

No. 22-247
IN THE
SUPREME COURT OF THE UNITED STATES

JACQUELINE CHUI,

Petitioner,

v.

BENJAMIN TZE-MAN CHUI, MARGARET TAK-
YING CHUI LEE, ESTHER SHOU MAY CHUI
CHAO, and JACKSON CHEN, ESQ.,

Respondents.

On Petition for Writ of Certiorari to the
Supreme Court of California

**REPLY IN SUPPORT OF PETITION FOR A
WRIT OF CERTIORARI**

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INTRODUCTION

Appellant respectfully submits that the instant case presents a sufficiently clear instance to permit the Court to provide such guidance on (1) the due process violation of the same person acting as guardian ad litem and attorney; (2) the inability of a ward to even contest or seek replacement of a guardian ad litem; and (3) the equal protection claim based upon the incoherence of the guardian ad litem procedure in California.

ARGUMENT

The brief for Respondents in Opposition to the Writ of Certiorari effectively ignores the basis upon which this appellant (Jacqueline Chui) has sought review by this Court. On page 14, under Argument, Respondent writes: “Petitioners principally contend that the California Court of Appeal erred by endorsing a “no notice, no hearing rule” that invariably permits a trial court to approve a guardian ad litem’s settlement of a minor’s claim without providing notice to the minor or holding an evidentiary hearing.” The citations given are to Michael Chui’s writ petition – not Jacqueline’s. A footnote on page 15 briefly mentions that Christine Chui and Jacqueline Chui have also filed writs, and *then ignores Jacqueline’s arguments.*

There has no response to the writ of Jacqueline Chui by Respondents.

Jacqueline Chui’s writ petition should be granted. It concerns the constitutionality of the guardian ad litem procedure in California. Jacqueline

specifically raises three constitutional infirmities with the procedure itself: (1) the due process violation of the same person acting as guardian ad litem and attorney; (2) the inability of a ward to even contest or seek replacement of a guardian ad litem; and (3) the equal protection claim based upon the incoherence of the guardian ad litem procedure in California.

The Respondents' Opposition simply ignores Jacqueline Chui's arguments. Whatever the merits of the Opposition to the grounds raised by Michael Chui or Christine Chui, there has been no rebuttal of the constitutional infirmities raised by Jacqueline.

The incoherence raised by Jacqueline's writ is a matter which will require judicial clarification at some point: In 1872 when California imposed the guardian ad litem procedure for minors, the law maintained a reasonably "bright line" between minors and adults.

However, over the past half-century, the law has evolved in an irregular and inconsistent manner. Some minors are adults for some purposes, such as a petition to be "emancipated" from their parents. And so, in California, a 15-year-old can hire a lawyer and effectively obtain a divorce from a parent. And yet that same minor cannot hire a lawyer to contest the appointment of a guardian ad litem.

The minor can hire a lawyer to defend herself in a criminal action, but she cannot hire a lawyer to defend herself in a civil action.

There is no rational basis upon which the State of California can contend that a minor has capacity to make far more important decisions involving her own liberty and health, but is utterly dependent on a guardian ad litem to make lesser decisions involving civil matters money. And certainly prison or a life-changing medical decision involves far more practical questions about the nature of legal capacity than does a transfer of money from a trust. But, if the state grants the right to the minor to retain counsel in one instance, surely the right must exist in the other.

CONCLUSION

Can a minor hire a lawyer and participate in a civil action? This is a matter which arises throughout the country today and tomorrow, and the rights of these minors are in flux and seemingly “protected” or denied in a haphazard manner.

Since these are rights which belong to citizens of the United States and are rights protected by the Constitution of the United States, it is appropriate for this Court to provide the guidance necessary to direct the evolution of the law.

Appellant respectfully submits that the instant case presents a sufficiently clear instance to permit the Court to provide such guidance.

As a final matter, the opposition filed to the instant writ should be stricken by this Court: Respondents have no standing to contest the relationship

between a ward and a guardian ad litem. Being uninterested and unaffected parties, they have no basis to contest the instant writ. (See, e.g., *American Legion v. Am. Humanist Ass'n* (2019) 588 U.S.____, 139 S. Ct. 2067).

Dated: November 29, 2022

Respectfully submitted,

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