

ORIGINAL

Supreme Court, U.S.
FILED

JAN 10 2022

OFFICE OF THE CLERK

No. 21-7248

IN THE
SUPREME COURT OF THE UNITED STATES

John Garcia — PETITIONER
(Your Name)

vs.

Melissa Robinson — RESPONDENT(S)

ON PETITION FOR A WRIT OF CERTIORARI TO
DIVISION ONE COURT OF APPEALS STATE OF ARIZONA
(NAME OF COURT THAT LAST RULED ON MERITS OF YOUR CASE)

PETITION FOR WRIT OF CERTIORARI

John Garcia #241721
(Your Name)

PO BOX 24402
(Address)

TUCSON, AZ 85734
(City, State, Zip Code)

N/A
(Phone Number)

ORIGINAL

QUESTIONS PRESENTED

1. DOES A JUDGE'S PRE DETERMINATION ON THE RECORD PRIOR TO REVIEWING THE EVIDENCE AT TRIAL, VIOLATE A CONSTITUTIONAL RIGHT TO DUE PROCESS?

2. WHEN 1 PARENT IS LEGALLY PROHIBITED FROM CONTACTING THE 2ND PARENT AND THE COURT GRANTS PARENTING TIME, SHOULD THE COURT DETERMINE A METHOD FOR EXCHANGE OF THE CHILD WHEN DETERMINING A PARENTING PLAN?

LIST OF PARTIES

ALL PARTIES APPEAR IN THE CAPTION
OF THE COVER PAGE.

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IN THE
SUPREME COURT OF THE UNITED STATES
PETITION FOR WRIT OF CERTIORARI

PETITIONER RESPECTFULLY PRAYS THAT A
WRIT OF CERTIORARI ISSUE TO REVIEW
THE JUDGEMENT BELOW.

FOR CASES FROM STATE COURTS:

THE OPINION OF THE HIGHEST STATE COURT TO REVIEW
THE MERITS APPEARS AT APPENDIX A
IS UNPUBLISHED

THE DECISION OF STATE TRIAL COURT APPEARS AT
APPENDIX B TO THE PETITION AND IS UNPUBLISHED

THE DECISION OF STATE SUPREME COURT DENYING
REVIEW APPEARS AT APPENDIX C TO THE PETITION
AND IS UNPUBLISHED

THE ORDER OF STATE COURT OF APPEALS DENYING
RECONSIDERATION APPEARS AT APPENDIX D TO THE PETITION
AND IS UNPUBLISHED

JURISDICTION

FOR CASES FROM STATE COURTS:

THE DATE ON WHICH THE HIGHEST COURT
DECIDED THIS CASE WAS OCT. 12, 2021.
A COPY OF THAT DECISION APPEARS AT
APPENDIX C

A MOTION FOR STAY PENDING APPLICATION
TO UNITED STATES SUPREME COURT FOR
WRIT OF CERTIORARI WAS TIMELY FILED
TO DATE NO DECISION/ORDER HAS BEEN
RECEIVED THEREFORE IS NOT IN THE
APPENDIX

THE JURISDICTION OF THE U.S. SUPREME COURT
IS INVOKED UNDER 28 U.S.C. § 1257(a)

CONSTITUTIONAL AND STATUTORY PROVISIONS INVOLVED

PAGE

FUNDAMENTAL INTEGRITY OF FAMILY UNIT HAS FOUND
PROTECTION IN 9TH AMENDMENT AND IS SUBJECT TO
INTRUSION AND DISMEMBERMENT ONLY WHERE "COMPELLING"
GOVERNMENT INTEREST ARISES AND PROTECTING CHILD
FROM HARM IS REQUISITE GOVERNMENT INTEREST.

SEE. IN RE S., 1978 OK 103, 581 P.2D 884 (OKLA 1978) 11, 21

ARIZONA STATE CONSTITUTION ARTICLE 6 § 27

JUDGES SHALL NOT CHARGE JURIES WITH MATTERS OF
FACT, NOR COMMENT THEREON, BUT SHALL DECLARE THE LAW 12

ARIZONA STATE CONSTITUTION ARTICLE 2 § 4

NO PERSON SHALL BE DEPRIVED OF LIFE, LIBERTY OR
PROPERTY WITHOUT DUE PROCESS 12

CONSTITUTIONAL RIGHT TO FAMILY INTEGRITY WILL GIVE WAY
TO COMPELLING STATE INTEREST IN PROTECTION OF CHILDREN
ONLY UPON SHOWING THAT FAMILY ENVIRONMENT EXPOSES CHILD
TO RISK OF SERIOUS PHYSICAL ILLNESS OR INJURY.

SEE IN RE. JUVENILE APPEAL (83-CD), 189 CONN. 276, 455
A. 2D 1313 (CONN. 1983) 21

PARENTS BILL OF RIGHTS 1-601(B)

THIS STATE, ANY POLITICAL SUBDIVISION OF THIS STATE OR
ANY OTHER GOVERNMENT ENTITY SHALL NOT INFRINGE

ON THESE RIGHTS WITHOUT DEMONSTRATING THAT THE
COMPELLING GOVERNMENTAL INTERESTS APPLIED TO
TO THE CHILD INVOLVED IS OF THE HIGHEST ORDER, IS NARROWLY
TAILORED AND IS NOT OTHERWISE SERVED BY A LESS
RESTRICTIVE MEANS

10,

UNITED STATES CONSTITUTION AMENDMENT 14

SEC. 1 - (CITIZENS OF THE UNITED STATES) ALL PERSONS
BORN OR NATURALIZED IN THE UNITED STATES ARE SUBJECT
TO JURISDICTION THEREOF, ARE CITIZENS OF THE UNITED
STATES AND OF THE STATE WHEREIN THEY RESIDE, ...
NOR SHALL ANY STATE DEPRIVE ANY PERSON OF LIFE,
LIBERTY OR PROPERTY WITHOUT DUE PROCESS OF LAW 11, 14, 23, 25

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HART V. HART

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STATUTES AND RULES

ARIZONA RULES OF PROTECTIVE ORDER PROCEDURE RULE 35(c)(2)

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ARS 25-403.03(E)

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ARS 1-601(B)

10,

ARS 1-602(A)(D)

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ON JUNE 24, 2019 THE COURT STATED "THE COURT CAN NOT GRANT LEGAL DECISION MAKING AS FATHER CAN NOT LEGALLY HAVE CONTACT WITH MOTHER" (I #30)

THE CONTEXT OF THIS STATEMENT WAS RECITED 3 TIMES DURING THIS PROCEEDING (TR 2, 6-24-19, p. 6, 7, 12)

THIS STATEMENT WAS IN FACT A ERROR, SINCE THE FAMILY COURT HAS AUTHORITY TO MODIFY A PROTECTIVE ORDER PURSUANT TO RULE 35(C)2) OF THE ARIZONA RULES OF PROTECTIVE ORDER PROCEDURE SEE COURTNEY J. FOSTER EX REL COUNTY OF MARICOPA, (APP. DIV. 1, 2014) 235 ARIZ. 613 334 P. 30 1272 COURTS 475(1)

FURTHERMORE THE COURT USED THE FAMILY VIOLENCE FACTOR TO AUTOMATICALLY TIP THE SCALES AGAINST John SEE CANTY V. CANTY, 178 ARIZ. 443, 874 P. 2D 1000, 164 ARIZ. ADV. REP., 51 1994 ARIZ. APP. LEXIS 94 (ARIZ. CT. APP. 2013)

FOR THESE REASONS John FEELS THE COURT DID NOT CONSIDER OR EXERCISE THE WEIGHT OF ITS AUTHORITY NOR DID IT SEEK A LESS RESTRICTIVE MEANS PURSUANT TO ARS § 1-601(B) THE PARENTS BILL OF RIGHTS BEFORE INFRINGING ON JOHN'S PARENTAL RIGHTS

THE COURTS STATEMENT WAS A PRE DETERMINATION MADE BEFORE WEIGHING ALL EVIDENCE AT TRIAL OR MAKING ANY STATUTORY FINDINGS PURSUANT TO ARS 25-403

A FAIR TRIAL IS A FUNDAMENTAL LIBERTY SECURED BY THE UNITED STATES AND ARIZONA CONSTITUTIONS, INCLUDED IN THIS RIGHT IS THE GUARANTEE THAT THE JURY DETERMINE GUILT OR INNOCENCE BASED SOLELY ON THE EVIDENCE ADMITTED AT TRIAL. SEE STATE V. BIBLE, 175 ARIZ. 549, 858 P.2D 1152, 145 ARIZ. ADV. REP. 3 1993 ARIZ. LEXIS 73 (ARIZ. 1993)

FUNDAMENTAL INTEGRITY OF FAMILY UNIT HAS FOUND PROTECTION IN 9TH AMENDMENT AND IS SUBJECT TO INTRUSION AND DISMEMBERMENT ONLY WHERE "COMPELLING" GOVERNMENT INTEREST ARISES AND PROTECTING CHILD FROM HARM IS REQUISITE GOVERNMENT INTEREST SEE. IN RE S., 1978 OK 103, 581 P.2D 884 (OKLA. 1978)

IN THE COURTS FINAL ORDER (I#54) THE COURT STATED "MOTHER SHOULD NOT BE FORCED TO COOPERATE WITH FATHER CONCERNING DECISION MAKING" IN CONTEXT THIS STATEMENT IS REPETITIVE OF THE COURTS PREDETERMINATION REFERENCED ABOVE, WHICH WAS A PATTERN THROUGHOUT THESE PROCEEDINGS WHICH MANIFESTED INJUSTICE AND AFFECTED SUBSTANTIVE RIGHTS.

THE FOLLOWING IS REFERENCES TO PORTIONS OF THE RECORD WITH ASSIGNMENTS OF ERROR TO FURTHER SUPPORT DEPRIVATION OF FUNDAMENTAL FAIRNESS AND DUE PROCESS.

ON AUGUST 30, 2019 THE COURT DENIED JOHN'S MOTIONS FOR DISCOVERY (#48) IN THIS MINUTE ENTRY THE COURT NOTED: JOHN IS IN PRISON DUE TO A CONVICTION PERTAINING TO HIS "STRANGULATION" OF MELISSA. THE WORD STRANGULATION IS THE EXPRESSION OF AN OPINION SEE: STATE V. MCDANIEL 136 ARIZ. 188, 665 P. 2d 70, 1983 ARIZ. LEXIS 181 (ARIZ) THIS IS A VIOLATION OF THE CONSTITUTION OF THE STATE OF ARIZONA ARTICLE 6 § 27. WHICH STATES: JUDGES SHALL DECLARE THE LAW. ACCORDING TO THE LAW JOHN PLEAD GUILTY AND WAS CONVICTED FOR AGGRAVATED ASSAULT - IMPEDING BREATHING

ON MAY 23, 2019 THE COURT STATED: "WHEN I WAS ON CRIMINAL" (TR 15-23-19 p. 7) THIS STATEMENT ALONG WITH THE COURT'S EXPRESSION OF AN OPINION QUESTIONS THE COURT'S ABILITY TO BE UNBIASED. IN THIS CASE. DEPRIVING JOHN OF HIS DUE PROCESS RIGHTS. TO BE TRIED BY A FAIR AND IMPARTIAL COURT PURSUANT TO THE ARIZONA CONSTITUTION ARTICLE 11, SEC. 4.

B UNFAIR TRIAL PROCEEDING

ON SEPTEMBER 19, 2019 DURING THE ADMISSION PROCESS OF MELISSA'S 7 EXHIBITS. JOHN WAS NOT

AFFORDED THE OPPORTUNITY TO OBJECT (TR4, 9-19-19 p. 16-17)
HOWEVER DURING THE ADMISSION OF JONES EXHIBITS
THE COURT AFFORDED MELISSA THE OPPORTUNITY TO
OBJECT TO EXHIBIT 1 (TR4, 9-19-19 p. 20) AND ASKED MELISSAS
INPUT REGARDING EXHIBIT 3 (TR4, 9-19-19 p. 20)

THE ADMISSION OF EXHIBITS WAS NOT CONDUCTED IN
A FAIR MANNER DEPRIVING JONE OF A FUNDAMENTAL
ELEMENT OF DUE PROCESS.

FURTHERMORE DUE TO MELISSAS CLEAR VIOLATION OF COURT
ORDERS REGARDING DEADLINES (I#33) AND FAILURE TO
PROVIDE COPIES TO JONE IN ADVANCE PURSUANT TO RULE
8 (EX2X3). PRECLUSION OF THESE EXHIBITS WAS MANDATORY.
SEE, JONES V. BUCHANAN,
177 ARIZ. 410, 868 P.2D 993 (CT. APP. 1993)

THE ADMISSION OF THESE EXHIBITS RESULTED IN
PREJUDICE AFFECTING JONES RIGHTS TO DUE PROCESS.

FURTHERMORE AT TRIAL THE COURT CONDUCTED
A DIRECT EXAMINATION OF MELISSA WITH
SPECIFIC LEADING QUESTIONS REGARDING FACTORS
PURSUANT TO ARS 25-403A(1)(2)(3)(5)(8).
(TR4, 9-19-19 p. 7, 9, 10, 11)

HOWEVER DURING JOHN DIRECT EXAMINATION
THE COURT VAUGELY STATED "SIR WHAT IS IT YOU
WANT ME TO KNOW IN SUPPORT OF YOUR POSITION"
(TR 4, 9-19-19 p. 20)

THESE ARE OBVIOUSLY 2 DIFFERENT FORMS OF
QUESTIONING. WHICH IN ITSELF IS UNFAIR,

FAIRNESS AND EQUALITY ARE ESSENTIAL
COMPONENTS OF DUE PROCESS, WHICH JOHN WAS
DEPRIVED OF SEE. STATE V. FLOWERS,
159 ARIZ. 469, 768 P.2D 201, 26 ARIZ. ADV. REP. 83
1989 ARIZ. APP. LEXIS 18 (ARIZ. CT. APP. 1989.)
RESULTING IN PREJUDICIAL DETERMINATIONS.
OF ONES RIGHTS TO PARENTING

FURTHERMORE THE DIFFERENT FORMS OF QUESTIONING
FAILED TO AFFORD JOHN OF A FAIR AND IMPARTIAL
MEANS THROUGH WHICH TO PRESENT EVIDENCE SEE.
EVANS V. EVANS
116 ARIZ. 302, 569 P.2D 244, 1977 ARIZ. APP.
LEXIS 452 (ARIZ. CT APP. 1977)
ON THE QUESTION WHICH AFFECTED THE OUTCOME
OF THE CASE.

FURTHERMORE THE COURT FAILED TO ASK JOHN
FACTORS PURSUANT TO ARS 25-403.03(E) TO DETERMINE
IF JOHN REBUTTED THE PRESUMPTION, EVEN THOUGH
JOHN SUBMITTED CERTIFICATES OF COMPLETED PROGRAMS
AS EXHIBIT 1 (TRY, 9-19-19, p.1-38)

NOR DID THE COURT ASK JOHN ABOUT PARENTING
TIME IN ORDER TO DETERMINE THAT PARENTING TIME
WILL NOT ENDANGER JUSTUS (CHILD) OR SIGNIFICANTLY
IMPAIR JUSTUS (CHILD) EMOTIONAL DEVELOPMENT.

PURSUANT TO ARS 25-403.03(F) (TRY, 9-19-19 p.1-38)

BOTH OF THESE FACTORS ARE REQUIRED TO
EXPLICITLY BE DETERMINED. SEE.

DELUNA V. PETITTO,

450 P.3D 1273, 2019 ARIZ. APP. LEXIS 795

(ARIZ. CT. APP. 2019)

SEE. ENGSTROM V. MCCARTHY

(APP. 1 DIV. 1 2018) 243 ARIZ. 469, 411 P.3D 653

THE COURT FAILED TO CONDUCT A FULL AND FAIR
FACT FINDING PROCEEDING DEPRIVING JOHN OF
A FUNDAMENTAL ELEMENT OF DUE PROCESS.

IN THE BEGINING OF TRIAL WHEN THE COURT
COORDINATED THE COURSE OF THE PROCEEDING
THE COURT STATED: "THERE ARE SOME THINGS I NEED
TO ASK YOU UNDER-PURSUANT TO ARIZONA LAW WHEN
WE ADDRESS LEGAL DECISION MAKING AND PARENTING
TIME. THE QUESTIONS I AM GOING TO ASK YOU, THEN
WHEN I AM DONE, THE BEST INTEREST ATTORNEY MAY
ASK QUESTIONS. AND IF THERES ANYTHING ELSE YOU
WANT ME TO KNOW AFTER IM DONE AND THE BEST
INTEREST ATTORNEY IS DONE ASKING QUESTIONS, THEN
YOU'LL HAVE TIME TO DO THAT." (TR 49:19-19p.7)

THIS STATEMENT SHOWS THE COURT PRECLUDED
JOWN FROM CROSS EXAMINING THE COURT
APPOINTED B.I.A. AND MELISSA.

DEPRIVING JOWN OF A FUNDAMENTAL RIGHT TO
DUE PROCESS SEE. DOWNS V. SUEFFLER

206 ARIZ. 496, 414 ARIZ. ADV. REP. 28,80 P.30

775, 2003 ARIZ. APP. LEXIS 194 (CT. APP. 2003)

SEE. STATE V. VESS,

157 ARIZ. 236, 756 P.2D 333, 1988 ARIZ. APP

LEXIS 11 (ARIZ. CT. APP. 1988)

CAUSING A PREJUDICIAL EFFECT ON THE OUTCOME
OF THE CASE.

THE COURTS COMMENT, STATEMENTS AND ACTIONS SHOW THE COURT DID NOT INTERPRET AND APPLY THE LAW WITHOUT REGARD. THE COURT SHOWED ITS DISAPPROVAL FOR JOHN'S POSITION, AND THE LAWS THAT COULD GRANT HIM SOME FORM OF COMMUNICATION WITH HIS CHILD. THIS MANIFESTED BIAS AND PREJUDICE.

THE COURT FAILED TO BE OBJECTIVE AND CONDUCT FULL AND FAIR FACT FINDING PROCEEDINGS TRUE TO THE RULES AND PROCEDURES OF THE LAW. THIS IS APPARENT THROUGH THE TRIAL PROCEEDING, DURING THE ADMISSION OF EXHIBITS AND DIRECT EXAMINATION WHEN THE COURT AFFORDED OPPORTUNITIES TO MELISSA THAT IT DID NOT AFFORD TO JOHN. THIS WAS NOT FAIR AND RESULTED IN PREJUDICIAL RESULTS THAT AFFECTED JOHN'S SUBSTANTIVE RIGHTS. THROUGH THE PROCEEDINGS THERE WAS A PATTERN OF LEGAL ERRORS. THE COURT FAILED TO HOLD MELISSA ACCOUNTABLE TO RULES, ORDERS AND DEADLINES. THE COURT DENIED ALL DISCOVERY AND FAILED TO COMPEL DISCLOSURE. THE COURT FAILED TO MANAGE THESE PROCEEDINGS TO ENSURE ALL PARTIES WERE FAIRLY INFORMED.

THE COURTS PREDETERMINATION PREVENTED THE POSSIBILITY OF CONSIDERING AN ALTERNATE DECISION IN AN OBJECTIVE REASONABLE MANNER, WHICH FAVORED MELISSA'S POSITION AND RESULTED IN PREJUDICE SUBSTANTIALLY AFFECTING JOHN'S RIGHTS. DEPRIVING HIM OF FUNDAMENTAL FAIRNESS AND DUE PROCESS. THIS IS ALL APPARENT IN THE RECORD CAUSING A MISCARRIAGE OF JUSTICE.

QUESTION 2- IN THE OPENING BRIEF FILED ON SEPT. 8, 2020 WITH ARIZONA APPEALS COURT DIVISION ONE.

JOHN RAISED THE ISSUE UNDER ISSUES PRESENTED FOR REVIEW ASKING DID THE TRIAL COURT ERROR AS A MATTER OF LAW IN FAILING TO DETERMINE AND INCLUDE ELEMENTS ON THE RECORD CONCERNING EACH OF THE FACTORS LISTED IN ARS-25-403.02 (C)(1)(6)(7) WHEN ADOPTING A PARENTING PLAN FOR THIS CASE.

THE MEMORANDUM DECISION STATED "BECAUSE FATHER WAS NOT ESTABLISHED ANY ERROR OR ABUSE OF DISCRETION, WE AFFIRM" (APPENDIX A)

THIS MATTER WAS RAISED AGAIN IN THE PETITION FOR REVIEW UNDER THIS ISSUES PRESENTED FOR REVIEW AND THE STATEMENT OF FACTS

THIS ISSUE WAS PASSED ON WHEN THE PETITION FOR REVIEW WAS DENIED. (APPENDIX C)

THIS ISSUE WAS RAISED AGAIN IN THE MOTION FOR RECONSIDERATION UNDER MISTATEMENTS OF FACT OF LAW CONTAINED IN DECISION AND THE ARGUMENTS RELATING THERE TO.

THIS ISSUE WAS PASSED ON WHEN THE MOTION FOR RECONSIDERATION WAS DENIED (APPENDIX D)

1. ON SEPT. 23, 2019 (E#54) THE COURT ISSUED A FINAL ORDER INCLUDING AND FOR PARENTING TIME. COURT STATED "THE FOLLOWING PARENTING PLAN ENSURES THAT JOHN GARCIA HAS SUBSTANTIAL, FREQUENT, MEANINGFUL AND CONTINUING CONTACT WITH THE CHILD. THE FOLLOWING PARENTING PLAN IS PRACTICAL AND ALSO MAXIMIZES EACH PARENTS PARENTING TIME TO THE EXTENT IT IS IN THE CHILD'S BEST INTEREST SEE A.R.S. § 25-403.02"

THE COURT FURTHER STATED "IT IS NOT IN THE CHILD'S BEST INTEREST TO DEVELOP A RELATIONSHIP WITH FATHER WHILE HE IS IN PRISON. . ."

HOLIDAY SCHEDULE: DOES NOT APPLY AT THIS TIME

SUMMER VACATION: ALTERNATIVE SUMMER SCHEDULE. NONE
ADDITIONAL PARENTING TIME ORDERS

FATHER SHALL COMPLY WITH ALL ORDERS THAT ARE IN PLACE THAT PROHIBIT HIM FROM HAVING CONTACT WITH MOTHER.

2. ARS § 25-403.02(D) STATES IF THE PARENTS ARE UNABLE TO AGREE ON ANY ELEMENT TO BE INCLUDED IN A PARENTING PLAN, THE COURT SHALL DETERMINE THAT ELEMENT.

3. ARS § 25-403.02 (C) PARENTING PLANS SHALL INCLUDE AT LEAST THE FOLLOWING 1-8 ELEMENTS LISTED.

4. AS STATED IN FACT 1. ONLY 3 OF THE 8 ELEMENTS WERE DETERMINED BY THE COURT WHICH CONTRADICTS FACT 2 AND 3 WHICH ARE STATUTORY REQUIREMENTS.

5. AS SEEN IN THE TRIAL TRANSCRIPTS (T4, 9-19-19, pg 1-38)
AS WELL AS THE FINAL COURT ORDER (I#54)

- THE COURT DIDNT FIND THAT PARENTING TIME WOULD ENDANGER THE CHILDS PHYSICAL, MENTAL, MORAL OR EMOTIONAL HEALTH PURSUANT TO ARS § 25-403.01(D)
- THE COURT FAILED TO DETERMINE IF JOHN GARCIA REBUTTED THE PRESUMPTION AS STATED AND PURSUANT TO ARS § 25-403.03(E)

6. IN THE MEMORANDUM DECISION (APPENDIX A)

¶ 4 CLEARLY STATES PETITIONER WAS NOT AWARDED PARENTING TIME WHILE IN PRISON.

PETITIONER IS SET TO BE RELEASED NOV. 7, 2022 AT THAT TIME THE MISSING ELEMENTS OF THE PARENTING PLAN MUST BE INCLUDED SO PARENTING TIME AND PLAN CAN BE FULLY ADHERED TO.

IT IS ASSUMED WHILE IN PRISON IS DIFFERENT THAN NOT AT ALL. FURTHERMORE IN THE FINAL COURT ORDER (I#54) THE COURT ESTABLISHED ALL ELEMENTS OF CHILD SUPPORT THAT ARE NOT IN EFFECT WHILE IN PRISON WHICH WILL BE IMPLEMENTED UPON RELEASE.

ISNT FAMILY INTEGRITY MORE VALUABLE THAN ANY DOLLAR AMOUNT, BUT YET THESE PARENTING TIME ELEMENTS WERE NOT ESTABLISHED FOR IMPLEMENTATION UPON RELEASE.

CONSTITUTIONAL RIGHT TO FAMILY INTEGRITY WILL GIVE WAY
TO COMPELLING STATE INTEREST IN PROTECTION OF CHILDREN
ONLY UPON SHOWING THAT FAMILY ENVIRONMENT EXPOSES
CHILD TO RISK OF SERIOUS PHYSICAL ILLNESS OR INJURY.
see In re. Juvenile Appeal (83-CD), 189 CONN. 276, 455
A.2D 1313 (CONN. 1983)

FUNDAMENTAL INTEGRITY OF FAMILY UNIT HAS FOUND PROTECTION
IN 9TH AMENDMENT AND IS SUBJECT TO INTRUSION AND
DISMEMBERMENT ONLY WHERE "COMPELLING" GOVERNMENT INTEREST
ARISES AND PROTECTING CHILD FROM HARM IS REQUISITE
GOVERNMENT INTEREST. see In re S., 1978 OK 103, 581
P.2D 884 (OKLA. 1978)

A.R.S. § 1-602-(A) ALL PARENTAL RIGHTS ARE RESERVED TO
A PARENT OF A MINOR CHILD WITHOUT OBSTRUCTION OR INTERFERENCE
FROM THIS STATE. . . (D) UNLESS THOSE RIGHTS HAVE BEEN
LEGALLY TERMINATED, PARENTS HAVE AN ALIENABLE RIGHT. . .

(RECOGNIZING CONSTITUTIONAL PROTECTION OF "HIGHLY PERSONAL RELATIONSHIPS"
THAT ATTEND THE CREATION SUSTENANCE OF A FAMILY . . . THE
RAISING AND EDUCATION OF CHILDREN. . .) see ROBERTS V. U.S
JAYCEES, 468 U.S. 609, 618, 104 S. CT 3244 (1984)

STATE SHOULD DO EVERYTHING IN THEIR POWER TO KEEP
THE FAMILY TOGETHER NOT DESTROY see MATTER OF JUVENILE
ACTION NO. S-624, 126 ARIZ. 488, 616 P.2D 948, 950 (ARIZ. APP. 1980)

THE COURTS FAILURE TO FOLLOW THE
PLAIN LANGUAGE OF THIS RULE AND
DETERMINE THESE FACTORS IS AN
ERROR AS A MATTER OF LAW. SEE
HURO V. HURO, 222

222 ARIZ. 246, 213 P.3D 683, 561
ARIZ. ADV. REP. 19, 2009 ARIZ. APP. LEXIS
666 (ARIZ. CT. APP.) SEE.

HART V. HART,
220 ARIZ. 183, P. 9 204 P.3D 441, 443-44
(APP. 2009)

GENERALLY, THE TRIAL COURTS DECISION REGARDING CHILD
CUSTODY OR PARENTING TIME ORDERS ARE REVIEWED FOR ABUSE
OF DISCRETION. SEE CHRISTOPHER K. V. MARKAA S. 233 ARIZ.
297, 300, P. 15, 311 P.3D, 1110, 1113, (APP. 2013) SEE NOLD V. NOLD,
232 ARIZ. 270, 273, P. 11, 304 P.3D 1093, 1096 (APP. 2009)

HOWEVER, IN MAKING THAT DECISION, IT IS AN ABUSE OF
DISCRETION FOR THE FAMILY COURT TO FAIL TO MAKE THE
SPECIFIC FINDINGS REQUIRED... CONCERNING THE APPLICABLE
FACTORS AND THE REASONS WHY ITS DECISION IS IN THE
CHILD'S BEST INTEREST. SEE NOLD V. NOLD, 232 ARIZ.
270, 273, P. 11, 304 P.3D 1093, 1096 (APP. 2013)

THE ISSUES IN THIS CASE ARE PROTECTED
BY THE DUE PROCESS CLAUSE OF THE 14TH
AMENDMENT WHICH PROTECTS PARENTS FUNDAMENTAL
RIGHTS TO PARTICIPATE IN CARE, CUSTODY AND
MANAGEMENT OF THEIR CHILDREN

FAILURE TO MAKE SPECIFIC FINDINGS ON THE RECORD
VIOLATED JOHN'S SUBSTANTIVE DUE PROCESS RIGHTS.
SEE - GOTTSCHALK V. GOTTSCHALK, 2011 U.S. APP.
LEXIS 12222 (11TH CIR. JUNE 16, 2011)

REASONS FOR GRANTING PETITION

THIS CASE INVOLVES SPECIAL AND IMPORTANT REASONS TO JUSTIFY GRANT OF WRIT OF CERTIORARI BY SUPREME COURT THE ISSUES INVOLVED REACHED CONSTITUTIONAL DIMENSIONS WHERE LOWER COURTS AVOIDANCE HAVE BECOME EVASION. SEE. RICE V. SIOUX CITY MEMORIAL PARK CEMETARY, INC., 349 U.S. 70, 75 S. CT 614, 99 L. ED. 897, 1955 U.S. LEXIS 863 (1955)

A STATE COURT OF LAST RESORT HAS DECIDED AN IMPORTANT FEDERAL QUESTION IN A WAY THAT CONFLICTS WITH THE DECISION OF ANOTHER STATE COURT OF LAST RESORT OR OF A UNITED STATES COURT OF APPEALS

A STATE COURT OR UNITED STATES COURT OF APPEALS HAS DECIDED AN IMPORTANT FEDERAL QUESTION IN A WAY THAT CONFLICTS WITH RELEVANT DECISIONS OF THIS COURT

IT IS A FUNDAMENTAL PRINCIPLE IN OUR SYSTEM OF COMPLEX NATIONAL POLICY THAT CONSTITUTION, LAWS AND TREATIES OF THE UNITED STATES ARE AS MUCH PART OF LAW OF EVERY STATE AS ITS OWN LOCAL LAWS AND CONSTITUTION. SEE. HANSEN V. LYNHAM, 100 U.S. 483, 25 L. ED. 628, 1879 U.S. LEXIS 1841 (1880)

THE SUPREME COURT IS COMMITTED TO A POLICY OF GRANTING REVIEW ONLY WHERE SUBSTANTIAL ISSUES OF LAW EXIST OR SERIOUS ERROR HAS OCCURED. SEE MASTEX FEL. MAST V. STANDARD OIL CO., 140 ARIZ. 1, 680 P. 2d 137, 1984 ARIZ LEXIS 200 (ARIZ. 1984)

THIS ISSUE EFFECTS JOHNS SUBSTANTIAL RIGHTS, WHICH CONCERNS THE SUBJECT MATTER OF THE PROCEEDING. SEE JULIVAN V. STORZ, 156 Neb 177, 55 NW 2d 499, 34 ALR 2d 1142

THIS FAMILY LAW CASE PRESENTS ISSUES OF LAW INCLUDING ISSUES OF DUE PROCESS, BASED ON STATUTORY INTERPRETATION AND OR PROCEDURAL IRREGULARITIES WHICH ARE OF STATEWIDE IMPORTANCE THAT MAY AFFECT MANY CASES BOTH PENDING, PLANNED IT INCLUDES ISSUES THAT MAY ARISE IN FUTURE CASES. THE PROPER APPLICATION OF STATUTES, REGULATIONS AND RULES ARE OF STATEWIDE RELEVANCE AND ARE LIKELY TO RECUR. SEE VOLK V. BRAME, 235 ARIZ. 462 (APP. 2014)

CUNDIFF V. STATE FARM MUT. AUTO INS. CO., 217 ARIZ. 358, 360 P.7 (2008)

STATE V. JONES, 246 ARIZ. 452, 454 P4 (2019)

CONKLIN V. MEDTRONIC INC., 245 ARIZ. 501, 503 P.6 (2018)

NO ARIZONA DECISION CONTROLS THE POINT OF LAW IN QUESTION AND THERE ARE CONFLICTING DECISIONS BY THE COURT OF APPEALS. THEREFORE IT IS NECESSARY TO CLARIFY THE MEANING AND PROPER INTERPRETATION OF ARS § 25 - 403.02 (D) [CX1-8] WHEN DETERMINING ELEMENTS OF A PARENTING PLAN.

SEE LAW V. SUPERIOR COURT, 157 ARIZ. 147, 148 (1988)

SEE ALMA S. V. DEPT. OF CHILD SAFETY 245 ARIZ. 146 149 P.7 (2018)

CONCLUSION

THE PETITION OF WRIT OR CERITORARI
SHOULD BE GRANTED

REPECTFULLY SUBMITTED

John Garcia
John GARCIA

JAN. 10, 2022