive of MS's drawings, and the testimony of expert witnesses, Judge Ross repeatedly denied my motions and ordered visitation (App. J, 85-98). It was not until a guest judge

replaced Judge Ross on October 15, 2014 that an order from the bench was entered modifying Derek's visitation of MS to supervised (App X, 163). The FOC and Judge Ross tried to trick me by saying the order was dismissed, but it was not. Judge Ross is a district court judge, and the guest judge is a circuit court judge. Judge Ross does not have the authority to dismiss the orders of a higher judge. I was arrested by the Croswell Police Department for following the modified visitation order and Judge Ross sentenced me in the criminal case brought against me (App J, 92-96)[2].

Following my arrest, MS was again forced to have visitation with Derek despite the modification order not being vacated. Following an extensive family assessment by a child abuse team in Ann Arbor contracted by DHHS and the Tribe, on March 4, 2015, DHHS filed a petition solely against Derek for sexually abusing MS. Judge Ross still caused MS and JS to attend visitation with Derek (App J, 98-99). It was not until March 18, 2015 that Judge Ross entered an order, upon recommendation of Referee Zang, to suspend Derek's visitation (App Q, 147-154). I believe it was the entry of this order, proving the abuse as a fact, that caused Judge Ross to panic in fear of what that may mean for him and how it may expose his prior rulings. See 25 USC 1912(e). See also *Hunter v. Hunter*, 771 N.W.2d 694 (Mich. 2009).

Six days after entry of the March 18, 2015 order, Judge Ross signed the Order of Transfer excessively stripping me of legal custody and declaring my children wards of the court meeting the ICWA requirement for the tribal court to have exclusive jurisdiction. 25 USC § 1911(b). Judge Ross signed the Order of Transfer absent due

[2] Please review all of Appendix J, pages 85-131. Due to page limitations imposed by court rule, this is a very brief overview within the petition.

process even though a hearing was set to be held less than an hour later according to the date and time on the file stamp. Judge Ross purposely denied me due process because according to ICWA, the case cannot be transferred if either parent declines transfer. 25 USC § 1911(b). This is also believed to be why I was not served with the order. If you review the MCPP case file, proof of service is present for documents and orders, except for, the Order of Transfer. Judgment is a void judgment if the court that rendered judgment lacked jurisdiction of the subject matter, or of the parties, or acted in a manner inconsistent with due process, Fed Rules Civ. Proc., Rule 60(b)(4), 28 U.S.C.A.; U.S.C.A. Const Amend. 5. *Klugh v. U.S.*, 620 F.Supp. 892 (D.S.C. 1985).

Also, in the MCPP case file, the court reporter's notes reflect Judge Ross stating he ***will sign*** the order the Tribe prepares even though Judge Ross had already signed the order (App AB, 179-180). Judge Ross was not present for the hearings presided over by Referee Zang which explains why said statement does not appear in the transcripts from any of the three MCPP hearings. The court reporter notes falsely show this statement as made on March 17th even though the Tribe didn't even motion for transfer until March 24th. It appears the date was changed since there was already an entry for March 17th and there is not an entry for March 24th. This alteration of the record is telling. "Officers of the court have no immunity, when violating a Constitutional right, from liability. For they are deemed to know the law." *Owen v. Independence*, 100 S.C.T. 1398, 445 US 622; *Scheuer v. Rhodes*, 416 U.S. 232.

It is easy to understand why Judge Ross defensively upheld his excessive and void order that he entered. The only reason I can surmise for why MCPP, MCOA, and MSC upheld the void order is comradery and fear causing them to act as a private

person. The MCOA first ruled in the MCPP appeal even though the divorce appeal was filed first. MCOA dismissed the appeal and upon reconsideration, specifically denied my request to declare the Order of Transfer void (App V, 159). MCOA must not have wanted to make an incriminating determination against the lower court, so instead, abused their power, suggested I appeal the void Order of Transfer, and dismissed the appeal for lack of jurisdiction due to transfer of the case to tribal court (App U, 158). Said MCOA dismissal order was entered by the Chief Judge.

The MCOA Chief Judge also attended the divorce appeal decision, in which, the excessive terms of the void order were enforced by upholding the lower court (App A, 1-6). Had the MCOA entered a just and proper decision, they would be making a confession of treason in open court for previously denying Peremptory Reversal (App S, 156). They also would be making an incriminating determination of MCOA in the MCPP appeal and of Judge Ross. See Article 3, Section 3. *Due Process* is a requirement of the U.S. Constitution. Violation of the U.S. Constitution by a judge deprives that person from acting as a judge under the law. Judge Ross has been acting as a private person, and not in the capacity of being a judge (and, therefore, has no jurisdiction). The United States Supreme Court, in *Twining v. New Jersery*, 211 U.S. 78, 29 S.Ct. 14, 24, (1908), stated that "Due Process requires that the court which assumes to determine the rights of parties shall have jurisdiction."; citing *Old Wayne Mut. Life Assoc. V. McDonough,* 204 U. S. 8, 27 S. Ct. 236 (1907); *Scott v McNeal,* 154 U.S. 34, 14, S. Ct. 1108 (1894); *Pennoyer v. Neff,* 95 U.S.714, 733 (1877).

This very same logic applies to the Michigan Supreme Court giving us a beyond reasonable explanation for why MSC did not sign their orders (App C, 8) (App T, 157).

No signature is the equivalent of no order at all. This tells us MSC knows the Order of Transfer is void, was in utter refusal to restore justice with a proper order, and was afraid to commit treason with a signed denial order. MSC chose instead to issue an unsigned order in hope that it would trick me into treating it as a valid order and trick other entities into enforcing it as a valid order.

When scheming, the MSC may have been reflecting upon their rejection of my complaint for superintending control of Judge Ross back on November 22, 2019. See 25 USC § 1914; 25 USC § 1920. MSC's rejection letter was emailed to an attorney who was not involved with the filing (App AF, 185). The Clerk may not have known that said attorney was not providing me with court orders and was avoiding all forms of contact with me causing my time to appeal to be exhausted (App J, 122-126).

This case was docketed in SCOTUS acknowledging the Discretionary Court as having issued an order on March 30, 2021. MSC did not issue an order. What they issued in attempt to be passed off as an order was no order at all. That is why I presented my Petition for Writ of Certiorari as prior to judgment. See Rule 11. See also 28 USC § 2101(e). *Freytag v. Commissioner*, 501 U.S. 868 (1991); *Miller, supra.*

Jurisdiction is established for the Writ of Certiorari before judgment. Had MSC signed their order, they would have been considered the authority on state law, but since MSC did not sign their order, Rule 11 applies and SCOTUS must also consider both state law and state court rule in their decision. SCOTUS affirmed their rightful jurisdiction of this case and established such via docketing of the case, setting the case for discussion, and a denial being posted and referenced.

Tribal Court and State Court Feeding Off One Another

Following the MCOA decision, the tribal court entered an order terminating my parental rights (App W, 160-162). One week later, MSC issued an unsigned order denying me leave to appeal (App. C, 8). The clerk mailed the order from the MSC to an address in Virginia rather than my address in Michigan causing service to be incomplete. MCR 7.315(C)(1). See MCR 7.315(A); MCR 7.315(B); MCR 2.107(C). My 21-day timeline to file for reconsideration was defeated due to the extended amount of time imposed on delivery by the mail forwarding system.

MSC having issued their unsigned fraudulent order quickly after the tribal court fraudulently terminated my parental rights caused my 21-day timeline to file for reconsideration to expire ***before*** my 30-day timeline in tribal court expired to file a notice of appeal. On April 24, 2021, ***one day*** after my time to appeal expired in tribal court and ***four days*** after my time for reconsideration expired in MSC, the Sanilac County Circuit Court, Friend of the Court Division ("FOC") issued an ***unsigned*** notice mandated by federal law informing that we were eligible, in accordance with state law, for a 3-year review of child support. No review was requested.

Reunification

The Tribe kidnapped my children because they wanted reunification of MS with Derek, as did Judge Ross to cover up the modification order scandal in the state court divorce case. In tribal court, the Tribe filed a petition against Derek on June 9, 2015 in their determination that Derek sexually abused MS and further admitted their determination following investigation that there was no concern that I have abused or neglected my children (App. Z, 165-174). Two months later, without any

hearings being held, the Tribe appointed GAL to the case and less than six weeks later, GAL issued a report recommending visitation of JS with Derek and referenced intent for visitation with MS by way of "yet", to which, the Tribe did not object. The Tribe also motioned for visitation of JS with Derek despite their pending petition against him. The tribal court repeatedly ordered visitation, but not for MS because the underlying custody order in the divorce case only restricted Derek's visitation to supervised with MS, but still allowed visitation with JS (App. X, 163).

After ***three years*** of relentless harassment in tribal court in attempt to fabricate a case against me, they could not, because contrary to Judge Brill's assertion in ¶6 that the abuse was fabricated by me, which is an absolute outright lie, the children were kidnapped to gut me into conceding to reunification (App W, 160-162).

Testimony heard in tribal court is authenticated by all parties involved and is included in the Designation of Record ("DOR"). In lieu of transcripts that were unavailable in tribal court due to audio/video failure, in accordance with AC § 8(B), I outlined the testimony heard throughout the proceedings (App, AH, 187-197). Judge Tripp, the Tribe, Derek, ICW, and GAL were all allowed an opportunity to object or amend the DOR if they were not in agreement of the contents therein. All parties were in agreement with the DOR.

The tribal court was a corrupt venue to maliciously vacate the March 18, 2021 MCPP order that deemed Derek an unfit parent, MCL 722.25(2)[3], which should be rightfully adopted by the divorce case because principles of collateral estoppel have

[3] MCL 722.25(2) ... or is found by clear and convincing evidence in a fact-finding hearing to have committed acts of nonconsensual sexual penetration, the court shall not award custody to that biological parent.

been "long recognized" by courts and prevent the divorce case from relitigating the issue established in the MCPP. See *Storey v. Meijer, Inc.,* 431 Mich. 368, 373 n. 3, 429 N.W.2d 169 (1988). See also *Ante* at 712, citing *Chapin v. Chapin,* 229 Mich. 515, 201 N.W. 530 (1924). Such orders "are res judicata of the matters involved and cannot be attacked collaterally." *In re Ives,* 314 Mich. 690, 696, 23 N.W.2d 131 (1946). Collateral estoppel and res judicata are recognized by the Indian Civil Rights Act and are applicable in tribal court. The Tribe admitted in state court that prior to transfer, *...the children were removed from any and all care of Derek Shaw,* admitting their understanding that even though the verbiage of the order suspended Derek's parenting time, the law removes Derek's legal and physical custody of the children and Derek cannot now claim parental fitness or be awarded custody according to *Hunter v. Hunter,* 771 N.W.2d 694 (Mich. 2009) and MCL 722.25(2).

Kidnapping

A tribal court hearing was held on April 13, 2018, the same day as the kidnapping. At 11:04 am, I emailed the tribal court clerk confirming the hearing time of 1:00pm (App AL, 205). This email sent out the alert that I was still in Michigan even though I usually travel to Oklahoma and attend the hearings in person. Shortly after sending said email, I received a call from JS's school saying that Derek attempted to pick JS up from school, but they would not release him. I was also told later that day by MS's school that ICW came to the school and interviewed MS, left, and came back with the deputy.

It appears my email caused an alert to be sent to ICW, GAL, and Derek, who then divided and conquered by sending Derek to JS school while ICW and GAL went

to MS school. According to the Sheriff Dept's case report, they received a request by phone at 12:52pm to assist another government agency at the address of MS school (App AM, 206). It is possible that ICW interviewed MS and realized MS was not going to willingly go with her and without cause for a legitimate removal, ICW left the building, called the Sheriff's Department for a civil standby, and when the deputy arrived, went back into the school and removed MS.

A text message exchange between MS and GAL that occurred ***over seven months later***, further develops and supports this timeline. In the texts, MS expresses her desire to live with her mom and asks GAL why they came to her school then to JS's. Heartlessly, in cruel disregard for MS, GAL responds that he doesn't know other than because they were in one car and ends by saying he is out to dinner with friends (App AN, 207). For JS to be kidnapped from school means just as the timing of the police report indicates, MS was kidnapped ***before*** completion of the 1:00pm hearing that ICW and GAL attended by phone, without disclosing they were in Michigan.

Since I am a non-respondent to the MCPP, the Tribe has since defended the kidnapping claiming that since Judge Tripp ordered the children deprived of both parents, I was now a respondent, providing the Tribe with the authority to remove my children (App M, 135-142). First off, the proceedings in tribal court are null and void due to the Order of Transfer and the order accepting transfer being void. Second, ICW and GAL kidnapped MS ***before*** the conclusion of the hearing that resulted in said order. Third, if their defense is that the order of adjudication granted them the authority, then they are admitting, prior to, they did not have the authority when

they kidnapped JS in 2016 and attempted to kidnap both children in 2017. Fourth, if that were true, they would not have needed my signature on the service plan.

In an email thread, ***five days*** after the kidnapping, I asked ICW and GAL why they removed my kids. ICW responded that they were removed because I failed to take MS to the new counselor and because JS stated he felt unsafe in my home. When I asked ICW and GAL why they had not addressed JS's concerns with me prior, both failed to respond. When I asked about seeing my children, I was told that the new counselor, hired for reunification, recommended I not be allowed contact (App AJ, 200). Had there been actual evidence of JS feeling unsafe in the home, you would think the service plan Judge Brill referenced in ¶8 would have contained measures for dealing with the specific issues, but it did not. The service plan, I was already in compliance with and provided proofs thereof, contained petty and trite conditions such as having an insured vehicle, updating contact information if applicable, and attending counseling (App AO, 208-209). The service plan was a trick to voluntarily allow the Tribe to have custody of my children and jurisdiction of me. That is why even after Judge Tripp and ICW signed it, they ***still*** needed my signature which I revoked by affidavit having signed under duress (App O, 210). 25 USC § 1913(b).

With my signature revoked, the Tribe, in accordance with state law, again needed my signature to allow Derek custody. See MCL 722.25(3). As shown in an email thread, ***six months after my children were kidnapped,*** after relentless bullying to sign, the counselor told me that if I signed the custody contract then MS could come home the following day for two days, but if I did not sign, Derek would be granted full custody of the children (App. Y, p.164). I emailed both GAL and ICW to confirm they

were in agreement given twice before Donna Greenhaw recommended for MS to come home and they refused. My children were kidnapped and ransom was my signature restoring Derek's custody, even though I do not believe they had any intention of ever returning my children, even with my signature. Both ICW and GAL replied to my email agreeing to Donna Greenhaw's requests and recommendations (App AK, 203-204). Isn't the obvious question, if the Tribe had the authority to grant Derek full custody, why did they need my signature to grant him 50% custody?

With their scheme to deceitfully use the service plan as a voluntary placement of my children in foster care foiled, 25 USC § 1913(a), and with their reunification plot with the counselor foiled, the tribal court entered a Journal Entry dated January 17, 2019 for transfer of the case to a Michigan peacemaking court and for me to have visitation with my children (App AI, 198). Our case, being a sexual abuse case, was not eligible for peacemaking court because according to tribal custom, MS is not supposed to make peace with her sexual abuser. Despite this, in ¶8, Judge Brill disparages me for not cooperating and filing motions to prevent reunification (App W, 161). This nonsense has been Sanilac County's and the Tribe's bullying technique for years. They belittle and accuse me of preventing the kids from having a relationship with Derek, and yet, they are the ones withholding my kids from me. It is shocking to the conscience, and yet, they are managing to publicly scorn and ridicule me.

VI. CONCLUSION

Justice has not been restored because the blatant lies about me have deemed me guilty without first being afforded an opportunity to be heard. See Amendment XIV, Section 1. See also Amendment V. By time I can plead my case showing that I

am innocent of the accusations and not the monstrous person I have been misrepresented to be, it is often too late. The authorities already acted in support of the Tribe and Derek, or have failed to act which yields the same results. The system thus far, the authorities that failed my children miserably, are slanderously attacking me because if I am successful in my mission to protect my children, I have subsequently exposed them for the misdeeds that they are culpable for.

I respectfully remind that these subsequent events are not before this Court. These authorities, if ever held culpable, will be afforded their right to due process as is their constitutional right, even though my children and I have been denied ours, repeatedly, for **three and a half years** since kidnapping, and **nearly eight years** since the onset of this matter.

I am asking the U.S. Supreme Court, as a court of competent jurisdiction according to 25 USC § 1914, to follow the directives Congress set forth in ICWA and order the immediate return of my children to my custody. See 25 USC § 1920. Having violated ICWA, in accordance with Congress, the Sanilac County court and the tribal court are to decline further jurisdiction. To further, according to Title 5, US Code Sec. 556(d), Sec. 557, Sec.706, the courts lose jurisdiction if they do not follow Due Process.

If this Court requires further showing than offered in my petitions, in the provided record, from the admissions by lack of denial from Derek and the Tribe, and the additional judicial power granted by Congress in the All Writs Act, See 28 USC § 1651(a), then I ***implore*** of this Court to order Derek and the Tribe to respond expeditiously, specifically, and lawfully, judiciously supporting their statements with legal documents and evidence.