

No. 21-\_\_\_\_\_

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**SUPREME COURT OF THE UNITED STATES**

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Jessica Wrobleksi,

Petitioner

Vs

Administration for Children Services, et al.

Respondent.

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On Petition for a Writ of Certiorari to

the United States Court of Appeals

for the Ninth Circuit

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**PETITION FOR A WRIT OF CERTIORARI**

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SUPREME COURT, U.S.

## **I. Questions Presented**

The United States Constitution provides rights that include but are not limited to procedural due process rights and freedom from cruel and unusual treatment. The following are the list of questions presented to this court on petition for Writ of Certiorari:

1. Did the New York County Family Court meet due process and evidence standards in their determinations against the petitioner in disposition of two conjoined appeals?
2. Did the New York County Family Court dispositions made in violation, in error of the facts, and not on clear and convincing guidelines constitute violation of the petitioners eighth and fourteenth amendment protected rights from cruel and unusual treatment, parental protected rights, child custody rights, life, liberty and property?
3. Did the New York County Family Court violate the petitioners 14th amendment protected Constitutional rights in regards to errors committed within the procedural due process that resulted in dispositions against the petitioner?
4. Did the New York State Court of Appeals err when they refused to accept the case under the doctrine of nunc pro tunc?

## **II. Parties to the Proceeding**

***In the Supreme Court of the United States***

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No. 21 \_\_\_\_\_

**In the Matter of Baby Boy W., &c.**

**Jessica Wrobleski,**

**Petitioner,**

**V.**

**Administration for Children's Services,**

**Legal Aid Society of New York,**

**Little Flower Children and Family Services,**

**Corporation Counsel,**

**State of New York**

**Docket NN-42965-13**

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**ON PETITION FOR A WRIT OF CERTIORARI**

**TO THE UNITED STATES COURT OF APPEALS**

**FOR THE DISTRICT OF COLUMBIA CIRCUIT**

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## **V. Opinions Below**

The dispositions of the New York County Family Court occurred on April 10th 2014 pertaining to a 1028 proceeding and February 3rd 2015 pertaining to a fact finding conclusion trial subsequently. These dispositions are attached as Appendix A and Appendix B.

On appeal, The New York State Appellate Division First Department held the two appeals, conjoined, for approximately four and four and a half years, and denied them on approximately March 19th 2019. The disposition to this is attached as Appendix C. Notification of appeal denials was not given to this petitioner despite that the proceedings regarding the docket have remained open from 2013 until present and due to ongoing proceedings, 7 years, all case assigned parties knew the residential whereabouts of this petitioner.

Leave to appeal to the New York State Court of Appeals was taken in approximately December of 2019 due to the Clerk of the Appellate Division First Department office not giving this petitioner information until approximately December 2019.

The decision by the New York State Court of Appeals denying Ms. Wrobleksi's direct appeal is reported as In the Matter of Baby Boy W., &c. Jessica W., Appellant v. Administration for Children's Services Respondent. The Decision of denial by the New York State Court of Appeals final denial was October 20th 2020, and stated as untimely as to the reason why despite nunc pro tunc argument. These two decisions are attached as Appendix D and Appendix E. All of the above-mentioned are in the docket NN-42965-13 case record and are unpublished.

## **VI. Jurisdiction**

Jessica Wrobleksi, a resident of Binghamton, New York, pro se, respectfully petitions this court for a writ of certiorari to review the judgment of the New York State Court of Appeals and the original judgments of the New York County Family Court and Intermediate Appellate Division First Department decisions.

Ms. Wrobleksi's son, who was born on 10-09-2013, was taken into New York City Administration for Children's Services custody on or about 10-10-2013, in an Article 10 of the Family Court Act neglect case filed by the above-mentioned agency and approved by the New York County Family Court. This petition is from two appeals filed and conjoined by the Appellate Division First Department. Appeal A was dispositioned on or about April 10th 2014 and Appeal B was dispositioned on or about February 3rd 2015, in court. Both had Notice of Appeals filed timely. Appellate Division First Department then assigned counsel for representation of this petitioner. Thereafter, the Appellate Division First Department held the conjoined appeals, for over 4 years, until denial on or about March 6th 2019.

Ms. Wrobleksi was incarcerated from January 20th 2017 until September 4th 2019 and was not notified of the conjoined appeals denial despite that the Appellate Division was written to timely requesting such information, that this petitioners whereabouts was known and on court records, that the case had been kept open from 2013 until 2020 and subsequently until present the appeals are holding the case matter open because of their status in the higher courts. Whereas all appointed

counsel to the record knew of this petitioner's residential whereabouts at all times and upon further direct contact the Clerk's office had difficulty giving the information to this petitioner. This appellant was notified in approximately December of 2019 and immediately petitioned the Appellate Division First Department with leave to appeal to the New York State Court of Appeals for hearing to the conjoined appeals.

New York State Court of Appeals denied leave to appeal as untimely on June 9th, 2020 and denied the motion to reargue nunc pro tunc on October 20th, 2020. Ms. Wrobleksi invokes this Court's jurisdiction under 28 U.S.C. § 1257, having timely filed this petition for writ of Certiorari within 150 days of the New York State Court of Appeals final decision issued on October 20th 2020. The extension given by this Court on March 19th 2020 extended deadlines to file to 150 days from the 90 day filing period; in response to the Covid-19 pandemic.

### **VIII. Constitutional Provisions Involved**

United States Constitution, Amendment VIII:

Excessive bail shall not be required, nor excessive fines imposed, nor cruel and unusual punishments inflicted.

United States Constitution, Amendment XIV:

All persons born or naturalized in the United States, and subject to the jurisdiction thereof, are citizens of the United States and of the State wherein they reside. No State shall make or enforce any law which shall abridge the privileges or immunities of citizens of the United States; nor shall any State deprive any person of life, liberty, or property, without due process of law; nor deny to any person within its jurisdiction the equal protection of the laws.

## **IX. Statement of the Case**

### **Procedural History**

There were monthly hearings on the case matter events, usually pertaining to the assigned agency court reports. This petitioner also made letters to the court to address from my own perspectives of information that I was involved in that was wrongfully relayed, or information that I found out along the way. The dates for 2013 are, 10/15/2013, 10/25/2013, 11/18/2013, 11/22/2013, 12/2/2013, 12/10/2013. CASA was involved to do an ICPC for the maternal cousin to obtain custody of the subject child with the maternal grandmother due to the maternal grandmother's inability to commute and as worked out a child care plan.

Court conference occurred on 12/10/2013 and 1/8/2014. Both reports alleged that Bellevue record diagnosed schizophrenia and bipolar, and that the discovery items was the Bellevue record, the case record, and the Beth Israel report. Additionally my complaints lodged that this petitioner and the maternal sibling to the subject

child had genetic tear duct closure conditions at birth and that his was not adequately cared for or given pediatric care.

2 Court ordered Mental Health Services office appointments located within the New York County Family Court building was ordered 11/27/2013 for competency to proceed without assigned counsel, and 1/28/2014 for assessment of risk to return child to custody. Motion to remove Little Flower 12/13/2013.

A letter to the Court record dated 2/10/2014. Monthly Court reports and hearings to them occurred on 2/24/2014, 3/27/2014.

There was a visit suspension from January 2014 until April 2014, under a noncompliance but the foundation reasons was that Little Flower agency was reporting negative behaviors from this petitioner at visitation, whereas this petitioner gave letters to the court addressing that they was obstructing my visitation and no negative behavior came from me, the presiding judge sided with the Little Flower agency and ordered mandated outpatient mental health services compliance. An assault allegation on December 2013 case proceedings that mandated this petitioner to outpatient services despite proven that this petitioner did not assault, and had no police report stipulating that such occurred. There was various complaint letters filed against Jennifer Pollissaint of the Little Flower agency, until her director Elizabeth Falcone removed her from the case in July 2014. Pertaining to Jennifer Pollissaints false assault allegation, instead of subpoena on the agency lobby cameras where I reported the confrontation occurred but no physical contact from myself to any agency staff occurred, the judge ordered an

investigator to review the cameras of the agency, on record order, but never followed up addressing such. However the judge did reinstate the visitation without being asked to do so. The 1028 occurred from 4/1/2014 until approximately 4/10/2014 disposition date. On approximately 4/4/2014 Little Flower court report accused this petitioner of racial slurs, hostility and threatening but acknowledged that I informed her I was recording all of my interactions with them. 4/4/2014 informed the ICPC failed. 5/29/2014 letter to the court explaining I previously moved back to Pennsylvania to enroll into service plan programs. 5/27/2014 letter to the court from my neighbor Tamara Norman explaining that she interacts with me daily and that I haven't displayed mental illness behaviors.

Two Permanency Hearings dated 6/10/2014 and 12/16/2014 both reported in reports that this petitioner was diagnosed by Bellevue record with Schizophrenia. The 6/10/2014 proceeding was dispositioned on 6/20/2014 with the same determination of foster care for the next 6 months. No where in the Bellevue record, that was court ordered released and delivered to me by SDNY Judge William H. Pauley III in case 13-cv-08736WHP, was this petitioner diagnosed with Schizophrenia a more serious mental illness than what Bellevue doctors actually opinionated.

Approximately 3 Anders Briefs was submitted at my motion requests to dismiss certain assigned counsel, who was not reporting to the court my letters to the court contents in complaint against the Little Flower agency staff conduct.

8/5/2014 court report and my reply. 8/11/2014 letter to the court from this petitioner. 8/22/2014 letters to the court explaining that Little Flower agency was still refusing

visitation despite being court ordered reinstated for months. 9/2014 Gary Schultz as assigned counsel. 9/2/2014 fact finding hearing began as a trial. 9/19/2014 Family Team Conference meeting biased permanency to the foster agency and gave a list of things they wanted done in the case.

08/29/2014, 9/5/2014, and 9/12/2014 visit in non dyadic setting. A visit suspension occurred again from an incident resulting from the contempt of dyadic order on 9/12/2014, suspension until 2/3/2015. Cognitive Behavioral Services issued various reports, services began 6-2-2014 and a psychological evaluation on 7/21/2014 included. Letter dated 8/8/2014 from Congreso De Latino Unidos parenting class program verifying attendance and content was given to the court record. Letter to the Court from Children's Advocacy center Roberta Colella that confirmed attendance to their first time parent mom program 2004-2005 but began for me at pregnancy in 2003 and the educational content to that that taught child development. Domestic Violence Group certificate of completion dated 8/7/2014. A letter dated 10/17/2014 to the court of my service plan program progresses and reported that Little Flower agency did not comply with dyadic and caused me to have panic attacks to the situation that occurred.

CASA reassigned 11/25/2014 to ICPC for my long time friend Dr. Fatin Alkhafaji to obtain custody of the subject child. 11/13/2014 court report confirmed all service plan program confirmations and contacted by the Little Flower agency staff, and that the ACS reports and amended petition was provided to the mental health service provider as collateral to treatment agendas.

**The ACS Case of the 2 conjoined appeals case information timeline.**

On Monday September 23rd 2013, this petitioner went to Bellevue Hospital in New York, New York to seek out social worker services because of housing issues and high risk pregnancy. This petitioner was admitted on an involuntary psychiatric hold and sought to be released through court intervention with the Mental Hygiene Legal Services office. This petitioner stayed until approximately October 7th 2013 where this petitioner was transferred out to maternity ward for child birth reasons. According to records, this petitioner did not have a mental health diagnosis from the approximate 14 day involuntary hold, did react to convey that this petitioner did not incite any ideation to be put on hold for and was subsequently seeking court ordered release, was completely unmedicated from psychiatric medications; was not recommended to psychiatric medication except for mandatory assigned chemical restraint drugs that are systemically assigned to all persons who are put on an involuntary hold incase they pose a danger to themselves or others.

Additionally, the assigned psychiatrist, Dr. Sudhir Gahd, interviewed daily and reported no psychosis or affective condition, the records reported no incidents of behavioral health issues resembling mental illness, and full prenatal care and all medical decisions was recorded within the record as having been made sound minded and educatedly. This petitioner worked with Social Worker Jordan La Chapelle to a safe discharge plan with the subject child. In the safe discharge plan Bellevue staff contacted the maternal grandmother who provided information and

also worked with the safe discharge plan that this petitioner would stay at the Family Shelter in NYC until able to return "home" to the maternal grandmother with the subject child by Greyhound bus, approximately 8 hours away in western Pennsylvania.

During of which time, this petitioner fully cooperated; was under an attending psychiatrists order to residents care to collect information on this petitioner and much involved daily observations and fully cooperated to providing all information during daily psychiatric reviews that was requested of this petitioner and also attending any programs offered.

On October 9th 2013 this Petitioner gave birth via cesarean section to the subject child of the above-captioned case matters at approximately 3:00 A.M. the petitioner was extremely upset that the hospital staff without any reasoning refused to allow the petitioner to breastfeed and see her child. At approximately 8:00A.M. a personnel from the social worker office came and while this petitioner was under the influence of powerful narcotic drugs prescribed post-cesarean surgery this petitioner told them to get out because of being intoxicated and upset.

Reportedly the Social Worker staff Sharry Ayala despite having a file of this petitioner previously complying with the same office on the 14 day involuntary hold to have a safe discharge plan, called the Administration for Children Services (hereafter described as "ACS") and falsely reported that this petitioner has Schizophrenia, Bipolar, Homelessness, lack of provisions for the subject child.

This petitioner continued to scream, cry, and display extreme emotional distress for the staff to allow her to have her own baby, the subject child.

The Bellevue Hospital staff decision upon transfer to the maternity care was discharged to the maternity care ward but had invoked a separate resident psychiatrist Dr. Gabriel Katz to be assigned to the care of this petitioner who came to meet with this petitioner after the birth of the subject child and after the social worker office staff had contacted ACS with their report that contradicted the previous psychiatrists reports, and the Bellevue record contents.

The timeline of psychiatric staff is as follows, Dr. Madeline O'Brien was assigned at the intake allegations, Dr. Sudhir Gahd was a resident assigned during the 2 week involuntary hold under the attending psychiatric care of Dr. Victor Rodack and Social Worker Jordan LaChapelle, and then upon transfer to the maternity ward resident Dr. Gabriel Katz and social worker Sharry Ayala. Whereas none but Gabriel Katz was called to Attest, opinionate diagnosis, and testify to the New York County Family Court.

Dr. Gabriel Katz came into the room that this petitioner was in post child birth for a psychiatric consult and to inform this petitioner that the social worker office had called the ACS on this petitioner as to why the subject child was not brought in to be with me. This petitioner reportedly displayed extreme emotional distress about the situation to Dr. Gabriel Katz who asked of my feelings and explained that he would put a 1 on 1 in place to allow me supervised to stay with my child for the remainder of my stay until discharge.

The 1 on 1, all of which reported procedurally the same behavior form for every shift or change of staff during the entire duration until I was discharged all reported excellent behavior, skills and decisions. The 1 on 1 staff brought my child in the room approximately 15 minutes before ACS staff Rosella Abbate arrived for interview. Approximately at the time immediately before ACS staff Rossella Abbate entered the room that I was in somberly holding the subject child to my chest, Mental Hygiene Legal Services staff member identified as Susan came in upon my calling her and explaining of the situation, Susan brought a file folder and explained that she had court and could not stay with me through the ACS interrogation but that the file showed that I cooperated with the Bellevue Social Services staff Jordan LaChappelle before I was induced to labor and I gave the safe discharge plan that was approved for me to leave with my child.

ACS Rossella Abbate literally passed MHLS Susan to come into the room and interview me. The file from MHLS Susan was on the food table beside the bed that I was on holding my infant son. ACS Rossella Abbate showed me the list of reasons given from Sharry Ayala above-stated as to why she was there. I explained that I didn't really have much psychiatric history that would even be grounds to removal, that I went to college for a law enforcement field and passed psychiatric testing with a decent G.P.A., and that MHLS Susan left the file sitting beside her for her to take showing that I fully cooperated.

ACS Rossella Abbate did not make note of anything that I was telling her and proving to her because I had my out of state prenatal record also detailing that I

had prenatal care but had to take a summary report with me because I informed doctors that I was going back to New York to be with my child's biological father, from Western Pennsylvania, Eastern Ohio area. I became extremely emotionally distressed at the lack of actions by Rossella Abbate and told her that I was holding my son and would not get upset but that she was upsetting me and she needed to leave and come back some other time, in a vulgar way on my part and still under the influence of the powerful narcotic drug Morphine, and hours post major surgery cesarean with a blood transfusion.

This petitioner's biological mother reportedly cooperated with the Bellevue Hospital Social Worker staff Jordan Lachappelle to a safe discharge plan that I return to her in Pennsylvania from the New York City family shelter when I was capable of traveling post-cesarean recovery and by greyhound bus with my newborn child. ACS Rossella Abbate reported that this petitioner's biological mother told her by phone that this petitioner is severely mentally ill to support her reasoning to take my child and disregarded the false reporting from Sharry Ayala that is contradicted by the Bellevue record, the interview contents, and other obvious factors of not being prescribed psychiatric medication etc.

Dr. Gabriel Katz returned to inform this petitioner of the ACS staff decision to removal of child from custody to the custody of the Commissioner and foster care services based on an Article 10 Neglect by mental incompetency of the Family Court Act. This petitioner was reportedly extremely emotionally distressed, crying

profusely, but fully attentive to the subject child and compliant, as reported, throughout the stay until and after discharge.

Bellevue's record literally stipulates that the diagnostic impressions from intake to discharge are of the following but have some taken off and some additions to their arrangements, Admitted for suicidal ideation and unspecified psychosis, physician notes on involuntary hold stipulated "she shows no features of a psychotic or affective condition", to discharge the Axis 1 stipulated Adjustment disorder with mixed anxiety and depressed mood and Axis IV problems with primary support group. The only psychiatric drugs prescribed was Haloperidol and Lorazepam specifically cited as per agitation only, a chemical restraint drug routinely in event that a person confined to a psychiatric unit would become a harm to themself or others and require being restrained.

The first appearance was October 15th, 2013 at the New York County Family Court where the assigned counsel explained their determinations in dealing with the case matter and waivers for that day. The Bellevue Hospital record was retrieved by the Court and argued for in camera inspection. The court orders arranged visits between this petitioner and the subject child at the assigned foster agency Little Flower Children and Family Services (hereafter referred to as Little Flower). This petitioner made written complaints to the assigned Judge Susan Knipps of concerning behaviors of the foster agency staff. Little Flower in turn alleged against this petitioner but the actual ACS Connections log file records of daily visitation notes did not support their allegations in exact content, but in comparison was

seemingly changed stories. The assigned judge did not address my complaints, but addressed Little Flower's counter allegations favorably. Often on record, Susan Knipps would order the record to be turned off and would make statements at this petitioner, as well as measures to exclude this petitioner from participation. This petitioner had limited legal knowledge at that time period but was trying to put as much input and information from this petitioner on record as possible in order to prove innocence and secure appeals.

ACS issued a petition for removal that was given on or about October 15th, 2013, and then issued an amended petition on or about October 25th, 2013. Both state several combined mental health disorders that all of which would not be possible to have and be unmedicated as I have not been generally medicated throughout or prior to, and to not have a caregiver to assist this petitioner. The petition fabricates the following 3 reasons to the New York County Family Court to receive an order of custody removal, that the ACS staff received information from Sharry Ayala on behalf of the social worker department in Bellevue Hospital that this petitioner went into Bellevue Hospital threatening suicide, that the Bellevue Hospital record has this petitioner diagnosed with schizophrenia, bipolar, and ongoing suicidal ideation (despite none reported on the record), that the Bellevue record indicates that this petitioner refused psychotropic medication, and that during interview this petitioner became enraged, denied allegations and cursed the ACS staff out.

The Amended petition, dated October 25th 2013, indicates the following information as reasons for the terms of the petition to be applied, that include the petition

contents above-mentioned, an additional section included that Dr. Gabriel Katz diagnosed adjustment disorder with depression, borderline personality disorder, and a cognitive problem, that further recommended intensive outpatient services, psychological testing, IQ testing, and child custody removal until this petitioner can prove to provide a safe environment but is unlikely for now by Dr. Gabriel Katz. Further, Dr. Katz stated (despite Bellevue record during the 15 day hold that he was not assigned to stating cooperation to safe discharge planning) that this petitioner did not have a plan for residency, unable to care for the child (despite proven on record within Bellevue record file), and unlikely to formulate a plan that is cohesive and safe for the child.

The Service plan meeting occurred on or about October 23rd 2013 and issued a list of services that this petitioner had to complete to obtain custody of the subject child. The list was, parenting class, domestic violence class, anger management, intensive outpatient mental health services. This petitioner enrolled in outpatient services on October 27th 2013 which was the first appointment, then the following appointments occurred until this petitioner went on an observatory hold at Beth Israel, 10/27/2013, 10/28/2013, 11/1/2013. Appointments continued until approximately the middle of December 2013 at the same clinic, but due to the way the Little Flower agency staff was talking to the psychologist I left the services because I feared they would influence records and was overstepping by asking for certain medication types to be administered to me. This petitioner immediately informed of service involvement to Jennifer Pollissaint who called during services

and informed Theresa Hsu-Walklet whom I was in therapy with that this petitioner is diagnosed with schizophrenia and requested that such medication be prescribed to me. Theresa Hsu-Walklet had the phone on loud speaker and informed Jennifer Pollissaint that I did not have such diagnosis there and that I did not meet the criteria for such medication but that if I did and was in services with them that they would prescribe such. Subsequently Theresa Hsu-Walklet provided a court report of the frustration, anger, and suffering of this petitioner as resulted from the ACS case and separation of the subject child from this petitioner's custody that recommended continuation of supportive therapy, not medication.

This petitioner met with ACS to produce a service plan on or about October 23rd 2013, and prior with the ACS Office of Advocacy staff Susan Sala to obtain contact with the foster agency charged with my son. Susan Sala informed this petitioner in conversation about the case to obtain information, understanding, and guidance on how to deal with this case, who said to me that "if you are innocent then go get a few extra psychiatric evaluations to help you in court." On or about October 27th 2013, this petitioner signed up for and attended outpatient therapy sessions at the Sidney Hillman Clinic located in mid Manhattan that was scheduled to approximately 3 sessions that week. On November 1st 2013, while postpartum physiologically, this petitioner reportedly expressed severe emotional distress over the separation of the subject child from myself and was placed on an observatory hold at Beth Israel Hospital psychiatric ward, for 4 days.

While at Beth Israel involuntary hold due to concerns about this petitioner's distress, Dr. Farah White was assigned as a resident psychiatrist under attending psychiatrist Dr. Klahr, both of which I met. Like at Bellevue Hospital psychiatric care, the psychiatrist met with me daily to talk sessions about my circumstances and feelings. Dr. Farah White issued a discharge report and report describing similar to Dr. Sudhir Gahd at Bellevue that this petitioner had no underlying mental illness but was clearly traumatized from having her son taken and under severe distress. Additionally this petitioner was in postpartum physiological changes. This report was given to the court of Judge Susan Knipps.

The report of Beth Israel summarized the frustration and pain of this petitioner to have been separated from the petitioner's infant, birth trauma and foster care involvement with limited understandings of what all I was supposed to do. Beth Israel provided collateral with the maternal grandmother of the subject child that was consistent with the collateral of others such as Bellevue and not the negative fraudulent statements of ACS relayed that she stated but that she herself denied ever saying such and reassured that she wanted the subject child and myself to return to her (home). Also stated was the opinion that "removal of newborn constitutes a major stressor and may have led to mood dysregulation, the treatment team did not observe any psychotic behaviors and there is no evidence to suggest that she is schizophrenic or bipolar". "Patient was suspicious of the healthcare team but in light of the trauma sustained at the time of delivery, these fears are based in reality and do not constitute psychotic symptoms".

This petitioner sought to dismiss the assigned counsel and to be pro se, subsequently, Judge Susan Knipps ordered this petitioner to attend to a court ordered psychological evaluation on November 28th, 2013 at the New York County Family Court MHS office. IQ testing occurred in a separate psychological evaluation performed on 7/21/2014 that was given to the Court record. The 11/28/2013 evaluation proved competency to self represent and indicated no abnormalities. This fulfilled the recommendation of Dr. Gabriel Katz and proved against his allegation of cognitive impairment, along with a 2006 standardized test psychological evaluation given to the court record that noted average and above average scores with commentary from the evaluator.

Little Flower case planner assigned, Jennifer Pollissaint, tried to provoke this petitioner to fight her and made false character allegations and private case information comments in front of lobby pedestrians. An incident occurred where this petitioner requested one of the two staff members of this petitioner's culture to supervise the visits as they did on multiple times before. Jennifer Pollissaint demanded otherwise and her supervisor Keisha Malphur had to intervene against her and allowed this petitioner's request after her and the security guard had this petitioner in the hall corner screaming while the subject child was asleep and began crying and shaking from their behavior. The incident of being put in the cubicle with Jennifer Pollissaint and pushing the alarm door open because of a panic attack from her behaviors. Another incident addressed against this petitioner within the

New York County Family Court was that Jennifer Pollissaint informed the court that this petitioner assaulted her supervisor Keisha Malphur.

Judge Susan Knipps addressed this petitioner where this petitioner explained that Little Flower staff allowed the foster parent to leave against the specific court order and deprived me of visitations without a legitimate reason, and that the agency policy allowed me 45 minutes to arrive from the visit start time whereas she left while I was only approximately 5 minutes late. This petitioner asked to speak to Keisha Malphur the supervisor who refused to intervene upon explaining to her what happened, this petitioner then walked out past her closely because her and the security guard was blocking the exit door, but that I did not touch her and that the lobby camera can be reviewed to show this evidence. Additionally I explained that there's no ACS Connections report or Police incident report to the accusation. At the request of Jennifer Pollissaint accusing this petitioner of behavioral health issues. Despite providing rational and detailed explanations of what all happened and letters of each incident in complaint, judge Susan Knipps ordered that this petitioner is mandated to mental health services to be able to have visitation services. Prior, Judge Susan Knipps was made aware that this petitioner was late and struggled with the subway system while having post surgery and cesarean related issues, whereas Susan Knipps ordered that the time be reduced from 45 minutes to 30 minutes. Many incidents occurred from the Little Flower agency staff towards this petitioner that was threatening violence at this petitioner or disrupting this petitioners visitation.

Other incidents occurred from the Little Flower agency staff including but not limited to, Little Flower staff allowed the foster mom to exclude me from the ACS co-parenting in foster care program from the beginning of the case that they gave me a book on and had met with her in regards and making all decisions about my child and completely excluded me saying that I had Schizophrenia as to why. I complained about the difference in beliefs that the Roman Catholic foster parent had from my own and asked for a different, more cooperative foster parent per my beliefs and was refused. The Little Flower agency security guard "Phillip" backed me into a corner screaming in my face to where his spit landed on me and my child because Jennifer Pollissaint told him that I was being disrespectful to her by asking for another to supervise the visit, to the point that the Supervisor had to reprimand him because my child shook and I screamed out for somebody to call NYPD. At visits, sexually explicit music was being played loud enough to have to raise voice while talking, and with young children present. Additionally, Jennifer Pollissaint and Keisha Malphur, during 1st visit suspension fabricated reports of refusals and noncompliance from me while I was getting situated and set up in Philadelphia and searching for such programs to complete on my own without referral and orchestrated HIPAA releases to give ACS the opportunity to assess if the criteria was being fulfilled to the service plan agenda that was meant to rectify my parental unfitness.

This petitioner was court ordered for a second evaluation on 1/28/2014 by the court MHS office located within the same New York County Family Court building, with

the previous same evaluator Bryan Stuart. The second evaluation was to determine if the subject child would be at imminent risk if returned to parent. The second evaluation was complained against in subsequent court proceedings directly to the Judge Susan Knipps that the contents of such was false and that if they subpoena or look into the building surveillance I had a panic attack and he ended the session after only 15 minutes not 55 minutes as he stated, and that the contents was not what he stipulated. Bryan Stuart asked me what happened and I explained the agency staff was giving me problems and he then said that he thinks I will have to go back to visitation with them and that nothing will be done otherwise, I then had a panic attack and he offered me no help but closed the meeting. In the evaluation report the subject child was only in foster care for approximately 3.5 months at that time and Bryan Stuart recommended that custody should mitigate to a substitute caretaker's custody. His treatment plan was parenting class, anger management, mental health services that if they worked to then impose an intensive mother-infant program to assess hands on parenting practices and interventions immediately implemented. Not once in his report did he substantiate an impression of why against parenting skills or any parenting skills or actions of this petitioner, among other portions of his story line to provide consistent diagnostic impressions closely related to the opposition parties narratives whom no others made such allegations about me throughout my life.

To the record of the scheduled 1028 hearing for return of custody, this petitioner applied to the case record a detailed psychological evaluation report dated

December 2006, from when this petitioner went to college for Computer Forensics and within participation of a grant program had to prove compatibility with the program for funding purposes, college transcripts displaying the grades that this petitioner had to keep and Dean's list entry, and the Beth Israel discharge summary and report.

This petitioner complied with submitting a detailed description of the limited psychiatric history along with release of information documents. The 2006 evaluation report generally detailed psychiatric history that this petitioner had as a juvenile because this petitioner had very little psychiatric history as an adult. Additionally the only diagnosis was Anxiety disorder related with confirmation of having engaged in a treatment program for such.

When this petitioner did not find mental health services covered by insurance, and was not given any referrals to mental health services added to the service plan by Jennifer Pollissant, this petitioner endured a visit suspension from January 2014 until the court of judge Susan Knipps on April 10th 2014 pertaining to verbal disposition of the first conjoined appeal suggested to resolve the matter that ACS should put this petitioner in dyadic therapy services within the visitation to provide therapy for the trauma of the separation. In July 2014 such suggestion from Judge Susan Knipps that the ACS and Little Flower staff did not act upon became so ordered. The disposition report erred in alleging that the Bellevue record diagnosed this petitioner with schizophrenia and bipolar, prescribed psychiatric drugs that this petitioner refused, on page 2. Explained her impression of juvenile mental

health involvement that ceased at age 18, during the time of the 1028 trial this petitioner was 33 years old pages 4 and 5. Again on page 5 the judge erred to state that this petitioner was diagnosed in the Bellevue record with schizophrenia and bipolar and refused to be medicated and that ACS reported that the maternal grandmother confirmed schizophrenia and bipolar diagnosis as to why she has custody of the oldest maternal sibling. Not any mental health records provided that this petitioner was diagnosed as schizophrenic or bipolar and no records or reports but third party hearsay provided that this petitioner lost custody of maternal sibling of the subject child prior to this case subject matter. Disposition report continued to disregard my letters explaining that Jennifer Pollissaint was fabricating records and sabotaging my ability to get my son back, and accredited Jennifer Pollissaints testimony against me. Susan Knipps tried to attribute my expressed opinion of their actions being ganging up on me and adoption scamming as mental illness opinions.

This petitioner filed a timely appeal of the 1028 results that specified that I called the 2006 evaluator as my witness to testify to the contents of his psychological evaluation report on me in 2006 but the court of Susan Knipps refused. I also informed that of the Little Flower agency staff made a false assault allegation against me to the court of Susan Knipps and such proved to be false, that Susan Knipps was biased, and that the agency staff induced me to distress and provoked me.

The court report of 5/16/2014 contradicted the 4/10/2014 on record assertions of Judge Susan Knipps dispositional recommendations to seek out dyadic therapy for mother and child visits to occur within a therapy setting as ACS recommended pertaining to the suspension reasonings. This later became ordered in July 2014 as Susan Knipps ordered visitation reinstated and specified the terms that ACS and Little Flower agency failed to bring prior to judicial orders. Additionally, the reports of Jennifer Pollissaint Little Flower case planner and Keisha Malphur Little Flower Supervisor expressed in February 2014 until July 2014 that this petitioner did not want her son, and that this petitioner was refusing compliance. This petitioner complained to the court, that this petitioner wanted her child and that the Little Flower agency staff was not complying to the service planning referrals.

This petitioner displayed distress, crying, and panic attacks to the court of Judge Susan Knipps pertaining to and solely from the ACS case matters, case removal of the subject child, separation of the child from myself and family which seemingly moved the judge to indirectly recognize as real to the point that she ordered dyadic therapy which is specifically supportive for parent-child coping with foster separation, type of therapy. This petitioner received mental health trauma related diagnosis in 2013 from Sidney Hillman clinic, Beth Israel Hospital psychiatric care and in 2014 from Cognitive Behavioral Services of Philadelphia opined Panic Attacks with rule out of PTSD. Each doctor explained from the removal of the subject child from my custody and care. This petitioner had no prior history of such

disorders, or the disorders that the ACS petitioned and amended petitioned explained to the New York County Family Court for removal purposes.

Little Flower staff refused to give this petitioner referrals that ACS staff explained in initial Service plan meeting for them to do in my case to services listed to rectify the unfitness issue and fabricated reports depicting that they did and was willing to but that I refused. I filed complaint of this until I had to find a way myself to obtain the services and meet what I thought would be the criteria. This petitioner moved back to Philadelphia, Pennsylvania on February 27th, 2014, and contacted the Child Protective Services agency and asked them for their help to determine criteria. This petitioner found all of the services, interpreted the criteria with the help of various staff member consults, and completed the entire service plan requirements by December 16th, 2014, except the ongoing anger management program that was therapeutic based and took 9 months to complete.

This petitioner submitted multiple letters to the court record in complaint against Jennifer Pollissant fabricating reports and records to depict incompetency, refusals, and noncompliance whereas Jennifer Pollissant was removed from the case planning position in approximately July 2014 and such alleged behaviors she depicted from this petitioner was not subsequent to the records. Also Jennifer Pollissant was proven wrong from the direct timeline of service plan program completion and compliances. Up until removal, Jennifer Pollissant reported that this petitioner was noncompliant and refusing and continued to have meetings only with the foster parent which completely excluded me despite me being at the agency

at the time and concluded from visits to be able to attend meetings regarding my son.

Jennifer Pollissaint refused to report visitation details in my favor, depicting that I brought age appropriate toys and fully engaged my child and gave him gifts often. Additionally that I brought ages and stages educational items pertaining to his child development level and was the first to report that he was not taught the alphabet and that he was struggling with age appropriate actions that professionals like babycenter depict in lists per monthly age group what they can and should be able to do. Little Flower agency staff dismissed and ignored my complaints until approximately January 2015 where I had to contact ACS child abuse hotline and make a detailed report explaining he is displaying that he is delayed and significantly enough to get an evaluation yet they refused. According to reports this was a joint effort of making negative reports from Jennifer Pollissaint and the assigned supervisor who stayed to the case Keisha Malphur.

Jennifer Pollissaint was removed from the case in July 2014 and the supervisor Keisha Malphur was assigned to the case until case planner Sheila Johnson was assigned December 2014. Little Flower and ACS continued to defy the court suggestion of reinstated visitation with Dyadic therapy until ordered in July 2014, and then continued to defy order to reinstate visitation with Dyadic therapy services thereafter that the agency did not produce a visit from July 2014 court order until August 29th 2014 with an agency that I asked if they was dyadic therapy and was told no.

I was also told by Keisha Malphur of Little Flower that the agency was not Dyadic therapy and that they could not find a Dyadic therapy agency but that I was welcome to look for such also. Little Flower was made aware that I was in therapy for trauma of separation of my son by the foster system, that the psychiatric team agreed to visitation with Dyadic services and expressed that I needed to be supported because of the trauma of them taking my child to non kinship foster care and that I was in remission from having panic attacks in reports given to them and direct discussion. 3 visits took place and I could not longer tolerate the lack of Dyadic services and On September 12th 2014 I left with the subject minor because of the distress, the relapse from remission from panic attacks that I reported honestly to Little Flower and therapists that "I could not keep giving my child back to strangers".

I began to wait outside after approached and explained I am not giving you my child but I'll wait for NYPD. I maced the foster parent for running at me and simultaneous to the "therapist" trying to rip my son out of my arms by his arms until he screamed. Everybody then waited for NYPD to arrive. I was charged with class A Misdemeanor Assault, child endangerment because my son was there, and harassment, and accepted a plea deal to Misdemeanor Assault class A conditional release because the camera coverage of the incident was not obtained and their word was united against mine even persons who was not there from the Little Flower agency staff. An order of protection was put in place against this petitioner.

Dr. Gabriel Katz took the stand to testify in the fact finding trial proceedings in or about October 2014. In cross-exam by Gary Schultz, Dr. Katz recanted by explaining that the impression he gave was only an impression and that because of the legitimacy in my being upset and refusing to be consoled by him and cooperating with an evaluation it was really undeterminable.

According to Dr. Sudhir Gahd who was assigned for the 15 day involuntary hold,

this petitioner did not "display any psychosis or affective condition

During this time period starting in June 2014, this petitioner was attending intensive outpatient psychiatry services at Cognitive Behavioral Services located at 3257 North 6th street, Philadelphia, Pennsylvania 19140. A psychiatric evaluation had taken place, along with diagnosis (trauma related), intensive therapy services up to 3 times a week, medication and Dialectical Behavioral Therapy program to treatment of the trauma diagnoses. The court case parties was given access to this record, a copy of the evaluation report and court reports from the director therapist of the agency pertaining to court reporting specific details of findings and treatment plans. None indicated any diagnosis that the case related parties alleged, and psychological testing refuted each allegation against this petitioner.

At disposition of the 2/3/2015 decision order, Judge Susan Knipps ordered visitation to be reinstated with added security and dyadic order resumed. Additionally no adverse case actions was taken or ordered against this petitioner, whereas the case goal remained at "Return to Parent", the agencies was still under obligation to

facilitate the goal, the visitations, and the services to the reunification of custody goal.

Despite the above-mentioned case facts, Judge Susan Knipps entered the following determinations within her disposition. Susan Knipps failed to refer to the actual Bellevue Hospital medical record that provided that this petitioner was not diagnosed with schizophrenia or bipolar and was not prescribed psychotropic medication except that a chemical restraint drug was assigned as needed per agitation state. Common knowledge provides that chemical restraint drugs are used in case the patient becomes hostile, or a threat to themselves or others, within a psychiatric ward setting. There was absolutely no psychotropic medication prescribed or described on the Bellevue record as being recommended to be able to refuse as Susan Knipps alleged in disposition report. Additionally Susan Knipps did not give due weight to the evidence records and reports except if such could be construed negatively. No evaluator described schizophrenic or mental illness behaviors, events, episodes from this petitioner to substantiate for preponderance of the evidence a mental illness diagnosis as per amended petition. A 2006 evaluation was provided that proved there was not substantive adult mental health history that is compatible with the amended petition, test scores from standardized psychological testing provided no trace evidence of any kind of cognitive impairment or retardation factors. The service plan programs was completed or almost finished successfully, the college transcripts providing this petitioner was on the Dean's List was also provided with various letters, reports, evaluations that Judge Susan

Knipps made absolutely no mention of. Distortions was made to the record that this petitioner wrote letters to the court record to clarify during 2014 and prior to the disposition phase, that explained this petitioner has an older child and never had CPS involvement or removal, however parties negatively depicted that because my daughter was staying with my mom she had to be removed and these types of presumptions prevailed amongst their negative and unsubstantiated thoughts and fabrications to of this petitioner, as to why this petitioner had to write letters to the court record and dismissed 4 assigned counsel who was not addressing these matters or helping my case but letting things be said to the record that was unsubstantial and not true, which the record itself proves.

The Disposition of the fact finding trial was issued dated 2/3/2015 but signed on 1/29/2015. This disposition report continued to suggest that this petitioner has an untreated mental illness, that “among other things” there was additional diagnosis in the amended petition that compromised ability to care for a child but did not specify in the reports, proceedings, case record contents. The dispositions did not consider a pattern of mental health records in adolescence that was contradicted factually by lack of adult mental health records, and the psychological evaluations that vindicated this petitioner of anything serious and requiring lifelong treatment or serious enough to a child custody removal.

## **Direct Appeal**

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Despite the above-mentioned fact patterns in evidence on the subject docket case record, the Appellate Division First Department determined within their denial decision that despite this petitioner was not diagnosed with schizophrenia, bipolar, and personality disorder prior to the case or at Bellevue, with exception of personality disorder that has been refuted, Appellate Division First Department determined that this petitioner was diagnosed with such, that such was untreated, and that unsubstantiated (how) aggressive behavior; poor impulse control and psychiatric hospitalization history put the subject child at risk of impairment.

The Clerk of the Appellate Division First Department and assigned counsel to this petitioner did not notify this petitioner of the March 19th 2020 decision on the conjoined appeals. The Assigned Counsel's appeal was questioning if the standard of fair preponderance of the evidence was met and if the Court erred in placing the subject child in the custody of the Commissioner of the ACS after disposition.

This petitioner was released on Conditional Release from NYS DOCCS incarceration on 9/4/2019 to NYS Parole supervision. Beginning after release this petitioner contacted the Appellate Division First Department's Clerk office for information pertaining specifically to the subject matter conjoined appeals. I did not receive compliance to being given such information until a few months after released from incarceration to parole supervision. The dated email of this records request fulfillment is dated December 6th 2019 with phone records dated after

9-4-2019 release displaying this petitioner telephone contacted the Clerk of the Court office multiple times pertaining to the subject matter appeal information. This petitioner took later leave to appeal to the New York State Court of Appeals in approximately December 2019 under the doctrine of nunc pro tunc as described in case law that allows a petitioner to have an extension of appeal time when the fault of not servicing documents comes from the Court Clerk department or attorneys involved. I provided a detailed timeline of events and evidences to that to the Court of Appeals in Albany who sided with the Legal Aid Society opposition party to deny appeal as untimely on June 9th, 2020, irregardless of the legal argument and evidence provided that this petitioner was cheated out of appeal.

Petitioner filed motion to reargue to the New York State Court of Appeals and was denied on October 20th 2020. Both was argued under the same federal question pertaining to this writ of certiorari petition.

#### **Reasons for Granting the Petition**

- A. TO ADDRESS ARBITRARY ACTIONS WITHIN THE FAMILY COURT PROCESSES AND EVIDENCE STANDARDS THAT THIS COURT WOULD BETTER CLARIFY GUIDELINES FOR CLEAR AND CONVINCING EVIDENCE AND ACTIONS TO REDUCE UNNECESSARY CASES,**
- B. TO ADDRESS DEPRECIATION FOR THE SERIOUSNESS OF SUCH PROCEEDINGS TO BE AS REASONABLE, RATIONAL, LOGICAL, AND FAIR AS POSSIBLE**

Close to 40 years ago, this Court made simple and held in Santosky v. Kramer, guidelines for the CPS system in New York State to uphold in its Family Court Act dispositions. Many issues regarding a CPS Family Court case was addressed within that case matter pertaining to due process, evidence standards, and reasonings. I'm contending that contrary to events in the Santosky v. Kramer, I fully cooperated and proved my innocence through past, and present records, through compliances, through my presence consistently proving that parties knew I was not medicated for schizophrenia but did not display any such attributes, through mental health evaluation reports, and was subjected to malicious prosecution antics of misrepresentations, fabrications from opposing parties that the court sided with in bias, arbitrarily and capriciously refusing evidence in my favor that proved strongly against opposition parties, wrongly interpreting the record, fabricating to control the narrative in proceedings prejudiced against this petitioner. The actions of oppositional case related parties caused deprivation of my 14th Amendment protected rights described within Santosky v Kramer covering child custody, parental rights and liberties, and a fair uncorrupted due process.

Santosky v Kramer provides the minimum child care standards, and that character flaws of not being a role model parent are not reasons for removal. No methoding was described that would determine specifically if I was able to fulfill the minimum standards of child care required under law, or how exactly the subject child would be at risk of danger if returned to me, logically, reasonably or rationally, but wrongful judgements against my character that are unsubstantiated. Due Process

also includes to have fair and impartial treatment within them, the lack of being unconscionable, and not fabrications or malicious prosecution as being acceptable conduct, that the courts and case related parties actually would know how to do their job to make competent determinations within cases and not unsubstantial judgments.

To overturn the subject matter case decisions against this petitioner that ACS and Little Flower staff caused this petitioner to be treated at a worse criteria, of a diagnosis that if untreated would definitively be a factor of child custody removal, in New York County Family Court than the actual circumstances demanded, because of their fabrications and this petitioner was not allowed any merit or credit due to the level of such a diagnosis despite pointing out to the case record that this petitioner was not diagnosed with such in the Bellevue record.

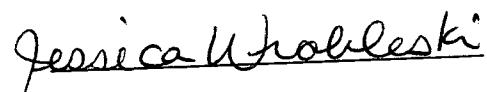
To set a precedent that consider in child custody removal, committed without clear standards to eliminate erroneous removals or faulted actions, committed erroneously, and clearly indicated in the above-related case records, to produce an erroneous child custody removal to non kinship foster care in particular, causes extreme emotional distress; is seemingly cruel and unusual treatment in violation of the Eighth Amendment. In addition to the Santosky V Kramer case, to set a precedent on evidence standards, fairness, and procedural legislation or case law that would benefit the processes and the public subjected to the processes to eliminate abuses therein, and include the Eighth amendment civil rights therein.

## Conclusion

For the foregoing reasons, this petitioner seeks that this Court grants this petition for writ of certiorari to review the judgments and determinations of the New York State Unified Court System in the above-mentioned subject matter case.

Dated: Monday, March 15th, 2021

Respectfully,



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