Appendix A:

In The

Court of Appeals

Ninth District of Texas at Beaumont

NO. 09-19-00037-CV

IN THE INTEREST OF C.E.A.Q.

On Appeal from the County Court at Law No. 3
Montgomery County, Texas
Trial Cause No. 09-02-01465-CV

MEMORANDUM OPINION

Pro se appellant M.T.Q. appeals from the trial court's order modifying the terms of his child support obligation. M.T.Q. raises seventeen issues for our consideration. For the reasons explained herein, we affirm the trial court's order.

In an order establishing the parent-child relationship, the trial court found that M.T.Q. is C.E.A.Q.'s father and ordered M.T.Q. to pay child support of $385.00 per month, beginning May 1, 2009, as well as retroactive child support in the amount of $6820.88. In 2014, M.T.Q. filed a petition seeking to modify the terms and conditions for access to or possession of the child, and on April 4, 2016, the trial court signed an order granting the petition to modify. On February 16, 2018, M.T.Q.

filed a document entitled "Due Process Affidavit[,]" in which he made numerous arguments regarding the amount of his child support considering his status as a recipient of disabled veteran's benefits, and social security disability benefits. Attached to M.T.Q.'s "Due Process Affidavit" was a "Challenge to Constitutionality of a State Statute[,]" in which M.T.Q. asserted that section 154.062 of the Texas Family Code is unconstitutional as applied to him. M.T.Q. also filed a "Memorandum of Law . . . and Supplemental Petition for Challenge to Constitutionality of a State Statu[t]e" in support of his modification petition.

On March 5, 2018, the Office of the Attorney General ("OAG") filed a suit for modification of the child support order. M.T.Q. filed a response, in which he asserted, among other things, that the Department of Veterans Affairs has exclusive jurisdiction and that compensation for disability from social security and disabled veterans' benefits are protected federal benefits. In response, the OAG argued that the OAG has been assigned the right to collect child support from "any source authorized under the Social Security Act and the Texas Family Code." In addition, the OAG argued that federal law did not preempt the Texas Family Code and the State's police powers over domestic relations law, and that the trial court should therefore modify M.T.Q.'s child support obligation. M.T.Q. filed a response to the OAG's response, and the trial court subsequently signed an order, in which the court found that M.T.Q. was $1156.93 in arrears and granted OAG a judgment against

M.T.Q. for that amount. In its order, the trial court also found that M.T.Q.'s gross monthly resources are $4691 and modified M.T.Q.'s child support obligation to $590.21 per month.

M.T.Q. filed a motion for new trial, in which he asserted that the evidence was legally and factually insufficient to support the trial court's order, and that the trial court therefore abused its discretion in calculating child support. The trial judge signed an order granting M.T.Q.'s motion for new trial, and the trial judge also signed a temporary order requiring M.T.Q. to pay monthly child support in the amount of $574.85. At the final hearing, M.T.Q. told the trial judge that he is a disabled veteran, and he agreed that he draws disability benefits and social security disability benefits. M.T.Q.'s counsel lodged several objections at the beginning of the hearing, including (1) asserting that the trial court lacked jurisdiction because both parties reside in Harris County, (2) objecting to the assignment of Veterans Affairs (VA) benefits, (3) objecting to child support being taken from M.T.Q.'s VA benefits "against Article 4, Section 1 of the U.S. Constitution and [M.T.Q.]'s equal protection under the law[,]" and (4) objecting to the trial court ruling prior to the expiration of forty-five days pursuant to section 402.010 of the Texas Government Code. The trial court overruled each objection. Both C.E.A.Q.'s mother and M.T.Q. testified. During closing arguments, the OAG asserted that the trial court should order monthly child support in the amount of $434. On January 24, 2019, the trial

court signed an order on the modification suit, in which the court confirmed that M.T.Q. was $5767.68 in arrears and ordered M.T.Q. to pay child support in the amount of $434 per month.

M.T.Q. filed this appeal, in which he raises seventeen issues for our consideration. Specifically, M.T.Q.'s issues assert that the trial court (1) failed to perform its ministerial duty to rule on his petition challenging the constitutionality of a state statute; (2) did not follow section 402.010(b) of the Government Code, which directs the trial courts to wait forty-five days after the date the OAG is notified of a constitutional challenge to a state statute before ruling; (3) failed to insure that M.T.Q. was afforded substantive and procedural due process rights; (4) denied M.T.Q. due process by failing to accept his Due Process Affidavit "as truth and fact when it remained uncontroverted[;]" (5) failed to require appellees to follow 38 C.F.R. 3.458(g); (6) failed to require the OAG to follow the directives of the Federal Office of Child Support Enforcement; (7) failed to require appellees to submit a VA apportionment claim; (8) failed to acknowledge that 38 U.S.C. §§ 511 and 5301(a) "unequivocally indicate the only lawful provisioning of Appellant's VA award[;]" (9) erred by impliedly finding that the OAG had "privity of contract as a third party" with M.T.Q.'s VA apportionment claim; (10) violated title 38 of the U.S. Code, the Code of Federal Regulations, and "Congressional Acts" by rendering "an unauthorized, independent apportionment" of M.T.Q.'s VA disability benefits

award; (11) erred by including appellant's social security disability payments in calculating his child support obligations; (12) erred by not determining that C.E.A.Q.'s "monthly SSA derivative payment" is the total support amount that can be lawfully provisioned to C.E.A.Q. from M.T.Q.'s social security disability trust account; (13) erred by excluding M.T.Q.'s non-custodial "direct payments affidavits for credit provisioned by his SSDI trust payments paid directly to the Custodial Parent[;]" (14) erred by using M.T.Q.'s monthly veterans benefits and social security disability benefits for court costs, attorney's fees, and "state fee payments[;]" (15) erred by requiring M.T.Q. to pay costs and fees despite his indigent status; (16) erred by not awarding M.T.Q. attorney's fees and costs incurred in defending the petition for modification; and (17) erred by not finding that the OAG abused its power by filing a family violence citation warning without probable cause.

ISSUES ONE, FIVE, SEVEN, EIGHT, NINE, TEN, AND ELEVEN

We interpret M.T.Q.'s arguments in issues one, five, seven, eight, nine, ten, and eleven as asserting that federal law preempts state law, thereby depriving the trial court of jurisdiction and rendering section 154.062 of the Family Code, which expressly includes veterans' disability as part of a child support obligor's net resources, unconstitutional. *See* Tex. Fam. Code Ann. § 154.062. According to M.T.Q., the trial court erred by including his veterans' disability and social security disability as part of his net resources. We address these issues together.

Section 154.062 of the Texas Family Code provides that for purposes of determining child support liability, net resources include wages, salary, and other compensation for personal services; interest dividends, and royalties; self-employment income; net rental income, and "*all other income actually being received, including . . . social security benefits other than supplemental security income, [and] United States Department of Veterans Affairs disability benefits other than non-service-connected disability pension benefits*[;]" disability and workers' compensation benefits; interest income; gifts and prizes; spousal maintenance, and alimony. Tex. Fam. Code Ann. § 154.062(a), (b)(5) (emphasis added).

State law that conflicts with federal law is without effect. *Cipollone v. Liggett Grp., Inc.*, 505 U.S. 504, 516 (1992). However, courts must begin with the assumption that the States' historic police powers are not superseded by federal law unless that is the clear and manifest purpose of Congress. *Id.* Congressional purpose is the ultimate touchstone of preemption analysis. *Id.* Congress's intent to preempt state law may be either explicitly stated in the statute's language or implicitly contained within the structure and purpose of the statute. *Id.* If there is no express congressional command, state law is preempted if (1) the state law actually conflicts with federal law, or (2) federal law so thoroughly occupies a legislative field that Congress left no room for the States to supplement federal law. *Id.*

M.T.Q. argues that several federal statutes, including (1) the Uniformed Services Former Spouses Protection Act (USFSPA), (2) the Child Support Obligations Enforcement Act ("CSEA"), which is the portion of the Social Security Act that pertains to enforcement of child support obligations ("CSEA"), (3) the federal statute pertaining to nonassignability and exempt status of benefits, and (4) the Veterans Administration apportionment statute (VAAS), have preempted the United States Supreme Court's holding in *Rose v. Rose* and rendered section 154.062 of the Family Code unconstitutional.[1] *Rose* involved a disabled veteran whose main source of income was federal veterans' benefits from the Veterans' Administration and Social Security Administration. *Rose v. Rose*, 481 U.S. 619, 622 (1987). Upon the veteran's divorce, the trial court considered the factors set forth in the applicable Tennessee statute, which included his earning capacity, obligations, needs, and financial resources, and the trial court ordered him to pay child support. *Id.* Rose asserted that the Tennessee court lacked jurisdiction over his disability benefits and that the state statute was null and void because it violated the Supremacy Clause. *Id.* at 623.

In addressing the issue, the Supreme Court held as follows:

> Given the traditional authority of state courts over the issue of child support, their unparalleled familiarity with local economic factors affecting divorced parents and children, and their experience in applying state statutes . . . that do contain detailed support guidelines

[1]481 U.S. 619 (1987).

> and established procedures for allocating resources following divorce, we conclude that Congress would surely have been more explicit had it intended the Administrator's apportionment power to displace a state court's power to enforce an order of child support. Thus, we do not agree that . . . the state court's award of child support from appellant's disability benefits does 'major damage' to any 'clear and substantial' federal interest created by this statute.

Id. at 628. The Court concluded that Congress intended for veterans' disability benefits to provide for disabled veterans as well as for their families, and that state proceedings to enforce a valid child support order are consistent with such intent. *Id.* at 630-31, 634. In addition, the *Rose* court noted that the VA administrator's authority over payment of disability benefits as child support did not preempt state child support enforcement laws. *See id.* at 626 (holding that "Nowhere do the regulations specify that only the Administrator may define the child support obligation of a disabled veteran in the first instance."). *Rose* expressly holds that federal law does not prohibit a state court from determining a veteran's child support obligation. *Id.* at 626, 630-31. Therefore, the trial court did not err by considering M.T.Q.'s veteran's disability benefits in calculating his net resources for purposes of child support. *See id.*

The USFSPA explicitly provides that "disposable retired pay" of a veteran may be paid directly to a Title IV-D agency or to a state disbursement unit upon

presentation of a court[2] order for child support. 10 U.S.C.A. § 1408(d). After reviewing the statute as a whole, we conclude that nothing in the USFSPA indicates that Congress intended to preempt the ability of state trial courts to consider veterans' benefits in calculating the net resources of a parent who owes child support. *See generally* 10 U.S.C.A. § 1408.

We now turn to the CSEA. The CSEA provides that funds due to an individual from the United States may be used "to enforce the legal obligation of [an] individual to provide child support[.]" 42 U.S.C.A. § 659(a). Explicitly included within the statute's definition of "individual" are "members of the Armed Forces of the United States," and the statute also expressly permits state agencies to enforce the individual's child support obligation. *Id.* We conclude that nothing in the CSEA indicates that Congress intended to preempt the ability of state trial courts to consider veterans' benefits in calculating the net resources of a parent who owes child support. *See generally* 42 U.S.C.A. § 659; *see also Cipollone*, 505 U.S. at 516.

We next turn to the federal statute pertaining to the nonassignability and exempt status of benefits. *See* 38 U.S.C.A. § 5301. The statute provides that payment of benefits "shall not be assignable except to the extent specifically authorized by law, . . . and shall not be liable to attachment, levy, or seizure by or under any legal

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[2]Included in the USFSPA's definition of "court" is "any court of competent jurisdiction of any State[.]" 10 U.S.C.A. § 1408(a)(1)(A).

or equitable process whatever, either before or after receipt by the beneficiary." *Id.* § 5301(a)(1). We conclude that nothing in the statute indicates that Congress intended to preempt state trial courts' ability to include veterans' benefits in a parent's net resources for purposes of setting the amount of child support. *See generally* 38 U.S.C.A. § 5301; *see also Cipollone*, 505 U.S. at 516.

Lastly, we turn to the VAAS, which provides that all or any part of a veteran's "compensation, pension, or emergency officers' retirement pay" may be apportioned on behalf of the veteran's children. *See* 38 U.S.C.A. § 5307(a)(1). According to the statute, apportionment may occur if the veteran is not reasonably discharging his duty to support his dependents. 38 C.F.R. § 3.450(a)(1)(ii). We conclude that nothing in the apportionment statute indicates that Congress expressly or impliedly intended to preempt the ability of state trial courts to consider veterans' benefits in calculating the net resources of a parent who owes child support. *See* 38 U.S.C.A. § 5307; 38 C.F.R. § 3.450(a)(1)(ii); *see also Cipollone*, 505 U.S. at 516. We overrule issues one, five, seven, eight, nine, ten, and eleven.

ISSUE TWO

In issue two, M.T.Q. argues that the trial erred by not waiting forty-five days after the date the OAG was notified of his constitutional challenge. *See* Tex. Gov't Code Ann. § 402.010(b) (providing that "A court may not enter a final judgment holding a statute of this state unconstitutional before the 45th day after the date

notice . . . is served on the attorney general."). M.T.Q. seems to argue that the trial court was required to wait forty-five days before ruling on M.T.Q.'s challenge to the constitutionality of section 154.062 of the Family Code. When construing statutes, we give words their plain meaning. *See Epco Holdings, Inc. v. Chicago Bridge & Iron Co.*, 352 S.W.3d 265, 269-70 (Tex. App.—Houston [14th Dist.] 2011, pet. dism'd); *see also* Tex. Gov't Code Ann. § 311.011(a). Section 402.010(b) of the Government Code expressly states that the trial court must observe the forty-five-day waiting period when entering a final judgment that declares a state statute unconstitutional; that is, it does not require the trial court to wait forty-five days before rejecting a challenge to the constitutionality of a statute. *See id.* In this case, the trial court did not hold the statute unconstitutional; therefore, the forty-five-day waiting period in section 402.010(b) of the Government Code does not apply. *See* Tex. Gov't Code Ann. § 402.010(b). Accordingly, we overrule issue two.

ISSUES THREE, FOUR, SIX, TWELVE, THIRTEEN, FOURTEEN, FIFTEEN, SIXTEEN, AND SEVENTEEN

Appellate briefs "must contain a clear and concise argument for the contentions made, *with appropriate citations to the authorities and to the record.*" Tex. R. App. P. 38.1(i) (emphasis added). An issue that is unsupported by argument or citation to any legal authority presents nothing for the court to review. *Plummer v. Reeves*, 93 S.W.3d 930, 931 (Tex. App.—Amarillo 2003, pet. denied). An appellant must put forth specific argument and analysis demonstrating that the

record and the law support his contentions. *San Saba Energy, L.P. v. Crawford*, 171 S.W.3d 323, 338 (Tex. App.—Houston [14th Dist.] 2005, no pet.). "An appellate court has no duty to perform an independent review of the record and applicable law to determine whether the error complained of occurred." *Strange v. Cont'l Cas. Co.*, 126 S.W.3d 676, 677 (Tex. App.—Dallas 2004, pet. denied). A *pro se* litigant is held to the same standards as licensed attorneys and must comply with applicable laws and rules of procedure. *In re Office of Attorney Gen. of Tex.*, 193 S.W.3d 690, 693-94 (Tex. App.—Beaumont 2006, orig. proceeding).

M.T.Q. set forth issues three, four, six, twelve, thirteen, fourteen, fifteen, sixteen, and seventeen in the statement of issues in his brief, but he included no argument or citations to the record or the applicable law in the body of his brief. We therefore conclude that M.T.Q. has failed to properly present these issues for appellate review. *See* Tex. R. App. P. 38.1(i); *San Saba Energy, L.P.*, 171 S.W.3d at 338; *Strange*, 126 S.W.3d at 677; *Plummer*, 93 S.W.3d at 931. Accordingly, we overrule issues three, four, six, twelve, thirteen, fourteen, fifteen, sixteen, and seventeen. Having overruled each of M.T.Q.'s issues, we affirm the trial court's judgment.

AFFIRMED.

STEVE McKEITHEN
Chief Justice

Submitted on March 20, 2020
Opinion Delivered September 3, 2020

Before McKeithen, C.J., Kreger and Johnson, JJ.

Appendix B:

IN THE NINTH COURT OF APPEALS

09-19-00037-CV

In the Interest of C.E.A.Q.

On Appeal from the County Court at Law No 3
of Montgomery County, Texas
Trial Cause No. 09-02-01465-CV

JUDGMENT

Having considered this cause on appeal, THE NINTH COURT OF APPEALS concludes that the judgment of the trial court should be affirmed. In accordance with the Court's opinion, IT IS THEREFORE ORDERED the judgment of the trial court is affirmed. No costs of the appeal are assessed as the appellant established indigence.

Opinion of the Court delivered by Chief Justice Steve McKeithen

September 3, 2020

AFFIRMED

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Copies of this judgment and the Court's opinion are certified for observance.

Carol Anne Harley
Clerk of the Court

Appendix C:

Notices from the Texas Court of Appeals

FILE COPY

15a

Court of Appeals
State of Texas
Ninth District

Tuesday, September 22, 2020

Deterrean Gamble
Assistant Attorney General
Appellate Litigation Section
P. O. Box 12017
Austin, TX 78711
* DELIVERED VIA E-MAIL *

Michael Timothy Quinn
25531 Pacer Circle
Tomball, TX 77375
* DELIVERED VIA E-MAIL *

Kara Coursey
16234 Ranchland Lane
Cypress, TX 77429

RE: Case Number: 09-19-00037-CV
Trial Court Case Number: 09-02-01465-CV

Style: In the Interest of C.E.A.Q.

Appellant's Motion for Rehearing was denied this date in the above cause.

Sincerely,

CAROL ANNE HARLEY
CLERK OF THE COURT

cc: Connie Teel (DELIVERED VIA E-MAIL)
Haleigh Nava (DELIVERED VIA E-MAIL)
Melisa Miller (DELIVERED VIA E-MAIL)
Judge Patrice McDonald (DELIVERED VIA E-MAIL)
Robert Hall (DELIVERED VIA E-MAIL)

FILE COPY

16a

Court of Appeals
State of Texas
Ninth District

CLERK
CAROL ANNE HARLEY

OFFICE
SUITE 330
1085 PEARL ST.
BEAUMONT, TEXAS 77701
409/835-8402 FAX 409/835-8497
WWW.TXCOURTS.GOV/9THCOA.ASPX

Tuesday, October 13, 2020

Deterrean Gamble
Assistant Attorney General
Appellate Litigation Section
P. O. Box 12017
Austin, TX 78711
* DELIVERED VIA E-MAIL *

Michael Timothy Quinn
25531 Pacer Circle
Tomball, TX 77375
* DELIVERED VIA E-MAIL *

Kara Coursey
16234 Ranchland Lane
Cypress, TX 77429

RE: Case Number: 09-19-00037-CV
Trial Court Case Number: 09-02-01465-CV

Style: In the Interest of C.E.A.Q.

The Motion for Rehearing En Banc was denied this date in the above cause.

Sincerely,

CAROL ANNE HARLEY
CLERK OF THE COURT

cc: Connie Teel (DELIVERED VIA E-MAIL)
Haleigh Nava (DELIVERED VIA E-MAIL)
Melisa Miller (DELIVERED VIA E-MAIL)
Judge Patrice McDonald (DELIVERED VIA E-MAIL)
Robert Hall (DELIVERED VIA E-MAIL)

FILE COPY

17a

Court of Appeals
State of Texas
Ninth District

Thursday, September 3, 2020

Deterrean Gamble
Assistant Attorney General
Appellate Litigation Section
P. O. Box 12017
Austin, TX 78711
* DELIVERED VIA E-MAIL *

Michael Timothy Quinn
25531 Pacer Circle
Tomball, TX 77375
* DELIVERED VIA E-MAIL *

Kara Coursey
16234 Ranchland Lane
Cypress, TX 77429

RE: Case Number: 09-19-00037-CV
Trial Court Case Number: 09-02-01465-CV

Style: In the Interest of C.E.A.Q.

Enclosed are copies of the Court's Opinion and Judgment issued this date in the above cause.

The motions to take judicial notice were granted this date.

Sincerely,

CAROL ANNE HARLEY
CLERK OF THE COURT

cc: Connie Teel (DELIVERED VIA E-MAIL)
Haleigh Nava (DELIVERED VIA E-MAIL)
Melisa Miller (DELIVERED VIA E-MAIL)

Judge Patrice McDonald (DELIVERED VIA E-MAIL)
Robert Hall (DELIVERED VIA E-MAIL)

Court of Appeals
State of Texas
Ninth District

Tuesday, March 19, 2019

Michael Timothy Quinn
25231 Pacer Circle
Tomball, TX 77375
* DELIVERED VIA E-MAIL *

Kara Coursey
16234 Ranchland Lane
Cypress, TX 77429

Rande Herrell
Assistant Attorney General
Child Support Division
P. O. Box 12017 (MC 038-1)
Austin, TX 78711
* DELIVERED VIA E-MAIL *

RE: Case Number: 09-19-00037-CV
Trial Court Case Number: 09-02-01465-CV

Style: In the Interest of C.E.A.Q.

The Court did not receive a supplemental clerk's record or reporter's record from an indigency hearing per our Court's Order. The appellant has established indigence.

The clerk's record and the transcription of the tape-recorded proceedings are due to be filed on or before **Wednesday, May 22, 2019**.

Sincerely,

CAROL ANNE HARLEY
CLERK OF THE COURT

cc: Deterrean Gamble (DELIVERED VIA E-MAIL)
Melisa Miller (DELIVERED VIA E-MAIL)
Judge Patrice McDonald (DELIVERED VIA E-MAIL)
Robert Hall (DELIVERED VIA E-MAIL)

Appendix D:

Order of the Texas Supreme Court
Denying Petition for Review.....21a-26a

FILE COPY

RE: Case No. 20-0950
COA #: 09-19-00037-CV
STYLE: IN RE C.E.A.Q.

DATE: 2/5/2021
TC#: 09-02-01465-CV

Today the Supreme Court of Texas denied the petition for review in the above-referenced case.

KARA COURSEY
*DELIVERED VIA POSTAL *

FILE COPY

RE: Case No. 20-0950
COA #: 09-19-00037-CV
STYLE: IN RE C.E.A.Q.

DATE: 2/5/2021
TC#: 09-02-01465-CV

Today the Supreme Court of Texas denied the petition for review in the above-referenced case.

MR. DETERREAN S. GAMBLE
OFFICE OF THE ATTORNEY GENERAL
P.O. BOX 12017
MC 038-1 CAPITOL STATION
AUSTIN, TX 78711-2017
* DELIVERED VIA E-MAIL *

FILE COPY

RE: Case No. 20-0950
COA #: 09-19-00037-CV
STYLE: IN RE C.E.A.Q.

DATE: 2/5/2021
TC#: 09-02-01465-CV

Today the Supreme Court of Texas denied the petition for review in the above-referenced case.

MR. ROBERT HALL
OFFICE OF THE ATTORNEY GENERAL
5452 HIGHWAY 105W, SUITE 202
CONROE, TX 77304-1403
* DELIVERED VIA E-MAIL *

FILE COPY

RE: Case No. 20-0950
COA #: 09-19-00037-CV
STYLE: IN RE C.E.A.Q.

DATE: 2/5/2021
TC#: 09-02-01465-CV

Today the Supreme Court of Texas denied the petition for review in the above-referenced case.

COUNTY CLERK MONTGOMERY COUNTY
MONTGOMERY COUNTY COURT
P. O. BOX 959
CONROE, TX 77305-0959
* DELIVERED VIA E-MAIL *

FILE COPY

RE: Case No. 20-0950
COA #: 09-19-00037-CV
STYLE: IN RE C.E.A.Q.

DATE: 2/5/2021
TC#: 09-02-01465-CV

Today the Supreme Court of Texas denied the petition for review in the above-referenced case.

MICHAEL TIMOTHY QUINN
* DELIVERED VIA E-MAIL *

FILE COPY

RE: Case No. 20-0950 DATE: 2/5/2021
COA #: 09-19-00037-CV TC#: 09-02-01465-CV
STYLE: IN RE C.E.A.Q.

Today the Supreme Court of Texas denied the petition for review in the above-referenced case.

CARLY LATIOLAIS
CLERK, NINTH COURT OF APPEALS
1085 PEARL ST., SUITE 330
BEAUMONT, TX 77701-3552
* DELIVERED VIA E-MAIL *

Appendix E:

Order of the Texas Supreme Court
Denying Motion for Rehearing 27a-32a

FILE COPY

RE: Case No. 20-0950
COA #: 09-19-00037-CV
STYLE: IN RE C.E.A.Q.

DATE: 3/26/2021
TC#: 09-02-01465-CV

Today the Supreme Court of Texas denied the motion for rehearing of the above-referenced petition for review.

KARA COURSEY

FILE COPY

RE: Case No. 20-0950
COA #: 09-19-00037-CV
STYLE: IN RE C.E.A.Q.

DATE: 3/26/2021
TC#: 09-02-01465-CV

Today the Supreme Court of Texas denied the motion for rehearing of the above-referenced petition for review.

MR. DETERREAN S. GAMBLE
OFFICE OF THE ATTORNEY GENERAL
P.O. BOX 12017
MC 038-1 CAPITOL STATION
AUSTIN, TX 78711-2017
* DELIVERED VIA E-MAIL *

FILE COPY

RE: Case No. 20-0950
COA #: 09-19-00037-CV
STYLE: IN RE C.E.A.Q.

DATE: 3/26/2021
TC#: 09-02-01465-CV

Today the Supreme Court of Texas denied the motion for rehearing of the above-referenced petition for review.

MR. ROBERT HALL
OFFICE OF THE ATTORNEY GENERAL
5452 HIGHWAY 105W, SUITE 202
CONROE, TX 77304-1403
* DELIVERED VIA E-MAIL *

FILE COPY

RE: Case No. 20-0950
COA #: 09-19-00037-CV
STYLE: IN RE C.E.A.Q.

DATE: 3/26/2021
TC#: 09-02-01465-CV

Today the Supreme Court of Texas denied the motion for rehearing of the above-referenced petition for review.

COUNTY CLERK MONTGOMERY COUNTY
MONTGOMERY COUNTY COURT
P. O. BOX 959
CONROE, TX 77305-0959
* DELIVERED VIA E-MAIL *

FILE COPY

RE: Case No. 20-0950
COA #: 09-19-00037-CV
STYLE: IN RE C.E.A.Q.

DATE: 3/26/2021
TC#: 09-02-01465-CV

Today the Supreme Court of Texas denied the motion for rehearing of the above-referenced petition for review.

MICHAEL TIMOTHY QUINN
* DELIVERED VIA E-MAIL *

FILE COPY

RE: Case No. 20-0950 DATE: 3/26/2021
COA #: 09-19-00037-CV TC#: 09-02-01465-CV
STYLE: IN RE C.E.A.Q.

Today the Supreme Court of Texas denied the motion for rehearing of the above-referenced petition for review.

CARLY LATIOLAIS
CLERK, NINTH COURT OF APPEALS
1085 PEARL ST., SUITE 330
BEAUMONT, TX 77701-3552
* DELIVERED VIA E-MAIL *

Appendix F:

DEPARTMENT OF VETERANS AFFAIRS

February 3, 2020

In Reply Refer To: 351/21
CSS 645037293
QUINN, MICHAEL

MICHAEL QUINN
25531 PACER CIR
TOMBALL TX 77375

Dear Mr. Quinn:

We have carefully considered the claim for an apportioned share of your benefits. After reviewing all evidence submitted by you and Kara Alexander, the claim for an apportionment must be denied because an apportionment would cause undue financial hardship (38 CFR 3.451). We also received evidence showing you are contributing to the support of Charity Alexander-Quinn (38 CFR 3.450(c)) All withheld funds are being released to you.

Notify us immediately of any change in your marital status or the status of your dependents. Any reduction discontinuance of benefits caused by marriage or death of a dependent or discontinuance of a child's school attendance will be effective the first day of the month following the month the change occurred. Failure to notify us of these changes will result in an overpayment which is subject to recovery.

This decision was made in accordance with: 38 CFR 3.450, 38 CFR 3.458

Evidence Used to Decide Your Claim

In making our decision, we considered:

- VA Form 21-0788, *Information Regarding Apportionment of Beneficiary's Award*, received on October 18, 2019
- VA Form 21-4138, *Statement in Support of Claim*, received on October 18, 2019
- VA Form 21-4138, *Statement in Support of Claim*, received on October 24, 2019
- VA Form 5655, *Financial Status Report*, received on October 24, 2019
- VA Form 21-0788, *Information Regarding Apportionment of Beneficiary's Award*, received on October 24, 2019
- VA Form 21-4138, *Statement in Support of Claim*, received on January 8, 2020
- VA Form 5655, *Financial Status Report*, received on January 8, 2020
- VA Form 21-4138, *Statement in Support of Claim*, received on January 8, 2020

CSS 645037293
QUINN, MICHAEL

What You Should Do If You Disagree With Our Decision on Your Contested Claim

If you do not agree with our decision, you have 60 days from the date of this letter to select a review option in order to protect your initial filing date for effective date purposes. You must file your request on the required application form for the review option desired. The table below represents the review options and their respective required application form.

Review Option	Required Application Form
Supplemental Claim	VA Form 20-0995, *Decision Review Request: Supplemental Claim*
Higher-Level Review	VA Form 20-0996, *Decision Review Request: Higher-Level Review*
Appeal to the Board of Veterans' Appeals	VA Form 10182, *Decision Review Request: Board Appeal (Notice of Disagreement)*

Please note: You **may not** request a higher-level review of a higher-level review decision issued by VA.

The enclosed VA Form 20-0998, *Your Rights To Seek Further Review Of Our Decision*, explains your options in greater detail and provides instructions on how to request further review. You may download a copy of any of the required application forms noted above by visiting www.va.gov/vaforms/ or you may contact us by telephone at 1-800-827-1000 and we will mail you any form you need.

You can visit www.va.gov/decision-reviews to learn more about how the disagreement process works.

If you would like to obtain or access evidence used in making this decision, please contact us by telephone, email, or letter as noted below letting us know what you would like to obtain. Some evidence may be obtained online by visiting VA.gov.

What Is eBenefits?

eBenefits provides electronic resources in a self-service environment to Servicemembers, Veterans, and their families. Use of these resources often helps us serve you faster! Through the eBenefits website you can:

- Submit claims for benefits and/or upload documents directly to the VA
- Request to add or change your dependents
- Update your contact and direct deposit information and view payment history
- Request a Veterans Service Officer to represent you

- Track the status of your claim or appeal
- Obtain verification of military service, civil service preference, or VA benefits
- And much more!

Enrolling in eBenefits is easy. Just visit www.eBenefits.va.gov for more information. If you submit a claim in the future, consider filing through eBenefits. Filing electronically, especially if you participate in our fully developed claim program, may result in a faster decision than if you submit your claim through the mail.

If You Have Questions or Need Assistance

If you have any questions or need assistance with this claim, you may contact us by telephone, e-mail, or letter.

If you	Here is what to do
Telephone	Call us at 1-800-827-1000. If you use a Telecommunications Device for the Deaf (TDD), the Federal number is 711.
Use the Internet	Send electronic inquiries through the Internet at https://iris.custhelp.va.gov.
Write	VA now uses a centralized mail system. For all written communications, put your full name and VA file number on the letter. Please mail or fax all written correspondence to the appropriate address listed on the attached *Where to Send Your Written Correspondence.*

In all cases, be sure to refer to your VA file number 645037293.

If you are looking for general information about benefits and eligibility, you should visit our website at https://www.va.gov, or search the Frequently Asked Questions (FAQs) at https://iris.va.gov

CSS 645037293
QUINN, MICHAEL

We sent a copy of this letter to your representative, DISABLED AMERICAN VETERANS, whom you can also contact if you have questions or need assistance.

Sincerely yours,

Regional Office Director

Enclosures: Where to Send Your Written Correspondence
VA Form 20-0998

Enclosures: VA Form 20-0998
Where to Send Your Written Correspondence

cc: DISABLED AMERICAN VETERANS
21/031/PMC

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tex-50676944
SUPREME COURT OF TEXAS
BLAKE A. HAWTHORNE, CLERK

No. 20-0950

In the Supreme Court of Texas

Michael Timothy Quinn
Petitioner,

v.

Kara Coursey,
Respondent.

From the Ninth Court of Appeals, Cause No. 09-19-00037-CV,
and the County Court at Law #3 for Montgomery County,
Cause No. 09-02-01465, Honorable Patrice McDonald

APPELLANT'S MOTION FOR REHEARING

Michael Timothy Quinn
[redacted]
Telephone: 832-922-1433
michael.tim.quinn@gmail.com
Pro Se

IDENTITY OF PARTIES AND COUNSEL

The following is a complete list of parties, attorneys, and any other person who has an interest in the outcome of this lawsuit:

APPELLANT:

SGT. Michael Quinn, a citizen of the United States and the State of Texas was a Respondent below and is the Appellant in this court.

Represented by:
Michael Timothy Quinn
[redacted]
(832) 922-1433
michael.tim.quinn@gmail.com

APPELLEE:

The Appellees in this Court and the Petitioner below is the Office of Attorney General acting in their State Title IV-D capacity.

Represented by:
Deterrean Gamble
Assistant Attorney General
Appellate Litigation Section
P.O. Box 12017
Austin, TX 78711

APPELLEE:

Kara Coursey, a citizen of the United States and the State of Texas, is the Custodial Parent and is an Appellee in this Court.

Represented by:
Kara Coursey
[redacted]

TO THE HONORABLE COURT:

NOW COMES, Appellant Michael T. Quinn ("SGT Quinn"), and files this Motion for Rehearing in accordance with TEX. R. APP. Rule 64 in response to the State Supreme Courts decision to not review Appellant's Petition. Petition for Review disposed and denied by the Court on February 5, 2021, Appellant now request that the Court considering the following issues in depth:

ISSUES PRESENTED FOR REVIEW

Issue 1: The court of appeals erred in finding that there was no evidence to support appellants properly filed petition and form required by TEX GOV. CODE SEC. 402.010 (a-1) to challenge the constitutionality of a state statute.

Issue 2: The court of appeals erred in finding that there was no evidence to support the appellants arguments as there exist no sworn and notarized controverting affidavit to the appellants "arguments" as the appellate court states which were presented to the trial court in uncontroverted, properly filed sworn and notarized due process affidavit.

Issue 3: The court of appeals erred in finding that the appellant isn't entitled to raise challenge to subject matter jurisdiction.

Issue 4: The court of appeals erred in finding that it had right to collect from any source considering that determination ignored a third party jurisdiction that would exist with the open apportionment that was finalized before the court of appeals ruling.

Issue 5: The court of appeals erred in finding that the appellee and State were entitled to misappropriation by fiduciary by illegal *assignment of right.*

Issue 6: The court of appeals erred in creating a nonexistent statute they called the Veterans Administration apportionment statute (VAAS) in leu of 38 USC section 5307 or referring to the Veterans Judicial Review Act of 1988 that created the Veterans board of appeals giving it independent judicial authority.

Issue 7: The court of appeals erred in holding *Rose v Rose* preempted appellant benefit in the matter while ignoring the *Rose v Rose rebuttal* averred in appellants notarized and sworn affidavit. Charlie Rose didn't hold an apportionment of his benefit, but appellant does hold an apportionment.

Issue 8: The court of appeals erred in concluding that Congress intended for veterans' disability benefits to be enforced in state proceedings to enforce a valid child support order without ignoring Congress passed EXPLICIT new amended code after *Rose v Rose* changing 38 USC 211 to 38 USC 511.

Issue 9: The court of appeals erred in finding 42 USC 659(a) expressly permits state agencies to enforce the individual's child support obligation by explicitly excluding 42 USC 659 (h)(1)(B)(iii) as it applies to appellant.

Issue 10: The court of appeals erred in finding USFSPA applied when appellant averred in notarized and sworn affidavit that his non-disposable disability retirement is waived to receive benefits that fall under the protection of 38 USC 511 and 38 USC 5301.

Issue 11: The court of appeals erred in claiming that *Cippollone* relevant to this case as it did not involve a disabled veteran with a RIPE DENIAL APPORTIONMENT from Secretary of Department of Veteran Affairs.

Issue 12: The court of appeals erred in claiming that appellant failed to provide clear and concise arguments, made with appropriate citations to the authorities and to the record when appellant filed complaint of lack of having the whole trial record filed September 4, 2019 for court of appeals to issue ruling on.

Issue 13: The court of appeals erred in affirming the trial court judgment when it ruled in favor of appellant's motion for judicial notice filed February 11, 2020 and granted September 3, 2020 that trial court and appellant court lacked

jurisdiction by granting but not applying non-conflicting verbiage to the memorandum order.

Issue 14: The court of appeals erred in affirming the trial court judgment when it ruled in favor of appellant's first supplement request for judicial notice filed August 10, 2020 and granted September 3, 2020 that the panel should discuss and address the effect of federal preemption on the trial courts subject matter jurisdiction or appellants ability to challenge the terms of the consent judgement outside direct appeal and how these questions continue to remain uncontroverted and important.

ARGUMENT

The court of appeals reviews a plea questioning the trial court's subject matter jurisdiction *de novo.* See *Texas Dep't of Parks & Wildlife v. Miranda,* 133 S.W.3d 217, 226 (Tex. 2004). It focuses on appellant's petition to determine whether the facts that were pled affirmatively demonstrate that subject matter jurisdiction exist. *Id.* At 226. It construes the pleadings liberally in favor of the the plaintiff. *Id.* The petition to challenge the constitutionality of a state statute was properly filed to the County Clerk February 16, 2018 with the required form needed outlined in TEX GOV. CODE SEC. 402.010 (a-1) to challenge the constitutionality of a state statute. [CR PG 100] Even if this wasn't properly filed by the County clerk this was included in appellants sworn notarized due process affidavit as an attachment. Which you can view in trial court records pg 80.

The U.S. Supreme Court continues to make clear, pleadings of *pro se* litigants are to be held to less rigorous standards than those drafted by attorneys. *Haines v. Kerner,* 404 U.S. 519, 520 (1972)(per curiam). Furthermore, *pro se* filings should be construed liberally, and courts HAVE A DUTY TO ENSURE that *pro se* litigants do not lose their right to a hearing on their claim due to ignorance of technical procedural requirements.

February 16, 2018 appellant filed a sworn under oath and notarized affidavit of due process averring my due process right and supporting statutes and case law. This sworn and notarized under oath affidavit states:

"uncontested averments and allegations of the following in support of motion must be considered as true in absence of controverting affidavit." [CR PG 80]

Black Law's Dictionary 4th Ed. Defines Affidavit as follows:

"AFFIDAVIT. A written or printed declaration or statement of facts, made voluntarily, and ***confirmed by the oath or affirmation of the party making it, taken before an officer having authority to administer such oath.***
Cox v. Stern, 170 Ill. 442, 48 N.E. 906, 62 Am.St.Rep. 385;
Hays v. Loomis, 84 Ill. 18.
A statement or declaration reduced to writing, and sworn to or affirmed before some officer who has authority to administer an oath or affirmation.
Shelton v. Berry, 19 Tex. 154, 70 Am.Dec. 326, and In re Breidt, 84 N.J.Eq. 222, 94 A. 214, 216."

Black Law's Dictionary 4th Ed. Defines Notary Public as follows:

NOTARY PUBLIC. **A public officer whose function it is to administer oaths; to attest and certify, by his hand and official seal, certain classes of documents, in order to give them credit and authenticity in foreign jurisdictions;** to take acknowledgments of deeds and other conveyances, and certify the same; and to perform certain official acts, chiefly in commercial matters, such as the protesting of notes and bills, the noting of foreign drafts, and marine protests in cases of loss or damage.
Kip v. People's Bank & Trust Co., 110 N.J.L. 178, 164 A. 253, 254.

An affidavit is admissible evidence, although some courts may require you to testify to the affidavit or they may consider it hearsay. The court denied appellants request to testify, the court granted a new trial based on part to the argument appellant wasn't afforded right to testify to his uncontroverted by affidavit averments that was properly filed and presented to the court with appellant's petition to challenge the constitutionality of a state statute. These records weren't present to the court of appeals, although, appellant complained in an informal motion that was labeled a letter due to appellant improper labeling of form. That letter of lack of all of the court reporter records to point to in order to show preservation of trial arguments by appellant can be found in court of appeals records for submission labeled letter dated August 4, 2019. What is the Difference between Sworn Statements "arguments" and Affidavits? Sworn statements are very similar to another class of court documents called "affidavits". Affidavits contain similar statements and claims, but have been ***signed, witnessed, and certified by a public official***. This official is usually a notary public or a court official. The certification makes the document even more acceptable as a form of evidence. In most cases, both affidavits and sworn statements can be entered as evidence in a trial. For instance, in a personal injury case, the court may admit an affidavit wherein the plaintiff states that they had a previous neck injury prior

to a car accident. However, most courts would prefer to enter in an affidavit rather than a sworn statement. On the other hand, the process of having a statement certified and signed by a notary public or court official can be time-consuming. Many courts are recognizing this and are treating sworn statements in a very similar manner to affidavits. TEX. PROPERTY CODE SEC. 52.0012 allows for the release of judgement lien based solely on the proper filing of an uncontroverted homestead affidavit. Clearly this shows within the TX statute the importance of uncontroverted affidavits and their legal precedence.

On September 3, 2020 the court of appeals granted Appellant's Motion for Judicial Notice filed before the court February 11, 2020 in doing so concluding **Appellant was properly afforded due process, and on February 3, 2020, the Secretary rendered his VA Apportionment ruling pursuant to IM-98-03 by the VJRA of 1988. Claimant Mrs. Kara Coursey is required to filed her *Notice of Disagreement* within the allotted 60 days to the only court with appellate jurisdiction, the Board of Veterans' Appeal, and as stated in VA Form 20-0998 that accompanied that decision. The Secretary's decision is final; no portion goes to the Appellee Kara Coursey on behalf of the child subject to the claim.** (emphasis added)

In light of the Apportionment denial ruling, the State of Texas and OAG must now obey **38 U.S.C. § 511(a)** "The Secretary shall decide all questions of law and fact necessary to a decision by the Secretary under a law that affects the provision of benefits by the Secretary to veterans or **the dependents** ... of veterans.... **the decision of the Secretary as to any such question shall be final and conclusive and may not be reviewed by any other official or by any court, whether by an action in the nature of mandamus or otherwise**." (emphasis added) The State of Texas and OAG must now also obey **38 U.S.C. § 5301(a).** Therefore, the application of TEX. FAM. CODE § **154.062(b)(5)** has been and will continue to be unjust and inappropriate in the Appellant SGT Quinn's case. Appellant SGT Quinn's

independent VA Apportionment judgment, as ordered by both U.S. Congress under the authority of the Secretary of the Department of Veterans Affairs and properly initiated by the Texas Title IV-D Agency, did take the best interest of the child into "careful and compassionate consideration" as indicated in VA Form 20-0998.

38 U.S.C. § 5301 is the *Nonassignability and Exempt Status of Benefits*. Appellant SGT Quinn's VA service-connected disability benefits award is protected by **38 U.S.C. § 5301**. **38 U.S.C. § 5301(a)** states that: "(1) Payments of benefits due or to become due under any law administered by the Secretary shall not be assignable except to the extent specifically authorized by law, and such payments made to, or on account of, a beneficiary shall be exempt from taxation, shall be exempt from the claim of creditors, and shall not be liable to attachment, levy, or seizure by or under any legal or equitable process whatever, **either before or after receipt by the beneficiary**."[1] Appellant SGT Quinn now avers that the VA has privity of contract with absolute sovereign immunity of the U.S. when it comes to asserting his ripe Apportionment ruling that unequivocally indicates that the vested VA disability benefits award is for Appellant to spend as he sees fit.[2]

From the U.S. Supreme Court ruling of ROSE V. ROSE, 481 U. S. 619 (1987), the late Associate Justice Antonin Scalia, concurring in part and

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[1] *Higgins v. Beyer*, 293 F3d. 683, p. 686 & 694 (3d Cir. 2002) (Section 5301(a) provides a federal right that is enforceable under 42 U.S.C. § 1983.) "Higgins's procedural due process rights are enforceable under § 1983. See Zinermon, 494 U.S. at 125, 110 S.Ct. 975 ('A § 1983 action may be brought for a violation of procedural due process. . ..')" "[W]e conclude that Higgins's pro se complaint, when liberally construed, stated sufficient facts to state a cause of action for a violation of a federal right under § 5301(a), and a deprivation of his Fourteenth Amendment right to notice and hearing prior to the deprivation of his property interest in the proceeds of his veteran's benefits. . . under the Due Process Clause."

[2] *Sanchez Dieppa v. Rodriguez Pereira*, 580 F.Supp 735 (1984).

concurring in the judgment, writes "I would not reach the question whether the State may enter a support order that conflict with an apportionment ruling made by the Administrator [now Secretary of the Department of Veterans Affairs], or whether the Administrator may make an apportionment ruling that conflicts with a support order entered by the State. Ante, at 627. Those questions are not before us, since the Administrator has made no such ruling." ... "***I am not persuaded that if the Administrator makes an apportionment ruling, a state court may enter a conflicting child support order. It would be extraordinary to hold that a federal officer's authorized allocation of federally granted funds between two claimants can be overridden by a state official." Page 481 U.S. 641***

Justice Scalia continues, "I also disagree with the Court's construction of 38 U.S.C. 211(a), which provides that '[d]ecisions of the Administrator on any question of law or fact under any law administered by the Veterans' Administration providing benefits for veterans and their dependents . . . shall be final and conclusive and no other official or any court of the United States shall have power or jurisdiction to review any such decision.' The Court finds this [§ 211] inapplicable because it does not explicitly exclude state-court jurisdiction, as it does federal; ante, at 629." Ibid.

"Had the Administrator granted or denied an application to apportion benefits, state court action providing a contrary disposition would arguably conflict with the language of § 211 making his decisions 'final and conclusive' -- and, if so, would, in my view, be preempted, regardless of the Court's perception that it does not conflict with the 'purposes' of § 211. But there is absolutely no need to pronounce upon that issue here. Because the Administrator can make an apportionment only upon receipt of a claim, Veterans' Administration Manual M21-1, ch. 26, § 26.01 (Aug. 1, 1979), and

because no claim for apportionment of the benefits at issue here has ever been filed, the Administrator has made no 'decision' to which finality and conclusiveness can attach." ... "The Court again expresses views on a significant issue that is not presented." Page 642

It is very remarkable here that immediately following the noted Rose deficiencies, U.S. Congress passed The Department of Veterans Affairs Act of 1988 (Pub.L. 100–527) transforming the former Veterans Administration into a Cabinet-level Department of Veterans Affairs. It was signed into law by President Ronald Reagan on October 25, 1988. And as previously mentioned, the previously noted Veterans' Judicial Review Act of 1988 granted exclusive, independent jurisdiction of the VA Apportionment Claim process within the newly created federal court system and Title 38 § 211 was amended to overcome the noted lacking exclusivity language. Congress subsequently codified § 211 as § 511 in 1991 to properly engross "Secretary" language consistent with the new Department of Veterans Affairs Act. 42 U.S.C. § 662 relating to allowable garnishment exclusions of veterans' compensation for enforcement of child support orders granted in the Rose decision was also repealed in Pub. L. 104-193, title III, § 362(b)(1), 110 Stat. 2246, (Aug. 22, 1996) effective beginning fiscal year 1997 after Congress ascertained that VA Apportionment claims were being properly provisioned by 38 U.S.C. § 512. 38 U.S. Code § 511 now EXPLICITLY EXCLUDES state-court jurisdiction.

Most noteworthy, 38 U.S.C. § 511 is the Decisions of the Secretary; finality, and such decisions lie solely with the Secretary of the Department of Veterans Affairs, not the State of Texas. Section 511(a) was signed into the U.S. Code four years after the Rose decision. Under the Secretary's authority in 38 U.S.C. §§ 511(a) & 5307 and 38 CFR Sections 3.450-3.458, "The Secretary shall decide all questions of law and fact necessary to a decision by

the Secretary under a law that affects the provision of benefits by the Secretary to veterans or the dependents ... of veterans." ... "the decision of the Secretary as to any such question shall be final and conclusive and may not be reviewed by any other official or by any court, whether by an action in the nature of mandamus or otherwise." (emphasis added)

Another noteworthy shortcoming discussed in the Rose case; "the implementing regulations, which simply authorize apportionment if 'the veteran is not reasonably discharging his or her [child support] responsibility . . .,' contain few guidelines for apportionment, and no specific procedures for bringing claims." Page 481 U.S. 619 And continuing, "it seems certain that Congress would have been more explicit had it meant the VA's apportionment power to displace state court authority." Pages 619-620

Those sparse guidelines were resolved in 1998 when Federal Commissioner for the Office of Child Support Enforcement ("OCSE"), David Gray Ross, published Information Memorandum IM-98-03, with Congressional oversight, to every state and commonwealth Title IV-D Agency. IM-98-03 is entitled Financial Support for Children from Benefits Paid by Veterans Affairs and is a Federal OCSE policy directive that now instructs the Texas Title IV-D Agency on how to properly submit the independent claim for apportionment to the Department of Veterans Affairs for those Texas veterans whose benefits are legally defined, during due process, as "not remuneration for employment". Four specific instructions for proper submission of a VA Apportionment claim, VA FORM 21-0788 INFORMATION REGARDING APPORTIONMENT OF BENEFICIARY'S AWARD, by the State of Texas are now to be followed:

1. The IV-D agency (state child support enforcement office) should

write the Department of Veterans Affairs using agency letterhead to request an apportionment review. The letter should be signed by both the appropriate IV-D official and the custodial parent. The letter should be addressed to the VA Regional Office servicing that veteran's benefits. Use the toll-free number to determine which regional VA office is appropriate (1-800-827-1000).

2. Complete and attach VA Form 21-4138 "Statement in Support of Claim." The

normal VA procedure is to request this after receiving an apportionment application,

so time can be saved by doing this as part of the first step. This is where information

regarding income and net worth may be provided.

3. Attach a copy of the current support order, to assist VA in the development of

the apportionment award.

4. Attach a copy of the arrearage determination sheet, payment ledger, payment

records, etc.

Under 38 CFR 3.458, Veteran's benefits will not be apportioned: (g) "If there are any children of the veteran not in his or her custody an apportionment will not be authorized unless

and until a claim for an apportioned share is filed in their behalf."

What's more from 1997, the VA Office of General Counsel Precedent Opinion 4- 97 holds that a regional office must not consider a state court support order as an apportionment claim. Additional findings of OGC 4-97,"

Pursuant to 38 U.S.C. § 7104(a), the Board has jurisdiction to review '[a]ll questions in a matter which under section 511(a) of this title is subject to decision by the Secretary.' Section 511(a) authorizes the Secretary to 'decide all questions of law and fact necessary to a decision by the Secretary under a law that affects the provision of benefits by the Secretary to veterans or the dependents or survivors of veterans.' See also 38 C.F.R. § 20.101(a) (Board's jurisdiction extends to review of all decisions 'under a law that affects the provision of benefits by the Secretary to veterans or their dependents or survivors.'). Thus, the Board's appellate jurisdiction is generally coextensive with the Secretary's authority under 38 U.S.C. § 511(a) to render initial decisions.

Privity of Contract: Privity of Contract refers to the relationship between the parties to a contract which allows them to sue each other but prevents a third party from doing so. It is a doctrine of contract law that prevents any person from seeking the enforcement of a contract, or suing on its terms, unless they are a party to that contract. As a general rule, a contract cannot confer rights or impose obligations arising under it on any person except the parties to it.[3]

Pursuant to 38 U.S.C. § 5301(a), Appellant is considered in privity of contract with an independent nonparty VA Apportionment contract judgment that indicates unequivocally that Appellant's VA award is provided solely for his support and visitation costs with his child. Appellant's privity of contract with the VA is protected and backed under the preemptive authority of the Contract Clause found in Article 1, Section 10 of the Constitution which provides that "No State shall . . . pass any . . . law impairing the Obligation of Contracts."

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[3] *Privity of Contract Law & Legal Definition, http://definitions.uslegal.com/p/privity-of-contract/ (Sept. 26, 2017)*

This guarantee is also provided to Appellant by the Texas Constitution, Article 1. Bill of Rights, Sec. 16. "No bill of attainder, ex post facto law, retroactive law, or any law impairing the obligation of contracts, shall be made." VA Awards and Apportionment ***rulings or judgments*** are considered **in privity of contract only between family claimants under 38 U.S.C. §§ 5307 & 511. The State of Texas is and has always been a third party when it comes to Appellant's VA disability compensation benefits award.** Therefore, the ***State of Texas, not legally a party to Appellant's VA award contract, has been prohibited from seeking establishment and enforcement of its child support order utilizing Appellant's VA award. To do so flagrantly violates the sovereign immunity of the U.S. Under the authority granted exclusively with the Secretary of the VA in § 511, the State of Texas is barred from imposing any obligations for Appellant to pay child or spousal support from Appellant's protected preemptive VA award.*** The Houston VARO Regional Counsel ("RC") has authority to represent the independent claims and facts relevant to this legal matter between Appellant and Apellee Kara Coursey as claimants entitled to privity of their VA apportionment claim. In accordance with 38 C.F.R. 14.500, 14.501 and 14.504, the Houston VARO RC also has exclusive authority to summons the Office of the U.S. Attorney regarding the federal improprieties which may arise in this legal matter.[4]

Since the 1987 Rose decision, U.S. Congress has actively legislated to preclude both the state and its officials from disregarding proper, independent VA Apportionment claims between family claimants. However, this is now Appellant's instant case question presented to the State of Texas, in notarized uncontroverted affidavit form, that must be answered without disregard and contempt of submitted post 1987 federal laws, regulations, directives and high

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[4] *Veterans Administration v. Kee, 706 S.W.2d 101 (1986).*

court rulings.

It must be reiterated here that the Rose v. Rose SCOTUS ruling was based upon the fact that disabled veteran Charlie Wayne Rose was never afforded a proper VA Apportionment claim review. "Those questions are not before us, since the Administrator has made no such ruling." A VA Apportionment Claim ruling was never before the 1987 Court. However in 2018 a Pre-Apportioned Due Process Affidavit asking for an apportionment claim review, with the filing of VA FORM 21-0788, on behalf of the child to the independent jurisdictional nonparty with exclusive jurisdiction and considered in privity of contract to the Houston VARO along with all County Court at Law #3 support orders with Cause Number 09-02-01465-CV and "copy of the arrearage determination sheet" as directed by IM-98-03 initiated the claim. Appellant responded as a claimant in privity of contract with the apportionment review request by providing visitation expense receipts (i.e., family law attorney retainer fees, travel expenses, gifts, etc.) for his dependents dating back to the initially alleged arrears beginning date of February 2018. Appellant further included his denial to due process emails, court transcriptions, orders from the Title IV-D Agency and Court, as well as proof of the Custodial Parent refusing to properly file a claim.

In the evidence and averments before you here, however, Appellant was properly afforded due process, and on February 3, 2020, the Secretary rendered his VA Apportionment ruling pursuant to IM-98-03 by the VJRA of 1988. Claimant and Appellee Mrs. Kara Coursey was required to file her Notice of Disagreement within the allotted 60 days to the only court with appellate jurisdiction, the Board of Veterans' Appeal, and as stated in VA Form 20-0998 that accompanied that decision. The Secretary's decision is final; no portion goes to Mrs. Kara Coursey on behalf of the child subject to the claim.

(emphasis added) In light of the Apportionment denial ruling, the State of Texas and OAG must now obey 38 U.S.C. § 511(a) "The Secretary shall decide all questions of law and fact necessary to a decision by the Secretary under a law that affects the provision of benefits by the Secretary to veterans or the dependents ... of veterans.... the decision of the Secretary as to any such question shall be final and conclusive and may not be reviewed by any other official or by any court, whether by an action in the nature of mandamus or otherwise." (emphasis added) The State of Texas and OAG must now also obey 38 U.S.C. § 5301(a). Therefore, the application of TEX. FAM. CODE § 154.062(b)(5) has been and will continue to be unjust and inappropriate in Appellant's case as it deprives and and is devoid of Appellant's due process right to have the Secretary determine if a portion of Veteran benefit award had been received in leu of **disposable** retirement pay prior to attachment.

Appellant's independent VA Apportionment judgment, as ordered by both U.S. Congress under the authority of the Secretary of the Department of Veterans Affairs, which should have been initiated by the Texas Title IV-D Agency, did take the best interest of the children into "careful and compassionate consideration" as indicated in VA Form 20-0998.

38 U.S.C. § 5301 is the Nonassignability and Exempt Status of Benefits. Appellant's VA service connected disability benefits award is protected by 38 U.S.C. § 5301. 38 U.S.C. § 5301(a) states that: "(1) Payments of benefits due or to become due under any law administered by the Secretary shall not be assignable except to the extent specifically authorized by law, and such payments made to, or on account of, a beneficiary shall be exempt from taxation, shall be exempt from the claim of creditors, and shall not be liable to attachment, levy, or seizure by or under any legal or equitable process

whatever, either before or after receipt by the beneficiary."[5] Appellant avers that the VA has privity of contract with absolute sovereign immunity of the U.S. when it comes to asserting his ripe Apportionment ruling that unequivocally indicates that his vested VA disability benefits award is for him to spend as I see fit.[6] as granted September 3, 2020 from the appellate court with Appellant's Motion for Judicial Notice filed February 11, 2020.

From the VA Office of General Counsel, Precedent Opinion 2-2002 Nonassignability of Benefits—38 U.S.C. § 5301(a) Citation: "4. An ASSIGNMENT is a transfer of property or some other right from one person to another that confers a complete and present right to the assignee in the subject matter of the assignment. 6 Am. Jur. 2d Assignments § 1 (1999); see also Black's Law Dictionary 115 (7th ed. 1999) (transfer of rights or property). The term 'assignment' ordinarily refers to a transfer of intangible rights in property, as opposed to transfer of property itself, 6 Am. Jur. 2d Assignments § 1 (1999), i.e., a transfer of a right to receive payments, rather than a transfer of the funds themselves. An assignment is by its nature a voluntary transfer. 6 Am. Jur. 2d Assignments § 2 (1999)."

"(3)(A) This paragraph is intended to clarify that, in any case where a beneficiary entitled to compensation, pension, or dependency and indemnity compensation enters into an agreement with another person under which

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[5] *Higgins v. Beyer*, 293 F3d. 683, p. 686 & 694 (3d Cir. 2002) (Section 5301(a) provides a federal right that is enforceable under 42 U.S.C. § 1983.) "Higgins's procedural due process rights are enforceable under § 1983. See Zinermon, 494 U.S. at 125, 110 S.Ct. 975 ('A § 1983 action may be brought for a violation of procedural due process. . ..')" "[W]e conclude that Higgins's pro se complaint, when liberally construed, stated sufficient facts to state a cause of action for a violation of a federal right under § 5301(a), and a deprivation of his Fourteenth Amendment right to notice and hearing prior to the deprivation of his property interest in the proceeds of his veteran's benefits. . . under the Due Process Clause."

[6] *Sanchez Dieppa v. Rodriguez Pereira, 580 F.Supp 735 (1984).*

agreement such other person acquires for consideration the right to receive such benefit by payment of such compensation, pension, or dependency and indemnity compensation, as the case may be, except as provided in subparagraph (B), and including deposit into a joint account from which such other person may make withdrawals, or otherwise, such agreement shall be deemed to be an ASSIGNMENT and IS PROHIBITED." (emphasis added)

"(3)(C) Any agreement or arrangement for collateral for security for an agreement that is prohibited under subparagraph (A) is also prohibited and is VOID from its inception." (emphasis added) The False Claims Act ("FCA"), 31 U.S.C. §§ 3729 – 3733, sets forth liability for any person who knowingly submits a false claim to the government or causes another to submit a false claim to the government or knowingly makes a false record or statement. A false claim, in this instance, is defined as a demand for a portion of Appellant's VA award made directly to appellant by any Texas judge or Title IV-D official to be paid to his children or the custodian.

See also 38 U.S. CODE § 6101 – MISAPPROPRIATION BY FIDUCIARIES. Shall be fined in accordance with title 18, or imprisoned not more than five years, or both:

The AG of Texas became the defacto "fiduciary" as defined in section 5506 of title 38—

(1) a person who is guardian, curator, conservator, committee, or person legally vested with the responsibility or care of a claimant (or a claimant's estate) or of a beneficiary (or a beneficiary's estate); or

(2) any other person having been appointed in a representative capacity to receive money paid under any of the laws administered by the Secretary for the use and benefit of a minor, incompetent, or other beneficiary.

38 U.S. CODE § 6101 – MISAPPROPRIATION BY FIDUCIARIES

(a) Whoever, being a fiduciary (as defined in section 5506 of this title) for the benefit of a minor, incompetent, or other beneficiary under laws administered by the Secretary, shall lend, borrow, pledge, hypothecate, use, or exchange for other funds or property, except as authorized by law, or embezzle or in any manner misappropriate any such money or property derived therefrom in whole or in part and coming into such fiduciary's control in any manner whatever in the execution of such fiduciary's trust, or under color of such fiduciary's office or service as such fiduciary, shall be fined in accordance with title 18, or imprisoned not more than five years, or both.

Therefore, when the OAG, signed on behalf of Attorney General of Texas, Ken Paxton, proclaiming that he was the "fiduciary" for denied VA Apportionment Claimant and mother K Coursey, he has now engaged in misappropriation of Appellant's vested VA award under color of his office where no assignment of the right existed. See also §§ 5905; & 6102

31 CFR Part 212 Final Rule June 2013 is the Garnishment of Accounts Containing Federal Benefits. Appellant's service-connected VA disability compensation benefits award is such a protected federal benefit. The preamble of the Final Rule directs appellant to cite, invoke, and assert the protections of 38 U.S.C. § 5301(a):...federal payments subject to garnishment by child support enforcement agencies under 42 U.S.C. 659 are limited to payments based on remuneration for employment. This does not include VA payments other than those representing compensation for a service-connected disability paid to a former member of the Armed Forces who is in receipt of retired or retainer pay and who has waived a portion of the retired or retainer pay in order to receive such compensation. . . if an account containing ... VA payment is garnished by a state child support enforcement agency, the noncustodial parent is not required to go to court to have the funds released

and therefore does not necessarily face a time-consuming, expensive, and confusing process to free the funds. Rather, a noncustodial parent whose account is garnished for child support can contact the child support enforcement agency directly (usually by phone), explain that the account being garnished contains ... VA payments, and provide a copy of his or her ... VA payments statement in order to have the benefits released. . .Nothing in the rule restricts or prevents an individual who receives ... VA payments ... from challenging in court the garnishment of those payments for child support obligations in the event a State child support enforcement agency does serve such a garnishment order on a financial institution.[7] As a warning to those officials who disregard this promulgated regulation, 18 U.S.C. § 1344 authorizes a fine of not more than $1,000,000 and imprisonment of not more than 30 years.

In addition to previously cited federal civil rights, property division, spousal and child support calculations must not take into consideration any of Appellant's VA award as this would violate numerous potential 18 U.S. Code violations, including Sections 241, 246, 249(a), 371, 641, & 666 to list a few. There are indications within the January 29, 2015 joint Department of Justice and U.S. Department of Health and Human Services letter, that it's very possible Appellant may have also similarly been denied custodial time with his child and discriminated against contrary to his rights granted him in the Americans with Disabilities Act of 1990 ("ADA") after a portion of his independent VA Award was assigned in property division, spousal and child support establishment and enforced without any substantive due process and Texas Judicial District Court jurisdiction. With regards to Title II of the ADA,

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[7] *Federal Register /Vol. 78, No. 103/Wednesday, May 29, 2013/Rules and Regulations, Page 32103* https://fiscal.treasury.gov/files/eft/regulations/31cfr212final.pdf *(December 14, 2018)*

Appellant cautions the State of Texas that he have a right to bring a suit under 42 U.S.C. § 12132, for any potential prejudicial discrimination and unequal opportunity resulting in exclusion and denial of programs and services from the public entity that is the Texas Title IV-D Agency. Appellant potentially may bring suit against Defendants, the State of Texas and the Title IV-D Agency pursuant to 42 U.S.C. § 12202 a State shall not be immune under the eleventh amendment to the Constitution of the United States from an action in a Federal or State court of competent jurisdiction for a violation of this chapter. In any action against a State for a violation of the requirements of this chapter, remedies (including remedies both at law and in equity) are available for such a violation to the same extent as such remedies are available for such a violation in an action against any public or private entity other than a State. And with regards to Section 504 of the Rehabilitation Act of 1973 ("Section 504"), Appellant could then bring a suit under 29 U.S.C. § 794 for exclusionary participation in, benefits denial and subjection to discrimination under the programs and activities receiving Federal financial assistance, incentives, grants, etc. conducted by the Texas Title IV-D Agency. Pursuant to 794a(a)(2), "the remedies, procedures, and rights set forth in title VI of the Civil Rights Act of 1964 (42 U.S.C. 2000d et seq.) (and in subsection (e)(3) of section 706 of such Act (42 U.S.C. 2000e–5), applied to claims of discrimination in compensation) shall be available to any person aggrieved by any act or failure to act by any recipient of Federal assistance or Federal provider of such assistance under section 794 of this title." These harmful state-enforced financial orders have severely curtailed Appellant's dependent visitation resources and has drastically curtailed his ability to have a meaningful relationship with his dependent.

15 U.S.C. § 1681 establishes accuracy and fairness of credit reporting

known formally as the Fair Credit Reporting Act. Section 1681n is the Civil liability for willful noncompliance, and Section 1681o is the Civil liability for negligent noncompliance of this Act. Section 1681p states "An action to enforce any liability created under this subchapter may be brought in any appropriate United States district court, without regard to the amount in controversy..."

National Security implications are well indicated in Appellant's current and previous child support orders and as discussed in McCarty v. McCarty, 453 U.S. 210 (1981). The refusal of a Texas court judge to accept constitutional clauses, current acts of Congress and higher federal court rulings on the limitations of their jurisdiction in matters of National Security can be seen as a treasonous act under the color of law. For in doing so, such disregard of federal laws and regulations interferes with the current Congressional veterans' disability benefit scheme which serves as an important inducement for the nation's voluntary military service structure. The principle of federal sovereign immunity precludes the individual states from suing without its consent. In Appellant's instant case, the sovereign immunity of the U.S. has not been waived and is contemptuously being ignored by the State of Texas.

18 U.S.C. Section 2381 - Treason must be noted in examining the engrossed language found in § 154.062(b)(5) of the TEX. FAM. CODE. It is devoid of substantive and procedural due process rights each Texas disabled veteran must be granted in every judicial or administrative child support proceeding.

Under 5 C.F.R. § 581.401, Appellant's true "aggregate disposable earnings" are not to include my VA benefits award, for demonstrated privity of contract, and therefore, lack of subject matter jurisdiction by the family court, in both establishment or assignment in any legal process.

Therefore, based upon the fact that an independent 2020 VA Apportionment Claim Denial ruling with privity of contract was issued regarding Appellant VA Award under the full authority of the Secretary, Appellant now respectfully request that the Court find my 2019 child support order and all support orders, beginning in December 2009, to be void ab initio as guided by 38 U.S.C. § 5301(a)(3)(C): "Any agreement or arrangement for collateral for security for an agreement that is prohibited under subparagraph (A) is also prohibited and is void from its inception." Furthermore, pursuant to 45 CFR 302.56(g), Appellant refuses to pay any child support until the Title IV-D Agency follows all the federal laws, regulations, and policy directives as contracted with the Federal Office of Child Support Enforcement ("OCSE") and monitored by the Region VI Dallas, Texas office.

Houston VARO has now made an authorized ruling in accordance with the Veterans' Judicial Review Act of 1988, and procedural requirements for the simultaneously contested claim by the Veterans Claims Assistance Act of 2000 codified in part at 38 U.S.C. §§ 5103, 5103A and implemented in part at 38 C.F.R. § 19.100, 19.101, and 19.102 on the state alleged arrears based upon the rendered child support order following a proper apportionment application submission which should've been initiated by the Title IV-D agency. The only jurisdiction for an appeal by Claimant Mrs. Kara Coursey of the VA Apportionment ruling is and was the Board of Veterans' Appeal as stated in the accompanied VA Form 20-0998: The Veteran Judicial Review Act of 1988 establishes the procedure for review of claims relating to the administration of VA Benefits. 38 U.S.C. § 511. A party dissatisfied with the VA's resolution of a benefits-related issue cannot simply sue; he must instead pursue a specific appellate dispute-resolution path.

That path begins in the Board of Veterans' Appeals. 38 U.S.C. § 7104(a). If

dissatisfied with that body's ruling, the party may appeal the ruling to the Court of Appeals for Veterans Claims, 38 U.S.C. § 7252(a), then to the Court of Appeals for the Federal Circuit, 38 U.S.C. § 7292, and finally to the United States Supreme Court, 38 U.S.C. § 7292(c). The Veterans Judicial Review Act of 1988 grants jurisdiction to these courts and denies it to all others.

Before directing a disputant to one of these courts, a court must decide whether the Veterans Judicial Review Act (VJRA) applies. The VJRA precludes courts from reviewing the VA's decision on "all questions of law and fact necessary to a decision by the Secretary under a law that affects the provision of benefits by the Secretary to veterans." 38 U.S.C. § 511(a). State courts are not among the tribunals granted exclusive jurisdiction to review assigning a portion of VA disability compensation to a dependent. See 38 U.S.C. §§ 5307, 7104(a), 7252(a), 7292, 7292(c). "The 'only way to challenge' a benefits-management decision, the Seventh Circuit has explained, 'is through the mechanism set up by Congress, a mechanism that does not allow for review by the state court.'"10 The D.C. Circuit, too, has advised that VJRA procedures form "[t]he exclusive avenue for redress of veterans' benefits determinations." Price v. United States, 228 F.3d 420, 421 (D.C. Cir. 2000) (per curiam opinion). 28 U.S. Code § 1652 - State laws as rules of decision "The laws of the several states, except where the Constitution or treaties of the United States or Acts of Congress otherwise require or provide, shall be regarded as rules of decision in civil actions in the courts of the United States, in cases where they apply." (emphasis added)

The State of Texas is excluded as an independent third party to a VA Apportionment claim review considered in privity of contract strictly between authorized claimants as provided in Article Six and the Fourteenth Amendment of the U.S. Constitution as well as a requirement by numerous

post-1987 Acts of Congress. If I am denied my lawful asserted demands, both the Secretary of Health & Human Services and the Director of the Region VI Dallas office of OCSE will receive a copy of this notarized affidavit along with a notification of the Texas Title IV D Agency's refusal to follow proper legal procedures regarding this disabled veteran's federal civil rights.

From Veterans for Common Sense v. Shinseki, 678 F.3d 1013, 1016 (9th Cir. 2012),"'We conclude that we lack jurisdiction to afford such relief because Congress, in its discretion, has elected to place judicial review of claims relate to the provision of veterans' benefits beyond our reach and within the exclusive purview of the United States Court of Appeals for Veterans Claims and the Court of Appeals for the Federal Circuit... Without jurisdiction the court cannot proceed at all in any cause. Jurisdiction is power to declare the law, and when it ceases to exist, the only function remaining to the court is that of announcing the fact and dismissing the cause.' Ex parte McCardle, 74 U.S. (7 Wall.) 506, 514, 19 L.Ed. 264 (1868) ... we conclude that granting 9 Hill v. United States, No. 5:18-CV-21-DCM-MTP, 2018 WL 1902375, at *2 (S.D. Miss. Apr. 20, 2018) 10 Evans v. Greenfield Banking Co., 774 F.3d 1117 (7th Cir. 2014). VCS its requested relief would transform the adjudication of veterans' benefits into a contentious, adversarial system--a system that Congress has actively legislated to preclude. See Walters v. Nat'/Assn. of Radiation Survivors, 473 U.S. 305, 323-24, 105 S.Ct. 3180, 87 L.Ed.2d 220 (1985). The Due Process Clause does not demand such a system."

Anestis v. United States, No. 13-6062, 8 (6th Cir. 2014), "In 2012, the Ninth Circuit synthesized the case law and concluded that '[38 U.S.C.] § 511precludes jurisdiction over a claim if it requires the district court to review "VA decisions that relate to benefits decisions," including "any decision made

by the Secretary in the course of making benefits determinations.""

"Whatever springes the state may set for those who are endeavoring to assert rights thatthe state confers, the assertion of federal rights, when plainly and reasonably made, is not to be defeated under the name of local practice. Even if the order went only to the venue, and not to the jurisdiction, of the court, each Director General in turn plainly indicated that he meant to adopt the position of his predecessor, and to insist that the suit was brought in the wrong county. His lawful insistence cannot be evaded by attempting a distinction between his appearance and his substantially contemporaneous adoption of the plea. Indeed, when the law requires him to unite his defense on the merits, which imports an appearance pro hac vice, with his preliminary plea, it is hard to understand how any effect could be attributed to the statement that he appeared. The state courts may deal with that as they think proper in local matters, but they cannot treat it as defeating a plain assertion of federal right. The principle is general and necessary. Ward v. Love County, 253 U. S. 17, 253 U. S. 22. If the Constitution and laws of the United States are to be enforced, this Court cannot accept as final the decision of the state tribunal as to what are the facts alleged to give rise to the right or to bar the assertion of it, even upon local grounds. Creswill v. Grand Lodge Knights of Pythias, 225 U. S. 246. This is familiar as to the substantive law, and, for the same reasons, it is necessary to see that local practice shall not be allowed to put unreasonable obstacles in the way. See American Ry. Express Co. v. Levee, ante, 263 U.S. 19." Davis v. Wechsler, 263 U.S. at 24-25 (1923).

Rankin v. Howard, No. 78-3216. 633 F.2d 844 (9th Cir.1980) "...when a judge knows that he lacks jurisdiction, or acts in the face of clearly valid statutes or case law expressly depriving him of jurisdiction, judicial immunity is lost. See Bradley v. Fisher, 80 U.S. (13 Wall.) at 351 ('when the want of

jurisdiction is known to the judge, no excuse is permissible'); Turner v. Raynes, 611 F.2d 92, 95 (5th Cir.1980) (Stump is consistent with the view that 'a clearly inordinate exercise of un-conferred jurisdiction by a judge-one so crass as to establish that he embarked on it either knowingly or recklessly-subjects him to personal liability')."

The court of appeals granted September 3, 2020 Appellant's First Supplemental Request for Judicial Notice filed August 10, 2020 agreeing with appellant's averments that this case preempts state law as noted in Appellant's First Supplemental Request for Judicial Notice in the case *Foster v. Foster.* Further the court granted the motion Appellant's First Supplemental Request for Judicial Notice that concludes the Supreme Court of our sister state Michigan concluded April 29, 2020 that the question of the effect of federal preemption of the trial court's subject matter jurisdiction or the defendants ability to challenge to terms of the consent judgement outside of direct appeal.

The Appellant, in this case, is a pro se litigant. Article VI of the United States Constitution makes "the Constitution the Supreme Law of the Land," Cooper v. Aaron, 358 U.S. 1, 18 (1958), "which is also the Supreme Law of [Texas]," Poindexter v. Greenhow, 114 U.S. 270, 292 (1885).

"An unconstitutional law will be treated by the Courts as null and void," Board of Liquidation v. McComb, 92 U.S. 531, 532, 541 (1875), because "the constitution and laws of a State, so far as they are repugnant to the constitution and laws of the United States, are absolutely void" Cohen v. Virginia, 19 U.S. 246, 414 (1821) accord Maybury v. Madison, 5 US 137, 174, 176 (1803).

"In other words, no state can, in respect to any matter, set at naught the paramount provisions of the National Constitution." Braxton v. West Virginia, 208 U.S. 192, 197 (1908).

"It is State action of a particular character that is prohibited. Individual invasion of individual rights is not the subject-matter of the [14th] amendment. It has a deeper and broader scope. It nullifies and makes void all State legislation, and State action of every kind, which impairs the privileges and immunities of citizens of the United States, or which injures them in life, liberty or property without due process of law, or which denies to any of them the equal protection of the laws. United States v. Stanley, 103 U.S. 3, 11-12 (1883).

It is axiomatic that "[a] fair trial in a fair tribunal is a basic requirement of due process." Caperton v. A.T. Massey Coal Co., 556 U.S. 868, 876, 129 S. Ct. 2252, 2259, 173 L. Ed. 2d 1208 (2009). Interpreting the Due Process Clause the Supreme Court of the United States has established that even convicted felons serving active sentences as prisoners and children have a fundamental right to enjoy meaningful access the courts in a series of important cases, including Ex parte Hull, 312 U.S. 546 (1941), Johnson v. Avery, 383 U.S. 483 (1969), and Bounds v. Smith, 430 U.S. 817 (1977). Planned Parenthood of Central Missouri v. Danforth, 428 U.S. at 428 U. S. 74. Prince v. Massachusetts, 321 U. S. 158, 321 U. S. 170 (1944). See Ginsberg v. New York, 390 U. S. 629 (1968). See also McKeiver v. Pennsylvania, 403 U. S. 528 (1971).

This Court has made it clear that pleadings of pro se litigants are to be held to less rigorous standards than those drafted by attorneys. Haines v. Kerner, 404 U.S. 519, 520 (1972) (per curiam). Furthermore, pro se filings should be construed liberally and courts have a duty to ensure that pro se litigants do not lose their right to a hearing on their claim due to ignorance of technical procedural requirements. Balisteri v. Pacifica Police Department, 901 F. 2d 696, 699 (9th Cir. 1990); Borzeka v. Heckler, 739 F. 2d 444, 447 n. 2 (9th Cir.

1984); Cripps v. Life Ins. Co. of North America, 980 F. 2d 1261, 1268 (9th Cir. 1992) (Default judgment vacated in part due to pro se status of Petitioner and unfamiliarity with court procedures).

Pro se litigants, as well as those represented by counsel, are entitled to meaningful access to the courts. See Bounds v. Smith, 430 U.S. 817, 828 (1977); Wolff v. McDonnell, 418 U.S. 539, 579 (1974); Ross v. Moffitt, 417 U.S. 600, 612-15 (1974) ; Johnson v. Avery, 393 U.S. 483, 485 (1969); Rudolph v. Locke, 594 F.2d 1076, 1078 (5th Cir. 1979).

Sufficient access to the courts is a right protected by the Due Process Clause of the Fourteenth Amendment. See Wolff, 418 U.S. at 579-80; Corpus v. Estelle, 409 F. Supp. 1090, 1097 (S.D. Tex. 1975), aff'd, 542 F.2d 573 (5th Cir. 1976); Potuto, The Right of Prisoner Access: Does Bounds Have Bounds?, 53 Ind. L.J. 207, 215-19 (1977-78); Note, Prisoners' Rights- Failure to Provide Adequate Law Libraries Denies Inmates' Right of Access to the Courts, 26 U. Kan. L. Rev. 636, 643-44 (1978).

Sufficient access to the courts is equally a fundamental right protected by the First Amendment, which guarantees a person's use of the judicial process to redress alleged grievances. See Cruz v. Beto, 405 U.S. 319, 321 (1972) (right to petition Government for redress of grievances); NAACP v. Button, 371 U.S. 415, 428-29 (1963)(same), Bounds v. Smith, 430 U.S. 817, 825 (1977); Wolff v. McDonnell, 418 U.S. 539, 579 (1974); Johnson v. Avery, 393 U.S. 483, 488 (1969).

Procedural due process imposes constraints on governmental decisions which deprive individuals of "liberty" or "property" interests within the meaning of the Due Process Clause of the Fifth or Fourteenth Amendment, even in the civil context at issue here, See, e. g., Richardson v. Belcher, 404 U. S. 78, 80-81 (1971); Richardson v. Perales, 402 U. S. 389, 401-402 (1971);

Flemming v. Nestor, 363 U. S. 603, 611 (1960).

The "right to be heard before being condemned to suffer grievous loss of any kind, even though it may not involve the stigma and hardships of a criminal conviction, is a principle basic to our society." Joint Anti-Fascist Comm. v. McGrath, 341 U. S. 123, 168 (1951) (Frankfurter, J., concurring). The fundamental requirement of due process is the opportunity to be heard "at a meaningful time and in a meaningful manner." Armstrong v. Manzo, 380 U. S. 545, 552 (1965). See Grannis v. Ordean, 234 U. S. 385, 394 (1914); Fuentes v. Shevin, 407 U.S. 67, 81, 92 S.Ct. 1983, 1994, 32 L.Ed.2d 556 (1972).

The right to notice and the opportunity to be heard "must be granted at a meaningful time." Fuentes, 407 U.S. at 81, 92 S.Ct. at 1994; Cleveland Bd. of Education v. Loudermill, 470 U.S. 532, 542, 105 S.Ct. 1487, 1493, 84 L.Ed.2d 494 (1985).

"Finality requirement for constitutional claims of due process violation that implicate a due process right either to a meaningful opportunity to be heard or to seek reconsideration of an adverse [] determination. Evans v. Chater, 110 F.3d 1480, 1483 (9th Cir. 1997)."

CONCLUSION

For the foregoing reasons, the Appellant hereby prays this Court will grant this motion for rehearing, withdraw its opinion, reverse the Judgement of the Trial Court. In accordance with 28 U.S.C. § 1738B, the Full Faith and Credit Clause only limits filing a federal lawsuit against the State of Texas if the child support order is made consistently whenever the court that makes the order has SUBJECT MATTER JURISDICTION and grants full due process,

which although Appellee wants to ignore, Appellant has proven by the Appellee's refusal to assist in a proper and legal apportionment through the Department of Veteran Affairs. "Rooker-Feldman... does not bar actions by nonparties [i.e. the VA] to the earlier state-court judgment simply because, for purpose of preclusion law, they could be considered privity with a party to the judgment." Lance v Dennis, 126 S. Ct. 1198, 1203 (2006). "The doctrine, however, does not preclude federal jurisdiction over an 'independent claim,' even 'one that denies a legal conclusion that a state court has reached.'" Exxon Mobil Corp. v Saudi Basic Indus. Corp. 544 U.S. 280, 293 (2005).

Until the State of Texas of Texas considers a 'just' and 'appropriate' child support order calculation with Appellant's VA award, and declares all child support orders dating back to December 2009 Void in law and without any legal force or effect along with an order of total recoupment than Appellant will be blatantly denied both unfettered full access to his personal compensation by identity theft by the Title IV-D Agency against Appellant's protected Social Security number via illegal Income Withholding orders, as well as denial to protected federal civil rights from a contentious, adversarial system that U.S. Congress has actively legislated to preclude from such contempt. The Supreme Court of Texas at one time understood this protection as was the case for Veterans Admin v Kee 706. S.W. 2d 101 (1986).

/s/ Michael T. Quinn

Michael Timothy Quinn

[redacted]

(832) 922-1433

michael.tim.quinn@gmail.com

Appellant – *pro se*

CERTIFICATE OF SERVICE

I certify that on the 17 day of February 2021, this Appellant's Motion for Rehearing was served on Counsel under Texas Rule of Appellate Procedure 9.5(b):

Deterrean Gamble
Assistant Attorney General
Appellate Litigation Section
P.O. Box 12017
Austin, TX 78711

Kara Coursey
[redacted]

/s/ Michael T. Quinn
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Appellant – *pro se*

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Associated Case Party: Robert Hall

Name	BarNumber	Email	TimestampSubmitted	Status
Robert Hall		CSD-legal-667@texasattorneygeneral.gov	2/17/2021 10:38:06 AM	SENT

Associated Case Party: Office of the Attorney General of Texas - Appellee

Name	BarNumber	Email	TimestampSubmitted	Status
Deterrean Gamble		CSD-APPEALS@oag.texas.gov	2/17/2021 10:38:06 AM	SENT

Associated Case Party: KaraElisabethCoursey

Name	BarNumber	Email	TimestampSubmitted	Status
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Kara Coursey		karajunior87@hotmail.com	2/17/2021 10:38:06 AM	SENT

Associated Case Party: MichaelTimothyQuinn

Name	BarNumber	Email	TimestampSubmitted	Status
Michael TimothyQuinn		michael.tim.quinn@gmail.com	2/17/2021 10:38:06 AM	SENT

Associated Case Party: Deterrean Gamble

Name	BarNumber	Email	TimestampSubmitted	Status
Deterrean Gamble		deterrean.gamble@oag.texas.gov	2/17/2021 10:38:06 AM	SENT

NOTICE: THIS DOCUMENT CONTAINS SENSITIVE DATA

Cause Number: _____
(The Clerk's office will fill in the Cause Number when you file this form)

Plaintiff: Michael Timothy Quinn
(Print first and last name of the person filing the lawsuit.)

And

Defendant: Kara Elisabeth Coursey
(Print first and last name of the person being sued.)

In the _____ Court Number
(check one):
☐ District Court
☐ County Court / County Court at Law
☐ Justice Court

_____ County Texas

Statement of Inability to Afford Payment of Court Costs or an Appeal Bond

1. Your Information

My full legal name is: Michael (First) Timothy (Middle) Quinn (Last) My date of birth is: [redacted] (Month/Day/Year)

My address is: *(Home)* [redacted]

(Mailing) _____

My phone number: 8329221433 My email: michael.tim.quinn@gmail.com

About my dependents: "The people who depend on me financially are listed below.

	Name	Age	Relationship to Me
1	[redacted]	[redacted]	[redacted]
2			
3			
4			
5			
6			

2. Are you represented by Legal Aid?

☐ I am being represented in this case for free by an attorney who works for a legal aid provider or who received my case through a legal aid provider. I have attached the certificate the legal aid provider gave me as 'Exhibit: Legal Aid Certificate.

-or-

☒ I asked a legal-aid provider to represent me, and the provider determined that I am financially eligible for representation, but the provider could not take my case. I have attached documentation from legal aid stating this.

-or-

☐ I am not represented by legal aid. I did not apply for representation by legal aid.

3. Do you receive public benefits?

☐ I do not receive needs-based public benefits. **- or -**

☒ I receive these **public benefits/government entitlements** that are based on indigency:
(Check ALL boxes that apply and attach proof to this form, such as a copy of an eligibility form or check.)

☒ Food stamps/SNAP ☐ TANF ☐ Medicaid ☐ CHIP ☐ SSI ☐ WIC ☐ AABD
☐ Public Housing or Section 8 Housing ☐ Low-Income Energy Assistance ☐ Emergency Assistance
☐ Telephone Lifeline ☐ Community Care via DADS ☐ LIS in Medicare ("Extra Help")
☐ Needs-based VA Pension ☐ Child Care Assistance under Child Care and Development Block Grant
☐ County Assistance, County Health Care, or General Assistance (GA)
☐ Other: _____

4. What is your monthly income and income sources?

"I get this monthly income:

[redacted] in monthly wages. I work as a _____ for _____
Your job title *Your employer*

in monthly unemployment. I have been unemployed since *(date)* _____

in public benefits per month.

from other people in my household each month: *(List only if other members contribute to your household income.)*

from ☐ Retirement/Pension ☐ Tips, bonuses ☒ Disability ☐ Worker's Comp
☒ Social Security ☐ Military Housing ☐ Dividends, interest, royalties
☐ Child/spousal support
☐ My spouse's income or income from another member of my household *(If available)*

from other jobs/sources of income. *(Describe)* _____

is my *total* monthly income.

5. What is the value of your property?

"My property includes:	Value*
Cash	$ [redacted]
Bank accounts, other financial assets [redacted]	$
	$
	$
Vehicles (cars, boats) *(make and year)* [redacted]	$
	$
	$
Other property (like jewelry, stocks, la another house, etc.)	
	$
	$
	$
***Total* value of property** →	$

*The value is the amount the item would sell for less the amount you still owe on it, if anything.

6. What are your monthly expenses?

"My monthly expenses are:	Amount
Rent/house payments/maintenance	[redacted]
Food and household supplies	
Utilities and telephone	
Clothing and laundry	
Medical and dental expenses	
Insurance (life, health, auto, etc.)	
School and child care	
Transportation, auto repair, gas	
Child / spousal support	
Wages withheld by court order	
Debt payments paid to: *(List)* [redacted]	
***Total* Monthly Expenses** →	

7. Are there debts or other facts explaining your financial situation?

"My debts include: *(List debt and amount owed)* [redacted]

(If you want the court to consider other facts, such as unusual medical expenses, family emergencies, etc., attach another page to this form labeled "Exhibit: Additional Supporting Facts.") Check here if you attach another page. ☐

8. Declaration

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

☒ I cannot afford to pay court costs.

☒ I cannot furnish an appeal bond or pay a cash deposit to appeal a justice court decision.

My name is Michael Timothy Quinn. My date of birth is [redacted]

My address is [redacted]
Street *City* *State* *Zip Code* *Country*

Signed on 12/01/2020 in Harris County, TX
Signature *Month/Day/Year* *county name* *State*

72a

Gmail

Michael Quinn <michael.tim.quinn@gmail.com>

18E-1003410 Custody / Visitation

1 message

Luz Gama <luz.gama@hvlp.org> Thu, Jun 7, 2018 at 3:51 PM
To: michaeltim.quinn@gmail.com

Dear Mr. Quinn,

You recently applied to the Houston Volunteer Lawyers for assistance in locating a lawyer to help you with your legal problem. Unfortunately, we have limited resources and cannot provide every applicant to our program with a volunteer lawyer. After reviewing your case, we have determined that we cannot provide a volunteer lawyer to represent or advise you going forward. As a result, we will be unable to furnish any further legal services to you, and we have had to close your file.

Our decision to close your file does not mean that your case lacks legal merit. Please consider contacting one of the following agencies, which might be able to assist you in resolving your case.

Houston Lawyer Referral Service
Houston, TX 77002. Phone: (713) 237-9429 or (713) 2894577
www.hlrs.org

You may also find helpful information about your legal problem at www.TexasLawHelp.org.

Please call us at (713) 228-0732 if you need further assistance.

Sincerely,
Luz Gama

Luz Gama | *Program Manager*
Houston Volunteer Lawyers | 1111 Bagby, Suite FLB 300 | Houston, Texas 77002 | 713.275.0124
www.MakeJusticeHappen.org

Automated Certificate of eService

This automated certificate of service was created by the efiling system. The filer served this document via email generated by the efiling system on the date and to the persons listed below:

Envelope ID: 48502622
Status as of 12/1/2020 9:49 AM CST

Associated Case Party: Office of the Attorney General of Texas - Appellee

Name	BarNumber	Email	TimestampSubmitted	Status
Deterrean Gamble		CSD-APPEALS@oag.texas.gov	12/1/2020 9:45:49 AM	SENT

Associated Case Party: Deterrean Gamble

Name	BarNumber	Email	TimestampSubmitted	Status
Deterrean Gamble		deterrean.gamble@oag.texas.gov	12/1/2020 9:45:49 AM	SENT

Associated Case Party: Robert Hall

Name	BarNumber	Email	TimestampSubmitted	Status
Robert Hall		CSD-legal-667@texasattorneygeneral.gov	12/1/2020 9:45:49 AM	SENT

Associated Case Party: KaraElisabethCoursey

Name	BarNumber	Email	TimestampSubmitted	Status
Kara Coursey Jr		karajunior87@gmail.com	12/1/2020 9:45:49 AM	SENT
Kara Coursey		karajunior87@hotmail.com	12/1/2020 9:45:49 AM	SENT

Associated Case Party: MichaelTimothyQuinn

Name	BarNumber	Email	TimestampSubmitted	Status
Michael TimothyQuinn		michael.tim.quinn@gmail.com	12/1/2020 9:45:49 AM	SENT

Michael T. Quinn

July 14, 2021

Your Social Security Statement

Your *Social Security Statement* tells you about **how much you or your family would receive** in disability, survivor, or retirement benefits. It also includes our record of your lifetime earnings. Check out your earnings history, and **let us know right away if you find an error**. This is important because we base your benefits on our record of your lifetime earnings.

Social Security benefits are **not intended to be your only source of income when you retire**. On average, Social Security will replace about 40 percent of your annual pre-retirement earnings. You will need other savings, investments, pensions, or retirement accounts to make sure you have enough money to live comfortably when you retire.

Social Security Administration

Your Estimated Benefits

Because You Have Already Filed a Claim for Benefits

We are not giving you estimates because our records show that you have already qualified for benefits.

If the benefits are based on your own record, you received a notice of your benefit amount when you first qualified. Each year, you get an updated notice showing the annual cost-of-living increase. If you continue working while qualified for benefits and those earnings increase your benefit amount, we will send you additional notices of the new amounts. And when you die, we will base benefit payments for your survivors on your benefit amount.

If you are getting benefits as the spouse or the widow or widower of someone else, we must look at both records to determine how much you are entitled to. Please call our toll-free telephone number on page 4 or contact your local Social Security office so that we can discuss this with you.

How Your Benefits Are Estimated

To qualify for benefits, you earn "credits" through your work — up to four each year. This year, for example, you earn one credit for each $1,470 of wages or self-employment income. When you've earned $5,880, you've earned your four credits for the year. Most people need 40 credits, earned over their working lifetime, to receive retirement benefits. For disability and survivors benefits, young people need fewer credits to be eligible.

We checked your records to see whether you have earned enough credits to qualify for benefits. If you haven't earned enough yet to qualify for any type of benefit, we can't give you a benefit estimate now. If you continue to work, we'll give you an estimate when you do qualify.

What we assumed — If you have enough work credits, we estimated your benefit amounts using your average earnings over your working lifetime. For 2021 and later (up to retirement age), we assumed you'll continue to work and make about the same as you did in 2019 or 2020. We also included credits we assumed you earned last year and this year.

Generally, the older you are and the closer you are to retirement, the more accurate the retirement estimates will be because they are based on a longer work history with fewer uncertainties such as earnings fluctuations and future law changes. We encourage you to use our online Retirement Estimator to obtain immediate and personalized benefit estimates.

We can't provide your actual benefit amount until you apply for benefits. **And that amount may differ from the estimates above because:**

(1) Your earnings may increase or decrease in the future.
(2) After you start receiving benefits, they will be adjusted for cost-of-living increases.
(3) Your estimated benefits are based on current law. **The law governing benefit amounts may change.**
(4) Your benefit amount may be affected by **military service, railroad employment or pensions earned through work on which you did not pay Social Security tax.** Visit ***www.socialsecurity.gov*** to learn more.

Windfall Elimination Provision (WEP) — If you receive a pension from employment in which you did not pay Social Security taxes and you also qualify for your own Social Security retirement or disability benefit, your Social Security benefit may be reduced, but not eliminated, by WEP. The amount of the reduction, if any, depends on your earnings and number of years in jobs in which you paid Social Security taxes, and the year you are age 62 or become disabled. To estimate WEP's effect on your Social Security benefit, visit ***www.socialsecurity.gov/WEP-CHART***. For workers newly eligible in 2021, the maximum monthly reduction in PIA is $498. For more information, please see *Windfall Elimination Provision* (Publication No. 05-10045) at ***www.socialsecurity.gov/WEP***.

Government Pension Offset (GPO) — If you receive a pension based on federal, state or local government work in which you did not pay Social Security taxes and you qualify, now or in the future, for Social Security benefits as a current or former spouse, widow or widower, you are likely to be affected by GPO. If GPO applies, your Social Security benefit will be reduced by an amount equal to two-thirds of your government pension, and could be reduced to zero. Even if your benefit is reduced to zero, you will be eligible for Medicare at age 65 on your spouse's record. To learn more, please see *Government Pension Offset* (Publication No. 05-10007) at ***www.socialsecurity.gov/GPO***.

Your Earnings Record

Years You Worked	Your Taxed Social Security Earnings	Your Taxed Medicare Earnings
2000	1,309	1,309
2001	2,207	2,207
2002	133	133
2003	4,716	4,716
2004	9,571	9,571
2005	7,757	7,757
2006	13,635	13,635
2007	21,279	21,279
2008	23,737	23,737
2009	21,222	21,222
2010	0	0
2011	0	0
2012	0	0
2013	0	0
2014	0	0
2015	0	0
2016	0	0
2017	0	0
2018	0	0
2019	0	0
2020	Not yet recorded	Not yet recorded

You and your family may be eligible for valuable benefits:

When you die, your family may be eligible to receive survivors benefits.

Social Security may help you if you become disabled—even at a young age.

A young person who has worked and paid Social Security taxes in as few as two years can be eligible for disability benefits.

Social Security credits you earn move with you from job to job throughout your career.

Total Social Security and Medicare taxes paid over your working career through the last year reported on the chart above:

Estimated taxes paid for Social Security:		Estimated taxes paid for Medicare:	
You paid:	$6,868	You paid:	$1,601
Your employers paid:	$6,540	Your employers paid:	$1,525

Note: Currently, you and your employer each pay a 6.2 percent Social Security tax on up to $142,800 of your earnings and a 1.45 percent Medicare tax on all your earnings. If you are self-employed, you pay the combined employee and employer amount, which is a 12.4 percent Social Security tax on up to $142,800 of your net earnings and a 2.9 percent Medicare tax on your entire net earnings. If you have earned income of more than $200,000 ($250,000 for married couples filing jointly), you must pay 0.9 percent more in Medicare taxes.

Help Us Keep Your Earnings Record Accurate

You, your employer and Social Security share responsibility for the accuracy of your earnings record. Since you began working, we recorded your reported earnings under your name and Social Security number. We have updated your record each time your employer (or you, if you're self-employed) reported your earnings.

Remember, it's your earnings, not the amount of taxes you paid or the number of credits you've earned, that determine your benefit amount. When we figure that amount, we base it on your average earnings over your lifetime. If our records are wrong, you may not receive all the benefits to which you're entitled.

Review this chart carefully using your own records to make sure our information is correct and that we've recorded each year you worked. You're the only person who can look at the earnings chart and know whether it is complete and correct.

Some or all of your earnings from **last year** may not be shown on your *Statement*. It could be that we still were processing last year's earnings reports when your *Statement* was prepared. **Note:** If you worked for more than one employer during any year, or if you had both earnings and self-employment income, we combined your earnings for the year.

There's a limit on the amount of earnings on which you pay Social Security taxes each year. The limit increases yearly. Earnings above the limit will not appear on your earnings chart as Social Security earnings. (For Medicare taxes, the maximum earnings amount began rising in 1991. Since 1994, **all** of your earnings are taxed for Medicare.)

Call us right away at **1-800-772-1213** (7 a.m.-7 p.m. your local time, TTY **1-800-325-0778**) if any earnings for years **before last year** are shown incorrectly. Please have your W-2 or tax return for those years available. (If you live outside the U.S., follow the directions at the bottom of page 4.)

Some Facts About Social Security

About Social Security and Medicare...

Social Security pays retirement, disability, family and survivors benefits. Medicare, a separate program run by the Centers for Medicare & Medicaid Services, helps pay for inpatient hospital care, nursing care, doctors' fees, drugs, and other medical services and supplies to people age 65 and older, as well as to people who have been receiving Social Security disability benefits for two years or more. Your Social Security covered earnings qualify you for both programs. Medicare does not pay for long-term care, so you may want to consider options for private insurance. For more information about Medicare, visit ***www.medicare.gov*** or call **1-800-633-4227** (TTY **1-877-486-2048** if you are deaf or hard of hearing).

Retirement — If you were born before 1938, your full retirement age is 65. Because of a 1983 change in the law, the full retirement age will increase gradually to 67 for people born in 1960 and later.

Some people retire before their full retirement age. You can retire as early as 62 and take benefits at a reduced rate. If you work after your full retirement age, you can receive higher benefits because of additional earnings and credits for delayed retirement.

Disability — If you become disabled before full retirement age, you can receive disability benefits after six months if you have:

- enough credits from earnings (depending on your age, you must have earned six to 20 of your credits in the three to 10 years before you became disabled); and
- a physical or mental impairment that's expected to prevent you from doing "substantial" work for a year or more *or* result in death.

If you are filing for disability benefits, please let us know if you are on active military duty or are a recently discharged veteran, so that we can handle your claim more quickly.

Family — If you're eligible for disability or retirement benefits, your current or divorced spouse, minor children or adult children disabled before age 22 also may receive benefits. Each may qualify for up to about 50 percent of your benefit amount.

Survivors — When you die, certain members of your family may be eligible for benefits:

- your spouse age 60 or older (50 or older if disabled, or any age if caring for your children younger than age 16); and
- your children if unmarried and younger than age 18, still in school and younger than 19 years old, or adult children disabled before age 22.

If you are divorced, your ex-spouse could be eligible for a widow's or widower's benefit on your record when you die.

Extra Help with Medicare — If you know someone who is on Medicare and has limited income and resources, extra help is available for prescription drug costs. The extra help can help pay the monthly premiums, annual deductibles and prescription co-payments. To learn more or to apply, visit ***www.socialsecurity.gov*** or call **1-800-772-1213** (TTY **1-800-325-0778**).

Receive benefits and still work...

You can work and still get retirement or survivors benefits. If you're younger than your full retirement age, there are limits on how much you can earn without affecting your benefit amount. When you apply for benefits, we'll tell you what the limits are and whether work would affect your monthly benefits. When you reach full retirement age, the earnings limits no longer apply.

Before you decide to retire...

Carefully consider the advantages and disadvantages of early retirement. If you choose to receive benefits before you reach full retirement age, your monthly benefits will be reduced.

To help you decide the best time to retire, we offer a free publication, *When To Start Receiving Retirement Benefits* (Publication No. 05-10147), that identifies the many factors you should consider before applying. Most people can receive an estimate of their benefit based on their actual Social Security earnings record by using our online Retirement Estimator. You also can calculate future retirement benefits by using the Social Security Benefit Calculators at ***www.socialsecurity.gov***.

Other helpful free publications include:

- *Retirement Benefits* (No. 05-10035)
- *Understanding The Benefits* (No. 05-10024)
- *Your Retirement Benefit: How It Is Figured* (No. 05-10070)
- *Windfall Elimination Provision* (No. 05-10045)
- *Government Pension Offset* (No. 05-10007)
- *Identity Theft And Your Social Security Number* (No. 05-10064)

We also have other leaflets and fact sheets with information about specific topics such as military service, self-employment or foreign employment. You can request Social Security publications at our website, ***www.socialsecurity.gov***, or by calling us at **1-800-772-1213**. Our website has a list of frequently asked questions that may answer questions you have. We have easy-to-use online applications for benefits that can save you a telephone call or a trip to a field office.

You also may qualify for government benefits outside of Social Security. For more information on these benefits, visit ***www.benefits.gov***.

If you need more information — Contact any Social Security office, or call us toll-free at **1-800-772-1213**. (If you are deaf or hard of hearing, you may call our TTY number, **1-800-325-0778**.) If you have questions about your personal information, you must provide your complete Social Security Number. If you are in the United States, you also may write to the Social Security Administration, Office of Earnings Operations, P.O. Box 33026, Baltimore, MD 21290-3026. If you are outside the United States, please write to the Office of International Operations, P.O. Box 17769, Baltimore, MD 21235-7769, USA.