

No. _____

IN THE
SUPREME COURT OF THE UNITED STATES

Lady Donna Dutchess, Petitioner

vs.

Jason Dutch, Respondent

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FOR PETITION FOR A WRIT OF CERTIORARI

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NOTICE

Memorandum decisions of this court do not create legal precedent. A party wishing to cite such a decision in a brief or at oral argument should review Alaska Appellate Rule 214(d).

THE SUPREME COURT OF THE STATE OF ALASKA

LADY DONNA DUTCHESS,)	
)	Supreme Court No. S-18109
Appellant,)	
)	Superior Court No. 3AN-15-08063 CI
v.)	
)	<u>MEMORANDUM OPINION</u>
JASON DUTCH,)	<u>AND JUDGMENT*</u>
)	

Appeal from the Superior Court of the State of Alaska, Third Judicial District, Anchorage, Herman G. Walker, Jr., Judge.

Appearances: Lady Donna Dutchess, pro se, Anchorage, Appellant. No appearance by Appellee Jason Dutch.

Before: Winfree, Chief Justice, Maassen, Carney, Borghesan, and Henderson, Justices.

I. INTRODUCTION

Divorced parents disagree about vaccinating their two minor children. The father wants to vaccinate the children per their pediatrician's recommendation. The mother objects on religious grounds to vaccinating the children. Given this disagreement, the father moved for sole legal custody of the children. After briefing and multiple hearings, the superior court issued an order granting decision-making authority concerning vaccinating the children to the father, and the mother appeals. Because the

* Entered under Alaska Appellate Rule 214.

superior court's best interests determination was supported by the record and within the court's broad discretion, we affirm.

II. FACTS AND PROCEEDINGS

Lady Donna Dutchess and Jason Dutch were married from 2008 to 2015. They have two children, both of whom still are minors. Both parents have been involved with the children's medical care. During the marriage, both children received vaccinations. After the marriage ended, neither child received vaccinations until 2021. The children's pediatrician recommended vaccinations in December 2020, but the father declined because "he and mother have not been able to agree on vaccinations." The mother objects to vaccinations on religious grounds.

Amid various disagreements regarding custody, the father filed a motion to modify legal and physical custody and raised the vaccination issue. The superior court held an evidentiary hearing on the matter in November 2020. At the conclusion of the hearing, the court noted that it was taking the vaccination question under advisement and would issue a future order.

In April 2021, prior to the court issuing its order, the father took the children to their pediatrician for vaccinations. In a subsequent hearing, the father explained that he feared his children may have been exposed to tetanus, and noted that he had the doctor give the children only "the most important" vaccines. The younger child received vaccines for hepatitis A; measles, mumps, and rubella; polio; and tetanus, diphtheria, and acellular pertussis. The older child received vaccines for hepatitis A; human papillomavirus (HPV); meningococcal disease; and tetanus, diphtheria, and acellular pertussis.

The superior court issued an order in June 2021 granting the father sole legal custody with regard to vaccination decisions. The order provided that "Father is to confer with Mother [regarding vaccinations]. If there is a disagreement then Father

makes the legal decision.” The court recognized that the mother has “a [c]onstitutional right to practice her religion” but stated that religious liberty may be curtailed to protect a child’s well-being, and specified that “[t]here are health benefits to having children vaccinated.” The court quoted language from the United States Supreme Court’s decision in *Prince v. Massachusetts*: “[t]he right to practice religion freely does not include liberty to expose the community or the child to communicable disease or the latter to ill health or death.”¹ The mother appeals, alleging violations of the free exercise clause, procedural due process, and various statutes.

III. STANDARD OF REVIEW

“We . . . review constitutional questions de novo, adopting the rule of law that is most persuasive in light of precedent, reason, and policy.”² “Likewise, ‘[w]hether the court applied the correct standard in a custody determination is a question of law we review de novo.’ ”³

Trial courts have “broad discretion in child custody matters.”⁴ We “will reverse a trial court’s resolution of custody issues only if [we are] convinced that the record shows an abuse of discretion or if controlling factual findings are clearly

¹ 321 U.S. 158, 166-67 (1944).

² *Ross v. Bauman*, 353 P.3d 816, 823 (Alaska 2015) (alteration in original) (quoting *Skinner v. Hagberg*, 183 P.3d 486, 489 (Alaska 2008)).

³ *Osterkamp v. Stiles*, 235 P.3d 178, 184 (Alaska 2010) (alteration in original) (quoting *Elton H. v. Naomi R.*, 119 P.3d 969, 973 (Alaska 2005)).

⁴ *Farrell v. Farrell*, 819 P.2d 896, 898 (Alaska 1991).

erroneous.”⁵ Abuse of discretion includes instances when “the trial court considered improper factors or failed to consider statutorily-mandated factors, or improperly weighted certain factors in making its determination.”⁶

IV. DISCUSSION

Alaska Statute 25.24.150(c) requires courts to make custody award determinations and modifications in “the best interests of the child,” considering, among other things, “the physical, emotional, mental, religious, and social needs of the child” and “the capability and desire of each parent to meet these needs.” Here the superior court awarded authority to make vaccination decisions to the father based on the factual determination that it was in the best interests of the children. We review this factual determination for clear error.⁷

The record in this case supports the superior court’s finding that granting the father the authority to make vaccination decisions served the children’s best interests. The children’s pediatrician documented that she “[d]iscussed with father vaccine indications and benefits” and “that not vaccinating his child could result in severe illness, disability and even death.” The father testified that he had the children vaccinated because he was concerned about a possible tetanus exposure and that he had the pediatrician administer only the vaccines she felt were “most important.” Given the pediatrician’s recommendations to vaccinate the children, and the father’s willingness to consider those recommendations, the court did not clearly err in its best interests

⁵ *Id.*

⁶ *Id.*

⁷ *Id.*

determination.⁸

The mother argues that the court's award of decision-making authority infringes on her right to the free exercise of religion under the U.S. and Alaska Constitutions.⁹ When confronting free exercise claims under the Alaska Constitution, we typically apply the framework outlined in *Frank v. State*:¹⁰ that when faced with a neutral law and with sincerely held religious beliefs compelling actions counter to that law, the State may only forbid these actions " 'where they pose some substantial threat to public safety, peace or order,' or where there are competing governmental interests 'of the highest order . . . not otherwise served.' "¹¹ We are not convinced that heightened scrutiny necessarily applies to child custody determinations allocating decision-making authority between parents, nor did the parties brief this issue. We note that several other state courts have concluded that strict scrutiny does not apply to a custody determination between parents with divergent religious convictions.¹² In *Bonjour v. Bonjour* we

⁸ See, e.g., *Shea v. Metcalf*, 712 A.2d 887, 891-92 (Vt. 1998) (affirming decision awarding medical decision-making authority to a father who wanted his children vaccinated when a board-certified pediatrician testified in support of the father's position); *In re A.J.E.*, 372 S.W.3d 696, 699 -700 (Tex. App. 2012) (relying on a court-appointed physician's advice when there was a dispute between parents over vaccinating the children).

⁹ U.S. Const. amend. I; Alaska Const. art. I § 4.

¹⁰ 604 P.2d 1068 (Alaska 1979).

¹¹ *Swanner v. Anchorage Equal Rts. Comm'n*, 874 P.2d 274, 281 (Alaska 1994) (quoting *Seward Chapel, Inc. v. City of Seward*, 655 P.2d 1293, 1301 n.33 (Alaska 1982)).

¹² E.g., *In re Kurowski*, 20 A.3d 306, 317 (N.H. 2011) (explaining that a custody decision "is not subject to strict scrutiny review merely because the case involves the fundamental parental right . . . and the parents' divergent religious (continued...)

addressed a parent's establishment clause claim, explaining that courts generally must maintain neutrality toward parents' religious beliefs or lack thereof when analyzing children's best interests and making a custody determination.¹³ We recognized that a court's application of custody statutes in a manner exhibiting "a preference for the religious over the less religious" would essentially place "government on the side of organized religion, a non-secular result that the establishment clause is designed to prevent."¹⁴ Consistent with our analysis in *Bonjour*, the superior court here properly considered how the mother's desire not to vaccinate the children was contrary to the recommendation of the children's pediatrician and counter to their best interests.¹⁵

Because the father is not participating in the appeal and thus does not challenge the legal framework applied by the superior court, we need not decide whether heightened scrutiny applies in this case. Even if we were to apply heightened scrutiny

¹² (...continued)

convictions"); *In re Marriage of Crouch*, 490 P.3d 1087, 1092 (Colo. App. 2021) ("Indeed, [Colorado precedent] expressly rejects the need for strict scrutiny, and therefore the need to show substantial harm, when allocating decision-making responsibility between the child's parents because, in that context, the court is merely expanding one parent's fundamental right at the expense of the other parent's similar right."); *Morgan v. Morgan*, 964 So. 2d 24, 31 (Ala. Civ. App. 2007) ("[A] court may apply the best-interests standard in a custody dispute between such parents without implicating the Fourteenth Amendment due-process rights of either parent.").

¹³ 592 P.2d 1233, 1241 (Alaska 1979) ("The establishment clause focuses judicial attention . . . in an effort to determine if the 'religious' is somehow being preferred over the non-religious, or anti-religious.").

¹⁴ *Id.* at 1243.

¹⁵ *Id.* at 1240-41 (stating that consideration of religiously motivated beliefs are appropriate when they impact the "actual religious needs" of the child, substantially threaten or result in "actual physical, emotion[al] or mental injury to the child," or "otherwise have a harmful effect on the child in violation of valid state statutes").

pursuant to *Frank v. State* in analyzing the mother's free exercise challenge, the superior court's ruling would withstand review. The State has "an undeniably compelling interest in protecting the health of minors."¹⁶ Other jurisdictions ruling on vaccine mandates have more specifically held that protecting the health of individuals and the community is a compelling government interest.¹⁷ Because the State has an interest of the highest order in protecting the children's health that, given the evidence in this case, would not be served by awarding the mother legal authority to make vaccination decisions, the superior court's ruling withstands the *Frank* analysis.¹⁸

Similarly, even if we applied strict scrutiny to the mother's federal constitutional claim, the decision would withstand review. Strict scrutiny requires a compelling government interest and that the government action be narrowly tailored to

¹⁶ *State v. Planned Parenthood of Alaska*, 171 P.3d 577, 579 (Alaska 2007).

¹⁷ See *Brown v. Stone*, 378 So. 2d 218, 222 (Miss. 1979); *Wright v. DeWitt Sch. Dist. No. 1 of Ark. Cnty.*, 385 S.W.2d 644, 648 (Ark. 1965); *Whitlow v. California*, 203 F. Supp. 3d 1079, 1089-90 (S.D. Cal. 2016) ("There is no question that society has a compelling interest in fighting the spread of contagious diseases through mandatory vaccination of school-aged children. All courts, state and federal, have so held either explicitly or implicitly for over a century."); *Shepp v. Shepp*, 906 A.2d 1165, 1173 (Pa. 2006) (explaining that the state has a compelling interest to protect a child from threats to the child's welfare); *Roberts v. Roberts*, 586 S.E.2d 290, 295 (Va. App. 2003) ("[T]he protection of children from harm, whether moral, emotional, mental, or physical, is a valid and compelling state interest." (alteration in original) (quoting *Knox v. Lynchburg Div. of Soc. Serv.*, 288 S.E.2d 399, 404 (Va. 1982))).

¹⁸ *In re Tiffany O.*, 467 P.3d 1076, 1082 (Alaska 2020) (noting that where former guardian would not obtain medical care for her ward due to religion, granting guardian a religious exemption would be contrary to the State's interest in "protecting its most vulnerable citizens from harm"), *cert. denied*, 141 S. Ct. 1096 (2021).

advance that interest.¹⁹ As we have explained above, the State has a compelling interest in maintaining the health of minors.²⁰ Further, the superior court's order in this case was extremely narrowly tailored. The court did not award full custody, sole legal custody, or even all medical decision-making authority to one parent. Rather, the court limited the scope of its order to authority to make vaccination decisions. This is the least restrictive means of achieving the State's interest in protecting the health of the children.²¹

In addition to her constitutional challenges, the mother appears to allege that bias on the part of the superior court judge violated her due process rights. Parties have a fundamental due process right to an impartial decision-maker.²² In determining whether a judge's conduct creates "an appearance of partiality" requiring disqualification, we consider "whether the totality of the circumstances 'would create in reasonable minds a perception that the judge's ability to carry out judicial responsibilities with integrity, impartiality, and competence is impaired.'"²³

¹⁹ *Church of the Lukumi Babalu Aye, Inc. v. City of Hialeah*, 508 U.S. 520, 531-32 (1993).

²⁰ *Planned Parenthood of Alaska*, 171 P.3d at 579.

²¹ *See Roberts*, 586 S.E.2d at 295-96 (finding that remedy found advanced "the compelling state interest in protecting the children in the least restrictive effective manner").

²² *Amerada Hess Pipeline Corp. v. Alaska Pub. Utils. Comm'n*, 711 P.2d 1170, 1180 (Alaska 1986).

²³ *Vent v. State*, 288 P.3d 752, 756-57 (Alaska App. 2012) (quoting *State v. Dussault*, 245 P.3d 436, 442 (Alaska App. 2011)).

The mother did not argue this point before the trial court,²⁴ and she has not pointed to any persuasive evidence of partiality. Indeed, the superior court judge seemed to take pains to respect the mother's religious beliefs and accurately and carefully assess her parenting ability. The superior court explained that it would need to research the appropriate balance "between protecting [the mother's] constitutional rights to religious freedom and as it pertains to her children, and [the father's] right to have his children protected through vaccination." The court further noted that it "want[ed] to commend both of you[,] . . . [because] you . . . have come a long ways . . . to learn to co-parent. And I think your kids are benefiting from it." The totality of the circumstances demonstrates that the superior court judge acted impartially throughout the proceedings.

The mother's additional statutory arguments are unavailing. They are either

²⁴ Because the mother did not raise the issue at the trial court, we review the record for plain error. *State Farm Auto Ins. Co. v. Raymer*, 977 P.2d 706, 711 (Alaska 1999); *Wylie v. State*, 797 P.2d 651, 662 (Alaska App. 1990) (noting that the defendant argued that there was an appearance of impropriety for the first time on appeal, and finding no plain error).

irrelevant,²⁵ waived,²⁶ or without legal basis.²⁷

Given the record in this case, the superior court did not clearly err in finding that an award of legal authority for vaccination decisions to the father would serve the children's best interests, and did not abuse its discretion in making its corresponding order on legal custody. The mother's objections fail, even if this court were to apply heightened scrutiny.

²⁵ The mother asserts that by awarding vaccine decision-making to the father, the superior court violated the regulation governing vaccine requirements for children prior to their admission to school, citing 4 Alaska Administrative Code (AAC) 06.055(f)

the church or religious denomination of which the applicant is a member." 4 AAC 06.055(b)(3). This regulation addresses admission to school, not internal family decision-making. It does not bar one parent vaccinating their child over the objection of another parent. Therefore, it does not apply in this situation. *Cf. Ward v. Lutheran Hosps. & Homes Soc'y of Am., Inc.*, 963 P.2d 1031, 1036 (Alaska 1998) (noting that when regulations do not mention informed consent, there is no cause of action relating to informed consent).

²⁶ The mother argues that the superior court "erred in continuing to allow the intentional interference" with constitutional rights, in violation of AS 11.76.110 and 18 U.S.C. § 242, but this argument fails. The mother has waived this argument for failure to raise it before the trial court and failure to adequately brief the issue on appeal. *Williams v. Alyeska Pipeline Serv. Co.*, 650 P.2d 343, 351 (Alaska 1982); *Pieper v. Musarra*, 956 P.2d 444, 446-47 (Alaska 1998).

²⁷ The mother's arguments pursuant to AS 11.76.110 and 18 U.S.C. § 242 also fail because neither provides a private cause of action. *Belluomini v. Fred Meyer of Alaska, Inc.*, 993 P.2d 1009, 1015 (Alaska 1999) ("Alaska's criminal statute prohibiting interference with a constitutional right . . . does not itself imply a purely private cause of action."); *Dugar v. Coughlin*, 613 F. Supp. 849, 852 n.1 (S.D.N.Y. 1985) (explaining that 18 U.S.C. § 242 does not carry a private right of action); *Weiland v. Byrne*, 392 F. Supp. 21, 22 (N.D. Ill. 1975) ("The plaintiff cites certain criminal statutes in his complaint, under which he has no standing to sue.").

V. CONCLUSION

We AFFIRM the superior court's order awarding legal authority to make vaccination decisions to the father.

IN THE SUPERIOR COURT FOR THE STATE OF ALASKA
THIRD JUDICIAL DISTRICT AT ANCHORAGE

JASON DUTCH,)
)
Plaintiff,)
)
v.)
)
LADY DONNA DUTCHESS,)
)
Defendant.)
_____)

Case No. 3AN-15-08063 CI

ORDER RE: LEGAL CUSTODY TO MAKE VACCINATION DECISIONS

The issue before the Court is who shall make medical decisions concerning whether or not to vaccinate the children. Ms. Dutchess, Mother, does not want the children vaccinated. Mr. Dutch, Father, wants the children to have all their vaccinations. Mother opposes vaccinations on religious grounds. For the following reasons Father will be allowed legal custody to make decisions on whether or not to vaccinate the children.

I. FACTS

This is a high conflict case from the beginning. Both parents have different parenting styles. The Court eventually ordered a GAL to represent the best interest of the two girls, I.D. and M.D. Prior to this order Mother obtained a waiver of vaccinations from the Anchorage School District. Father filed a motion regarding this issue. Mother opposed. Father jumped the gun and had the children vaccinated prior to the Court issuing its order on this matter.

II. ANALYSIS

Mother does have a Constitutional right to practice her religion. Parents also have a right to impose their religion upon their children. However, this Constitutional right is not unlimited. In *Prince v. Massachusetts*, the Supreme Court limited a parent's religious liberty to "guard the general interest in [the] youth's well-being"¹ The Supreme Court stated further:

"The right to practice religion freely does not include liberty to expose the community or the child to communicable disease or the latter to ill health or death."²

Father wants the children to have vaccinations. Mother states that previously Father agreed with not getting the children vaccinated. The question before the Court is whether Mother's religious beliefs warrants preventing the children from getting vaccinated, when Father wishes the children to get vaccinated.

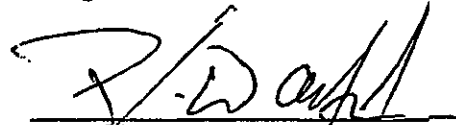
The Court respects Mother's religious beliefs. This is not a situation where the State of Alaska is interfering with Mother's religious beliefs regarding vaccinations. Father is the one who wants their daughter's vaccinated. The Court is going to grant Father legal custody to decide if the children should get vaccinated or not. Father is to confer with Mother. If there is a disagreement then Father makes the legal decision.

¹ *Prince v. Massachusetts*, 321 U.S. 158, 166-67, 171 (1944).

² *Id.*

There are health benefits to having children vaccinated. As the Supreme Court states the right to religious freedom does not include the right to expose children or the community to communicable diseases.

Ordered this 7th day of June, 2021 in Anchorage, Alaska.



Hon. Herman G. Walker, Jr.
Superior Court Judge

I certify that on 6-7-21
a copy of the above was emailed to each
of the following at their addresses of record:

J Dutch / Lady Donna Dutchess / K Watson. GAL


E. Greene, Administrative Assistant

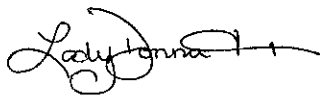
IN THE SUPREME COURT OF THE STATE OF ALASKA

LADY DONNA DUTCHESS)
Appellant,)
vs.)
JASON DUTCH)
Appellee.)
_____) Supreme Court No. S-18109
Superior Court No. 3AN-15-08063CI

APPELLANT'S OPENING BRIEF

APPEAL FROM A FINAL JUDGMENT OF THE SUPERIOR COURT
THIRD JUDICIAL DISTRICT AT ANCHORAGE
THE HONORABLE JUDGE HERMAN G. WALKER, JR.

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By: 
Lady Donna Dutchess

Filed in the Alaska Supreme Court
Date:

By: _____
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Boddie v. Connecticut, 401 US 371 (Supreme Court 1971) provides:

At its core, the right to due process reflects a fundamental value in our American constitutional system. Our understanding of that value is the basis upon which we have resolved this case.

Perhaps no characteristic of an organized and cohesive society is more fundamental than its erection and enforcement of a system of rules defining the various rights and duties of its members, enabling them to govern their affairs and definitively settle their differences in an orderly, predictable manner. Without such a "legal system," social organization and cohesion are virtually impossible; with the ability to seek regularized resolution of conflicts individuals are capable of interdependent action that enables them to strive for achievements without the anxieties that would beset them in a disorganized society. Put more succinctly, it is this injection of the rule of law that allows society to reap the benefits of rejecting what political theorists call the "state of nature."

(375) American society, of course, bottoms its systematic definition of individual rights and duties, as well as its machinery for dispute settlement, not on custom or the will of strategically placed individuals, but on the common-law model. It is to courts, or other quasi-judicial official bodies, that we ultimately look for the implementation of a regularized, orderly process of dispute settlement. Within this framework, those who wrote our original Constitution, in the Fifth Amendment, and later those who drafted the Fourteenth Amendment, recognized the centrality of the concept of due process in the operation of this system. Without this guarantee that one may not be deprived of his rights, neither liberty nor property, without due process of law, the State's monopoly over techniques for binding conflict resolution could hardly be said to be acceptable under our scheme of things. Only by providing that the social enforcement mechanism must function strictly within these bounds can we hope to maintain an ordered society that is also just. It is upon this premise that this Court has through years of adjudication put flesh upon the due process principle.

(375) Such litigation has, however, typically involved rights of defendants—not, as here, persons seeking access to the judicial process in the first instance. This is because our society has been so structured that resort to the courts is not usually the only available, legitimate means of resolving private disputes.

Indeed, private structuring of individual relationships and repair of their breach is largely encouraged in American life, subject only to the caveat that the formal judicial process, if resorted to, is paramount. Thus, this Court has seldom been asked to view access to the courts as an element of due process. The legitimacy of the State's monopoly over techniques of final dispute settlement, even where

(376) some are denied access to its use, stands unimpaired where recognized, effective alternatives for the adjustment of differences remain. But the successful invocation of this governmental power by plaintiffs has often created serious problems for defendants' rights. For at that point, the judicial proceeding becomes the only effective means of resolving the dispute at hand and denial of a defendant's full access to that process raises grave problems for its legitimacy.

376 Recognition of this theoretical framework illuminates the precise issue presented in this case. As this Court on more than one occasion has recognized, marriage involves interests of basic importance in our society.

It is not surprising, then, that the States have seen fit to oversee many aspects of that institution. Without a prior judicial imprimatur, individuals may freely enter into and rescind commercial contracts, for example, but we are unaware of any jurisdiction where private citizens may covenant for or

dissolve marriages without state approval. Even where all substantive requirements are concededly met, we know of no instance where two consenting adults may divorce and mutually liberate themselves from the constraints of legal obligations that go with marriage, and more fundamentally the prohibition against remarriage, without invoking the State's judicial machinery. Thus, although they assert here due process rights as would-be plaintiffs, we think appellants' plight, because resort to the state courts is the only avenue to dissolution of their marriages, is akin to that of defendants faced with exclusion from the only forum effectively empowered to settle their disputes. Resort to the judicial process by these plaintiffs is no more voluntary in a realistic sense than that of the defendant called upon to

(377) defend his interests in court. For both groups this process is not only the paramount dispute-settlement technique, but, in fact, the only available one. In this posture we think that this appeal is properly to be resolved in light of the principles enunciated in our due process decisions that delimit rights of defendants compelled to litigate their differences in the judicial forum.

(377) II These due process decisions, representing over a hundred years of effort by this Court to give concrete embodiment to this concept, provide, we think, complete

vindication for appellants' contentions. In particular, precedent has firmly embedded in our due process jurisprudence two important principles upon whose application we rest our decision in the case before us.

Coffin v. United States, 156 US 432 (Supreme Court 1895)

provides:

(457) It is well settled that there is no error in refusing to give a correct charge precisely as requested, provided the instruction actually given fairly covers and includes the instruction asked.

The contention here is that, inasmuch as the charge given by the court on the subject of reasonable doubt substantially embodied the statement of the presumption of innocence, therefore the court was justified in refusing in terms to mention the latter. This presents the question whether the charge that there cannot be a conviction unless the proof shows guilt beyond a reasonable doubt, so entirely embodies the statement of presumption of innocence as to justify the court in refusing, when requested, to inform the jury concerning the latter. The authorities upon this question are few and unsatisfactory. In Texas it has been held that it is the duty of the court to state the presumption of innocence along with the doctrine of reasonable doubt, even though no request be made to do so.

(577) It is doubtful, however, whether the rulings in these cases were not based upon the terms of a Texas statute, and not on the general law. In Indiana it has been held error to refuse, upon request, to charge the presumption of innocence, even although it be clearly stated to the jury that conviction should not be had unless guilt be proven beyond reasonable doubt.

(172) But the law of Indiana contains a similar provision to that of Texas. In two Michigan cases, where the doctrine of reasonable doubt was fully and fairly stated, but no request to charge the presumption of innocence was made, it was held that the failure to mention the presumption of innocence could not be assigned for error, in the reviewing court. But in the same State, where a request to charge the presumption of innocence was made and refused, the refusal was held erroneous, although the doctrine of reasonable doubt had been fully given to the jury. On the other hand, in Ohio it has been held not error to refuse to charge the presumption of innocence where the charge actually given was, "that the law required that the State should prove the material elements of the crime beyond doubt."

(458) the fact that the presumption of innocence is so elementary that instances of denial to charge it upon request have rarely occurred. Such is the view expressed in a careful article in the Criminal Law Magazine for January, 1889, vol. 11, p. 3: "The practice of stating this principle to juries is so

nearly universal that very few cases are found where error has been assigned upon the failure or refusal of the judge so to do."

(459) Now the presumption of innocence is a conclusion drawn by the law in favor of the citizen, by virtue whereof, when brought to trial upon a criminal charge, he must be acquitted, unless he is proven to be guilty. In other words, this presumption is an instrument of proof created by the law in favor of one accused, whereby his innocence is established until sufficient evidence is introduced to overcome the proof which the law has created.

(460) The fact that the presumption of innocence is recognized as a presumption of law and is characterized by the civilians as a presumption juris, demonstrates that it is evidence in favor of the accused. For in all systems of law legal presumptions are treated as evidence giving rise to resulting proof to the full extent of their legal efficacy.

Heacker v. Safeco Ins. Co. of America, 676 F. 3d 724 (Court of Appeals, 8th Circuit 2012) provides:

Id. at 525 ("Although assault and battery have varying definitions, these definitions only slightly deviate and regardless of the definition used, they all convey the same general meaning. In the case at hand, the definitions of assault and battery do not present various and distinct definitions.").
A reasonably prudent insured would discern that mental abuse is

mental maltreatment, often resulting in mental or emotional injury. See Black's Law Dictionary¹⁰ (8th ed. 2004) (defining abuse as "[p]hysical or mental maltreatment, often resulting in mental, emotional, sexual, or physical injury.")⁹⁶² P.2d at 524 (interpreting insurance policy exclusion using Black's Law definitions of "assault and battery").

MLB v. SLJ, 519 US 102 (Supreme Court 1996) provides:

Choices about marriage, family life, and the upbringing of children are among associational rights this Court has ranked as "of basic importance in our society, rights sheltered by the Fourteenth Amendment against the State's unwarranted usurpation, disregard, or disrespect.

(117) The Court has long required when a family association so undeniably important is at stake.

(759) "Few forms of state action," the Court said, "are both so severe and so irreversible." In *Lassiter*, the Court characterized the parent's interest as "commanding," indeed, *119 "far more precious than any property right."

455 U. S., at 758-759. Although both *Lassiter* and *Santosky* yielded divided opinions, the Court was unanimously of the view that "the interest of parents in their relationship with their children is sufficiently fundamental to come within the finite class of liberty interests protected by the Fourteenth Amendment."

Prince v. Massachusetts, 321 US 158 (Supreme Court 1944)

provides:

Sections 80 and 81 form parts of Massachusetts' comprehensive child labor law.[3] They provide methods for enforcing the prohibitions of § 69, which is as follows:

"No boy under twelve and no girl under eighteen shall sell, expose or offer for sale any newspapers, magazines, periodicals or any other articles of merchandise of any *161 description, or exercise the trade of bootblack or scavenger, or any other trade, in any street or public place."

161 "Whoever furnishes or sells to any minor any article of any description with the knowledge that the minor intends to sell such article in violation of any provision of sections sixty-nine to seventy-three, inclusive, or after having received written notice to this effect from any officer charged with the enforcement thereof, or knowingly procures or encourages any minor to violate any provisions of said sections, shall be punished by a fine of not less than ten nor more than two hundred dollars or by imprisonment for not more than two months, or both." § 80. The rights of children to exercise their religion, and of parents to give them religious training and to encourage them in the practice of religious belief, as against preponderant sentiment and assertion of state power voicing it, have had recognition here, most recently in West

Virginia State Board of Education v. Barnette, 319 U.S. *166
624. Previously in Pierce v. Society of Sisters, 268 U.S.
510, this Court had sustained the parent's authority to provide
religious with secular schooling, and the child's right to
receive it, as against the state's requirement of attendance at
public schools. And in Meyer v. Nebraska, 262 U.S.
390, children's rights to receive teaching in languages other
than the nation's common tongue were guarded against the state's
encroachment. It is cardinal with us that the custody, care and
nurture of the child reside first in the parents, whose primary
function and freedom include preparation for obligations the
state can neither supply nor hinder. Pierce v. Society of
Sisters, supra. And it is in recognition of this that these
decisions have respected the private realm of family
life which the state cannot enter. But the family itself is not
beyond regulation in the public interest, as against a
claim of religious liberty. Reynolds v. United States, 98 U.S.
145; Davis v. Beason, 133 U.S. 333. And neither rights of
religion nor rights of parenthood are beyond limitation. Acting
to guard the general interest in youth's well being, the state
as *parens patriae* may restrict the parent's control by requiring
school attendance, [9] regulating or prohibiting the child's
labor[10] and in many other ways.[11] Its

authority is not nullified merely because the parent grounds his claim to control the child's course of conduct on religion or conscience. Thus, he cannot claim freedom from compulsory vaccination for the child more than for himself on religious grounds.[12] The right to practice religion freely does not include liberty to expose the community or the child *167 to communicable disease or the latter to ill health or death. *People v. Pierson*, 176 N.Y. 201, 68 N.E. 243.[13] The catalogue need not be lengthened. It is sufficient to show what indeed appellant hardly disputes, that the state has a wide range of power for limiting parental freedom and authority in things affecting the child's welfare; and that this includes, to some extent, matters of conscience and religious conviction.

Our ruling does not extend beyond the facts the case presents. We neither lay the foundation "for any [that is, every] state intervention in the indoctrination and participation of children in religion" which may be done "in the name of their health and welfare" nor give warrant for "every limitation on their religious training and activities." The religious training and indoctrination of children may be accomplished in many ways, some of which, as we have noted, have received constitutional protection through decisions of this Court. These and all others

except the public proclaiming of religion on the streets, if this may be taken as either training or indoctrination of the proclaimer, remain unaffected by the decision.

STATUTES

Alaska Statute 4 AAC 06.005 (3) provides:

Section 4 AAC 06.055 - Immunizations required

(a) Before entry in a state public school district or nonpublic school offering pre-elementary education through the 12th grade, or any combination of these grades, a child shall be immunized against

(1) diphtheria, tetanus, polio, pertussis, measles, mumps, hepatitis A, hepatitis B, and rubella, except rubella is not required in children 12 years of age or older; and

(2) beginning July 1, 2009, varicella.

(b) This section does not apply if the child

(1) has a valid immunization certificate consisting of

(A) a statement by a physician listing the date that each required immunization was given; or

(B) a copy of a clinic or health center record listing the date that each required immunization was given;

(2) has a statement signed by a doctor of medicine (M.D.), doctor of osteopathy (D.O.), physician assistant, or advanced nurse practitioner licensed to practice in this state, stating that immunizations would, in that individual's professional

opinion, be injurious to the health of the child or members of the child's family or household; or

(3) has an affidavit signed by his parent or guardian affirming that immunization conflicts with the tenets and practices of the church or religious denomination of which the applicant is a member.

Alaska Statute 11.76.110 (3) provides:

Interference with constitutional rights

(a) A person commits the crime of interference with constitutional rights if

(1) the person injures, oppresses, threatens, or intimidates another person with intent to deprive that person of a right, privilege, or immunity in fact granted by the constitution or laws of this state;

(2) the person intentionally injures, oppresses, threatens, or intimidates another person because that person has exercised or enjoyed a right, privilege, or immunity in fact granted by the constitution or laws of this state; or

(3) under color of law, ordinance, or regulation of this state or a municipality or other political subdivision of this state, the person intentionally deprives another of a right, privilege, or immunity in fact granted by the constitution or laws of this state.

(b) In a prosecution under this section, whether the injury, oppression, threat, intimidation, or deprivation concerns a right, privilege, or immunity granted by the constitution or laws of this state is a question of law.

(c) Interference with constitutional rights is a class A misdemeanor.

ACTS

COVID-19 Act, HP 76 provides:

Extending the January 15, 2021, governor's declaration of a public health disaster emergency in response to the novel coronavirus disease (COVID-19) pandemic; approving and ratifying declarations of a public health disaster emergency; providing for a financing plan; making temporary changes to state law in response to the COVID-19 outbreak in the following areas: emergency powers of the governor; emergency powers of the commissioner of health and social services; occupational and professional licensing, practice, and billing; telehealth; charitable gaming and online ticket sales; access to federal stabilization funds; wills; unfair or deceptive trade practices; school operating funds; workers' compensation; program execution; civil liability; immunity from liability and disciplinary action for occupational licensees for

exposure of clients to COVID-19; immunity from liability for persons engaging in business and their employees for exposure of customers to COVID-19; abortion funding; and personal objections to the administration of COVID-19 vaccines; and providing for an effective date.

26 PERSONAL OBJECTIONS TO THE ADMINISTRATION OF COVID-19

27 VACCINES. An individual may object to the administration of a novel coronavirus disease

28 (COVID-19) vaccine based on religious, medical, or other grounds. A parent or guardian of a

29 minor child may object to the administration of a COVID-19 vaccine to the minor child based

30 on religious, medical, or other grounds. A person may not require an individual to provide

31 justification or documentation to support the individual's decision to decline a COVID-19 (1) vaccine or to decline a COVID-19 vaccine for a minor child.

CONSTITUTIONAL PROVISIONS

ALASKA CONSTITUTION

Article 1, Section 4 provides:

Freedom of Religion

No law shall be made respecting an establishment of religion, or prohibiting the free exercise thereof.

Article 1, Section 7 provides:

Due Process

No person shall be deprived of life, liberty, or property, without due process of law. The right of all persons to fair and just treatment in the course of legislative and executive investigations shall not be infringed.

UNITED STATES CONSTITUTION

Title 18, Section 242 provides:

Deprivation of rights under color of law

Whoever, under color of any law, statute, ordinance, regulation, or custom, willfully subjects any person in any State, Territory, Commonwealth, Possession, or District to the deprivation of any rights, privileges, or immunities secured or protected by the Constitution or laws of the United States, or to different punishments, pains, or penalties, on account of such person being an alien, or by reason of his color, or race, than are prescribed for the punishment of citizens, shall be fined under this title or imprisoned not more than one year, or both; and if bodily injury results from the acts committed in violation of this section or if such acts include the use, attempted use, or threatened use of a dangerous weapon, explosives, or fire, shall be fined under this title or imprisoned not more than ten years, or both; and if death results from the acts committed in violation of this section or

if such acts include kidnapping or an attempt to kidnap, aggravated sexual abuse, or an attempt to commit aggravated sexual abuse, or an attempt to kill, shall be fined under this title, or imprisoned for any term of years or for life, or both, or may be sentenced to death.

JURISDICTIONAL STATEMENT

Appellant Lady Donna Dutchess appeals from the June 7, 2021, final judgment issued by Anchorage Superior Court Judge Herman G. Walker, Jr. [Exc. 234]

This Court has appellate jurisdiction under AS 22.05.010 and Alaska Appellate Rule 202(a).

STATEMENT OF ISSUES PRESENTED FOR REVIEW

1. Did the Superior Court violate Alaska Statute 4 AAC 06.055(3) regarding Immunizations as the children were under Religious Exemptions with affidavits signed and notarized by their mother, affirming that immunizations conflicts with the tenets and practices of the church she is a member of?
2. Did the Superior Court violate the Alaska Constitution, Article 1, Section 4, regarding Freedom of Religion by preferential ruling for Humanity-based belief and against God-based belief?
3. Has Dutchess been intentionally deprived of her rights and privileges granted in Alaska Statute 11.76.110 (3)?
4. Has Dutchess been willfully deprived of her rights or privileges that is protected by the Constitution or laws of the United States?

STATEMENT OF THE CASE

I. Facts

From January 2015 through August 2019, the children were enrolled in public school and notarized Religious Exemption forms, that the school provided, were on file with the Anchorage School District. [Exc.198 - 207] In 2019, Mr. Dutch changed his belief regarding vaccines and emailed me that he intended to vaccinate the children. [Exc.174] Mr. Dutch also emailed to inform me that during the timeframe the children were under Religious Exemptions for vaccines, he had been having the children vaccinated when he took them to the doctors. [Exc.175] As a result, I pulled the children's Immunization Records and discovered that Mr. Dutch had not been having the children vaccinated. [Exc.113, 114] A hearing on vaccinations was held on November 5th, 2020. [Tr.23] The court acknowledged at the hearing that I have a constitutional right to practice my religion and I have a history of filing religious exemptions on vaccinations. [Tr.29 & 30] During the hearing, the court asked Mr. Dutch why he did not have the children vaccinated. [Tr.36] Mr. Dutch responded that he had no contact with the children and that Mr. Dutch did not even know where the children were going to school. [Tr.36] I explained to the court that I had a witness to refute Mr. Dutch's testimony. [Tr.37] Furthermore, I queried with the court the logic of Mr. Dutch's testimony, as he stated to the

court he did not know where the children were, as the court gave him shared physical & legal custody [Exc.45 - 47] during this timeframe, and the court said, "Yeah, I know". [Tr.37] During direct examination, Ms. Carmen Munoz-Jackson testified via teleconference as a witness to refute Mr. Dutch's testimony. [Tr.38] Ms. Munoz-Jackson testified that it was her recollection that Mr. Dutch seemed to be on the same page pertaining to vaccinations and he did not think the kids needed vaccinations either. [Tr.40] Ms. Munoz-Jackson further testified that Mr. Dutch agreed with our belief that kids are being over-medicated, over-vaccinated for everything, and believing that there are other alternatives besides vaccinations for health. [Tr.40] While the nucleus of my faith is God-based, Mr. Dutch did historically engage me in conversations regarding his belief against vaccines by sending me emails pertaining to vaccines. [Exc.49] On April 14th, 2021, Kaela Watson, GAL, assigned to this case, motioned for a hearing pertaining to vaccines as it was discovered on April 9th, 2021, Mr. Dutch had taken the children to be vaccinated. [Exc.220] A hearing regarding Mr. Dutch vaccinating the children prior to a court order was held on April 28th, 2021. [Tr.1] The court took notice of Mr. Dutch getting the vaccinations without having the authority to do so. [Tr.3] The court took notice of Mr. Dutch acting without a court order [Tr.3] The court took notice of Mr. Dutch getting the

vaccinations without notifying me. [Tr.3] The court stated that it was going to think what should happen since Mr. Dutch vaccinating the girls was clearly in violation of my wishes, as well as no court order authorizing Mr. Dutch to do so. [Tr.12] On June 7th, 2021, the court issued its order allowing Mr. Dutch to make vaccination decisions. [Exc.234]

II. Procedural History

On July 28, 2015, the court held an informal divorce trial and ruled that there is an incompatibility of temperament such that a divorce should be granted, and Superior Court Judge John Suddock granted the divorce. [Exc.29] It was during the July 28th, 2015 trial, beginning at time stamp 12:23:32, where Judge Suddock makes the following remarks, "I am going to go back to the capability and desire to meet the needs of the children. I am struck by an event. It happens that a person a gentleman who feels out of control and powerless and wants to assert power and control, who decides that at some point that it would be a good idea to by force take a child away from her mother. Think about this. Donna has been the primary parent for these girls since birth. They have been living with her for the better part of a year. You come for a visit, and because you are frustrated, that you cannot come into her house, because you as an adult hold her responsible for the fact that you need to pee

and you were counting on manipulating her, getting into her house to pee, because of those pathetic reasons, because of your feelings of impotence and lack of control, you decide that the smart thing to do is to in effect, I'll use a very strong word, kidnap a child. Take that child from her mother and go somewhere with her. An act of thoughtless cruelty, calculated to induce shear panic in a mother. But think about [REDACTED] I.D. Is it really in [REDACTED] I.D. interest to go with an enraged father in a car somewhere away from her mother? How is that good for [REDACTED] I.D. Is that something that is calculated to be in [REDACTED] I.D. interest or is that more of a narcissistic immature acting out of an angry man who is feeling out of control. I suggest that it is the latter." [Exc.37, Exc.26] Judge Suddock granted primary physical custody and sole legal custody of the two children to me. [Exc.29] Furthermore, after Mr. Dutch's harassing behavior towards me, I asked a family friend, Sir John Boanerges, to move in with my children and I for safety reasons and to help mitigate Mr. Dutch's manipulating behavior. [Exc.1 - 13]

After the divorce, Judge Pamela Washington was assigned to this custody case without adequate notice, whereas I submitted a petition for review with the Alaska Supreme Court, whereas the petition was granted. [Exc.33 & Exc.34] Judge Herman Walker was assigned to this case March 22, 2016. [Exc.35]

A custody trial was held December 14th, 2016, and Judge Walker ordered shared custody of the children between Mr. Dutch and myself. [Exc.45 - 47] At the hearing, Judge Walker told me that I could communicate directly with Mr. Dutch's attorney at the time, Mr. White, regarding any issues as it pertained to Judge Walker's court order, and through 2017 to the end of 2018, I was able to mitigate Mr. Dutch's manipulating behavior, as described above by Judge Suddock, with Mr. White. [Exc.62]

On January 15th, 2019, Mr. Dutch filed an expedited motion for custody. [Exc.59] The court gave me 5 days to respond, which I did, categorically defending myself and advocating for my children, as permitted by law against such horrendous false accusations. [Exc.59-64] Mr. Dutch further emailed me informing me that he would clearly tell the children that I called them liars regarding the accusations. [Exc.58] Mr. Dutch violated my parental rights, violated the court order, took possession of my children and refused to share information with me about what was going on and where the children were being counseled and investigated. [Exc.65] On January 18th, 2019, Mr. Dutch filed for a protective order and had my children removed from my care. [Exc. 237] Mr. Dutch had me followed, photographed and let me know by sending me a photo of myself going to the clerk of court about the Protective Order. [Exc.159-164] Mr. Dutch kept the girls from school, during this period of time, so frequently

that the court ordered him to keep them in school unless they were sick. [Exc.66] During this time when the children were removed from my care, Mr. Dutch groomed them and chopped off their hair [Exc. 83, 85, 90].

The fact that I personally experienced the avenue of justice where the accusations are unfounded and false [Exc.145], my children were removed from my care [Exc.237], my parental rights violated, inspired me to rise an advocate via the Permeating Light Project that engages in data collection and investigations on behalf of the poor, uneducated, and minority. [Exc.167 & 168] It became clear to me that Mr. Dutch had a legal avenue to continue to violate my parental rights by making unfounded accusations against my person [Exc.145], thereby validating what Judge Suddock said about Mr. Dutch at the July 28th, 2015 trial [Exc.37, Exc.26]. As a result, on April 26th, 2019, I motioned for an appointment of a Guardian Ad Litem to further mitigate Mr. Dutch's behavior. [Exc.96] The Office of Children Services issued a letter on May 1st, 2019, stating that the accusations made by Mr. Dutch against myself and a family friend were not substantiated. [Exc.103]. On May 17th, 2019, a hearing was held and Mr. Dutch had to dissolve the short term and withdraw the long term protective order for lack of evidence. [Exc.104] At the May 17th, 2019, hearing, the court stated that the children said that they were not touched

sexually. [Exc.105] The family friend that was falsely accused by Mr. Dutch, filed a Defamation of Character lawsuit against Mr. Dutch. [Exc.154 - 158] The Motion I filed to enforce Joint Custody was granted at the May 17th, 2019, hearing. [Exc.104] In addition, what I am able to baseline for the Permeating Light Project [Exc.167], is the judicial process and extent that unfounded and false accusation with no evidence can go [Exc.145], resulting in the removal of children from a targeted parent [Exc. 237] & violation of constitutional rights that creates a source of job justification & funding for all state agencies connected in any custody case, that also includes my personal bill of \$17,094.40 to an attorney merchant. [Exc.112]

On August 13th, 2019, Mr. Dutch filed a Motion for Custody again as he relocated from Anchorage, Alaska to Houston, Alaska, violating the May 17th, 2019, shared custody court order [Exc.104] by taking them from me again for 3 weeks [Exc.125] and enrolled the children to Big Lake Elementary School. [Exc.126-129] Mr. Dutch requested that the children live with him during the school period and visit with me when out of school. [Exc.121]. I responded to Mr. Dutch's motion for custody explaining that the children were already enrolled in Baxter Elementary, yet due to his move, I would agree to finding a middle ground regarding schooling. [Exc.130, Exc. 123 & Exc.124] A hearing was held on August 26th, 2019, and the court ruled that

I can make decisions regarding education. [Exc.144] At the August 26th hearing, when discussing how one child was injured while in Mr. Dutch's custody with a pelvic straddle injury, because I took my child to be examined at the doctors, as any mother would, Mr. Dutch choose to tell the court I violated the child by taking her to the doctors and having a rape kit done on her, which was, of course, yet another unfounded false accusation. [Exc.134 & Exc.162]

Mr. Dutch let the court know he still wanted to proceed with modifying the shared custody at the August 26th, 2019, hearing. [Exc.145] At the August 26th hearing, a trial date was set for a December 10th, 2019, hearing. [Exc.133] Despite the fact the court stated at the May 17th hearing that the children were not touched sexually by the family friend, [Exc.105], and despite the fact the court stated that the accusations were unfounded [Exc.145] on September 10th, 2019, Mr. Dutch filed yet another expedited motion for custody, case motion #33, citing as justification the family friend Mr. Dutch falsely accused was residing with me and the children. [Exc.148-152] Mr. Dutch emailed me and let me know that he was prepared to attack retired Colonel, Gail McCain, who I was living with, as apparently anyone that resides with the children and I are potentially under threat and subject to legal unfounded & malicious attacks by Mr. Dutch. [Exc.153, Exc.57]

Proceeding forward from the hearing on August 26th, 2019, [Exc.144], and with a trial date set for December 10th, 2019, [Exc.144], and with another hearing on October 15th, 2019 [Exc.169], once again on November 5th, 2019, Mr. Dutch filed another motion for 70/30 Custody. [Exc.183, Exc.175] A pre-trial hearing was held on November 25th, 2019. [Exc.184]

The Office of Children Services issued a non-substantiated letter of the allegations on May 1st, 2019, [Exc.103] yet took until February 12, 2020, to release records. [R.932] As a result of OCS taking that length of time to release records and COVID-19, the December 10th 2019, hearing was vacated and a hearing was held on August 4th, 2020. [Exc.115] A decision on immunizations and apparently the children's contact with the family friend, who was falsely accused [Exc.105 & Exc.145], was still needing a court order. [Exc.115] The court scheduled a hearing on September 15th, 2020 to discuss OCS records. [Exc.207] A hearing was held with an OCS agent on September 15th, 2020, where the OCS agent admitted he had never heard of gaslighting prior to me explaining it. [Exc.210] It was agreed by all parties and placed into court order that no males over the age of 15 would be around the children unsupervised. [Exc.207, Exc.186] Of particular note, although the children stated they were not sexually abused [Exc. 105], Mr. Dutch had no evidence to support his accusations against my family friend [Exc.145],

it appears that Mr. Dutch, who had to take anger management classes [Exc.43], his false accusations hold more weight than actual evidence as the court stated that when I was to marry my family friend at a future date, a new court order would need to be issued to address my future marriage to an innocent man. [Exc. 213].

On November 5th 2020, a hearing was held specifically about the immunizations. [Exc.215]. The court acknowledged reading my trial brief. [Exc.215]. The court stated that he would not rule on the matter at the hearing as he would like to do some legal research. [Exc.216] As written above in Section I. Facts of Case - Vaccines, Mr. Dutch vaccinated the children without having the authority to do so. [Tr.12] After the April 28th, 2021, hearing, on June 7, 2021, Judge Walker entered final judgment and ordered regarding legal custody to make vaccination decision to Mr. Dutch. [Exc.234]

I stand by my statement for the court record where I state that, based on my firsthand observations and experiences during the course of this custody case, I have concluded that any advocacy I do on behalf of my children, is to no avail, as my advocacy is viewed by the Court as simply me looking for another reason to fight with Mr. Dutch, when I have not been the instigator nor the aggressor on this custody case. [Exc.229] It is not clear if this view about me is because I am not a man, or

not white enough, nor black enough, to be taken seriously as a parent. [Exc.229] As the State system has tied my hands, I have nothing left to say. My conscience is clear. [Exc.229]

On June 16th, 2021, I filed this appeal to the Alaska Supreme Court.

STANDARD OF REVIEW

The Court should review the Superior Court's order regarding legal custody to make vaccination decisions de novo, as this matter pertains to the law, that bases its foundation in Alaska Statutes, the Alaska Constitution and the US Constitution.

ARGUMENT

I. The Superior Court erred in the analysis of Prince v. Massachusetts.

The Superior Court erred in its analysis on Prince v. Massachusetts, 321 US 158 (Supreme Court 1944) as when doing my research on this matter, I can not find any United States Supreme Court opinion that violates a State Law or Statute verses upholding it, unless it was a law deemed unconstitutional. In Prince v. Massachusetts, 321 US 158 (Supreme Court 1944), the U.S. Supreme Court upholds the State of Massachusetts position regarding child labor laws, where an individual cannot use a religious right to violate a state law or statute. In Prince v. Massachusetts, 321 US 158 (Supreme Court 1944), the U.S. Supreme Court does not say that individual state laws providing vaccine exemptions for medical, religious, or other reasons is unconstitutional. Alaska Statute 4 AAC 06.055 (3) states that a child can be exempt from the immunization requirement when "an affidavit signed by his parent or guardian affirming that immunizations conflicts with the tenets and practices of the church or religious demonization of which the applicant is a member." The State of Alaska Religious Exemption forms are made available to every parent in every school in this state. [Exc.198-207] These Religious Exemption forms are affirmed and notarized. [Exc.198-207] I have been

historically signing these Religious Exemption forms for years before a notary and submitting them to the school districts which set precedent for me in this case. [Exc.198-207] The school district accepted them and kept them on file while the children attended public school. I am not asking for my religious right to violate any Alaska Statute or law. I am clearly compliant with the Alaska Statute requirement that states I have the right, on behalf of my children, to Religious Exemptions per AS 4 AAC 06.055 (3). When Mr. Dutch was asked by the court why he did not vaccinate the children for years, [Tr.36] Mr. Dutch perjured himself and told the court he did not know where the children were or what school they were attending, despite the fact he had shared physical and legal custody as granted by the court. [Exc. 45-47] The court accepted this falsehood given by Mr. Dutch [Tr.37] and used Prince v. Massachusetts to violate Alaska Statute 4 AAC 06.055(3). Furthermore, the language in 4 AAC 06.055 regarding religious exemptions is further affirmed by the newly COVID-19 Act, HB 76, page 13, that the Alaska Legislature passed and was signed into law May 1st, 2021, whereas it states, "A parent or guardian of a minor child may object to the administration of a COVID-19 vaccine to the minor child based on religious, medical or other grounds." This clearly shows that the law of the people supports religious exemptions. What is the point of the Alaska

Legislature and Governor enacting 4 AAC 06.055 (3) and HP 76 into law regarding vaccines if the court can pull Prince v. Massachusetts, 321 US 158 - (Supreme Court 1944), as carte blanche overriding any state law or statute on immunizations? In Prince v. Massachusetts, 321 US 158 - (Supreme Court 1944, the U. S. Supreme Court does not state that every child in the United States must be immunized regardless of parental rights and religious freedoms. Prince v. Massachusetts, 321 US 158 - (Supreme Court 1944). The U. S. Supreme court does not give blanket authority to courts in the 50 states to mandate that the states act as *parens patriae* requiring that every child in the United States must be vaccinated regardless of religious freedoms of the parents. Prince v. Massachusetts, 321 US 158 - (Supreme Court 1944). The U.S. Supreme Court does not suggest that all lower courts use Prince v. Massachusetts, 321 US 158 - (Supreme Court 1944) to overrule each state vaccine exemption law that have been duly passed by state legislation and signed into law by each state governor. As I set precedent with the Religious Exemption forms given to me by the school districts, that were signed, notarized, accepted and filed with the district in accordance with Alaska Statute 4 AAC 06.055 (3), the Supreme Court should reverse the Superior court finding.

II. The Superior Court erred in violating the Alaska Constitution regarding Freedom of Religion by respecting

one belief doctrine and prohibiting another belief doctrine.

Religious freedom centers around the act of believing and faith. From faith and belief in God-based doctrines, with holy texts, to faith and belief in Humanity-based doctrines, with medical science journals. It is a violation of the Alaska constitution to respect one belief system and prohibit another belief system. Alaska Constitution, Article 1, Section 4. Is the court stating that belief in humanity-based doctrines triumphs over belief in God-based doctrine? Belief is belief regardless if it is Humanity based or God based. The Law is the Law. The court ignored Mr. Dutch's perjury [Tr.37] and respected Mr. Dutch's sudden new belief in vaccinations that appeared in 2019, and prohibited the exercise of my religious freedom as afforded to by AS 4 AAC 06.055 (3) and the Alaska Constitution, Article 1, Section 4. As a result, the Supreme Court should reverse the Superior court finding.

III. The Superior Court erred in allowing the intentional violation of Alaska Statutes 11.76.110 (3) and the US' Constitution, Section 242 of Title 18 as it pertains to color of any law.

The Superior Court erred in continuing to allow the intentional interference of my rights granted by the Alaska Statute 11.76.110 (3), Alaska Constitution, Article 1, Section 4, and United States Constitution, Section 242 of Title 18, that accumulates in the court's decision on immunizations. AS

11.76.110 (3) states that a person commits the crime of interference with constitutional rights if under color of law a person intentionally deprives another of a right granted by the constitution or laws of this state. This is about intentional behavior in a Superior courtroom setting that I can only show after the fact. Since the court stated in the final judgement that this has been a high conflict case from the beginning, [Exc.234}, an avenue is provided to me to show intentional courtroom behavior that deprives me of my rights under color of law. (AS 11.76.110; Sec 242 Title 18 U.S.C.) I have not been the instigator nor the aggressor on this custody case. [Exc.229] I have simply stood up for my rights as a parent each time I have been brought into court to address Mr. Dutch's latest legal attacks. I have the right to defend myself in a court of law against unfounded and malicious attacks as part of the core right to due process. Boddie v. Connecticut, 401 US 371 (Supreme Court 1971); Alaska Constitution, Article 1, Section 7. My actions defending myself, to advocate for my children, should not be marginalized as I have the right to be treated fairly and justly. Alaska Constitution, Article 1, Section 7. Nor should I be disregarded or disrespected by the court based solely on Mr. Dutch's unfounded accusations. MLB v. SLJ, 519 US 102 (Supreme Court 1996) [Exc.145] The court made it seem at the September 15, 2020 hearing [Exc.211] as though I am more

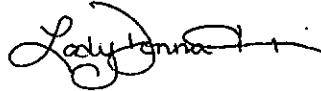
interested in fighting with Mr. Dutch, instead of acknowledging that I am advocating for my daughters and defending myself while under a barrage of legal attacks by Mr. Dutch. I have the right to the presumption of innocence, Coffin v. United States, 156 US 432 (Supreme Court 1895), where there is no evidence of wrongdoing, and I have not been afforded that right guaranteed by Alaska Statutes and the constitutions under color of law. (AS 11.76.110; Sec 242 Title 18 U.S.C.) I had my children removed from my care solely based on Mr. Dutch's unfounded accusations. [Ex.237] I cannot marry an innocent man without notifying the court [Exc.213], violating the legal principle of presumed innocence, Coffin v. United States, 156 US 432 (Supreme Court 1895), based solely on Mr. Dutch's unfounded accusations [Exc.145], thereby creating yet another intentionally set high conflict courtroom setting. Every single time Mr. Dutch legally attacks me via the courts, he is keeping the children in a high conflict situation, the very definition of maltreatment, Heacker v. Safeco Ins. Co. of America, 676 F. 3d 724 (Court of Appeals, 8th Circuit 2012), and I am marginalized, disregarded, and disrespected by the court simply because I stand my ground and defend myself as afforded by law. MLB v. SLJ, 519 US 102 (Supreme Court 1996). The court enabling this type of intentional violation and usurpation of my rights, reflects a court that is purporting to or pretending to act in the

performance of official duties as governed by the law. (Title 18, U.S.C., Section 242.) As a member of the Permeating Light Project, having experienced the judicial process firsthand in family court, I agree with the U.S. Supreme Court opinion in Boddie v. Connecticut, 401 US 371 (Supreme Court 1971), whereas when the rights of the people are violated, the result is that social cohesion is virtually impossible, enabling conflicts in the courtroom that achieves anxieties and contributes to a disorganized society. This is a courtroom anxiety and disorganized society that I am witnessing reveal itself across our nation currently, and in part, also experiencing. Boddie v. Connecticut, 401 US 374 (Supreme Court 1971). My children are part of this society, therefore, what I do with this appeal and with the Permeating Light Project, by standing my ground, against unfounded legal attacks, for my rights is for them and their future. This latest ruling by the court, to violate Alaska Statutes and the constitutions, regarding my religious freedom to exercise my legal right to parent my children, as it pertains to vaccinations, the Supreme Court should reverse the Superior court finding.

CONCLUSION

For the reasons stated above, this Court should reverse the Superior Court's findings and allow me, Mother of the children, to be allowed legal custody to make decisions on whether or not to vaccinate the children.

Respectfully submitted at Anchorage, Alaska, on August 12, 2021.



Lady Donna Dutchess
pro se Appellant

CERTIFICATE OF SERVICE

I certify that on the following date: August 12th, 2021, I served a copy of: this brief and the excerpt of record on: Jason Dutch

By: 

EXHIBIT 2 in file
Keep! 4 Docs



State of Alaska Religious Exemption Form

Effective July 1, 2013

This official State form is required for all religious exemptions

Children in Alaska public and private schools, preschools and child care facilities must be immunized in accordance with Alaska Administrative Codes 7 AAC 57.550 for child care affirming that immunization conflicts with the tenets and practices of the church or religious denomination of which the parent or guardian is a member, or 4 AAC 06.055 for school affirming that immunization conflicts with the tenets and practices of the church or religious denomination of which the applicant is a member.

(NOTE: Personal or philosophical exemptions are not allowed under Alaska regulations.)

If a religious exemption is applicable, the child's parent/guardian must complete the information below and return this form to the school, preschool, or child care facility. The form is required to be notarized and renewed annually.

[Redacted] I.D. [Redacted]
Name of Child

I/We affirm that immunization conflicts with the tenets and practices of the church or religious denomination of which the applicant/parent/guardian is a member. I/We understand that if there is an outbreak of a vaccine-preventable disease that my child has not been fully immunized against, my child may be at risk for disease and may be excluded from school or child care until he/she is determined to no longer be at risk of developing the disease.

Lady Donna Dutchess
Signature of Parent(s) or Guardian(s)

907-444-7657
Telephone

January 21, 2015
Date

(Form valid from July 1 through June 30)

State of ALASKA

Judicial District JRO SS.

The foregoing instrument was acknowledged before me by
LADY DONNA DUTCHESS on this 26th day of
JANUARY, 20 15

Witness my hand and seal.
[Signature]
Notary Public (Signature)

M.E. ROSENCRONZ
Notary's printed name

ANCHORAGE
Notary's city

My commission expires 11-6-2016

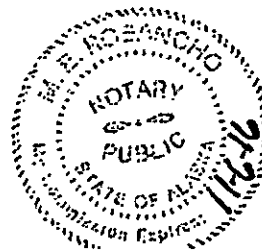


EXHIBIT 2 in file
Keep! 4 Docs



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(NOTE: Personal or philosophical exemptions are not allowed under Alaska regulations.)

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Name of Child _____ M.D. _____ Birth Date _____

I/We affirm that immunization conflicts with the tenets and practices of the church or religious denomination of which the applicant/parent/guardian is a member. I/We understand that if there is an outbreak of a vaccine-preventable disease that my child has not been fully immunized against, my child may be at risk for disease and may be excluded from school or child care until he/she is determined to no longer be at risk of developing the disease.

Lady Donna Dutches
Signature of Parent(s) or Guardian(s)

907-444-7157
Telephone

January 21, 2015
Date

(Form valid from July 1 through June 30)

State of ALASKA
Judicial District 3RO SS.

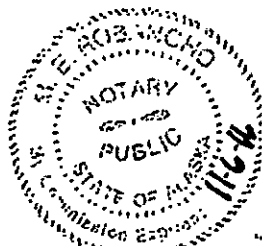
The Foregoing Instrument was acknowledged before me by
LADY DONNA DUTCHESS on this 26th day of
JANUARY, 2015

Witness my hand and seal.
M. E. ROBANCHO
Notary Public (Signature)

M. E. ROBANCHO
Notary's printed name

ANCHORAGE
Notary's city

My commission expires 11-6-2016





State of Alaska Religious Exemption Form

Effective July 1, 2013

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(NOTE: Personal or philosophical exemptions are not allowed under Alaska regulations.)

If a religious exemption is applicable, the child's parent/guardian must complete the information below and return this form to the school, preschool, or child care facility. The form is required to be notarized and renewed annually.

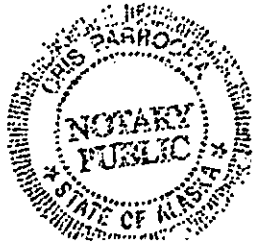
[Redacted] I.D. [Redacted]
 Name of Child Birth date

I/We affirm that immunization conflicts with the tenets and practices of the church or religious denomination of which the applicant/parent/guardian is a member. I/We understand that if there is an outbreak of a vaccine-preventable disease that my child has not been fully immunized against, my child may be at risk for disease and may be excluded from school or child care until he/she is determined to no longer be at risk of developing the disease.

[Signature] Telephone 944-71057 Date June 30, 2015
 Signature of Parent(s) or Guardian(s)

State of Alaska
 Judicial District 3rd Judicial SS.
 The foregoing instrument was acknowledged before me by
LADY D. DUTCHESS on this 30th day of
June, 2015

Witness my hand and seal.
[Signature]
 Notary Public (Signature)
CRIS PARROCHA
 Notary's printed name
Anchorage AK
 Notary's city
 My commission expires 6/17/2017





State of Alaska Religious Exemption Form

Effective July 1, 2013

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[Redacted] I.D. [Redacted]
Name of Child Birth date

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[Signature]
Signature of Parent(s) or Guardian(s)

444-7657
Telephone

Aug 12, 2016
Date
(Form valid from July 1 through June 30)

State of Alaska
Judicial District 3rd SS.

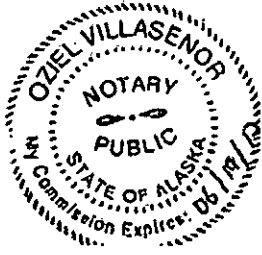
The foregoing instrument was acknowledged before me by
Lady Jane Dutchess on this 12 day of
August, 2016

Witness my hand and seal.
[Signature]
(Signature)

Oziel Villaseñor
Notary's printed name

Anchorage AK
Notary's city

My commission expires 06/19/2017





State of Alaska Religious Exemption Form

Effective July 1, 2013

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Name of Child

M.D. _____
Birth date

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[Signature]
Signature of Parent(s) or Guardian(s)

444-7657
Telephone

August 2016
Date
(Form valid from July 1 through June 30)

State of Alaska
Judicial District 3rd SS.

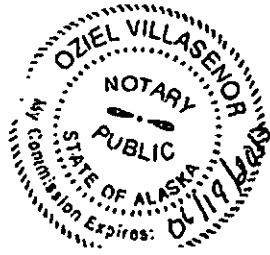
The foregoing instrument was acknowledged before me by
Lady Donna Dutens on this 12 day of
August, 2016.

Witness my hand and seal,
[Signature]
Notary Public (Signature)

Oziel Villaseñor
Notary's printed name

Anchorage Ak
Notary's city

My commission expires 06/19/2017





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Effective July 1, 2013

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(NOTE: Personal or philosophical exemptions are not allowed under Alaska regulations.)

If a religious exemption is applicable, the child's parent/guardian must complete the information below and return this form to the school, preschool, or child care facility. The form is required to be notarized and renewed annually.

[Redacted] I.D. [Redacted]
 Name of Child Birth date

I/We affirm that immunization conflicts with the tenets and practices of the church or religious denomination of which the applicant/parent/guardian is a member. I/We understand that if there is an outbreak of a vaccine-preventable disease that my child has not been fully immunized against, my child may be at risk for disease and may be excluded from school or child care until he/she is determined to no longer be at risk of developing the disease.

Lady Donna H
 Signature of Parent(s) or Guardian(s)

444-7657
 Telephone

Aug 13, 2018
 Date
 (Form valid from July 1 through June 30)

State of Alaska
 Judicial District 3rd SS.

The Foregoing Instrument was acknowledged before me by
LADY D. DUTCHESS on this 13th day of
August, 2018

Witness my hand and seal.
Eric Parnell
 Notary Public (Signature)

CRIS PARROCHA
 Notary's printed name

Anchorage Ak
 Notary's city

My commission expires 10-16-21



State of Alaska Religious Exemption Form

Effective July 1, 2013

This official State form is required for all religious exemptions

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(NOTE: Personal or philosophical exemptions are not allowed under Alaska regulations.)

If a religious exemption is applicable, the child's parent/guardian must complete the information below and return this form to the school, preschool, or child care facility. The form is required to be notarized and renewed annually.

[REDACTED] M.D. [REDACTED]
Name of Child Birth date

I/We affirm that immunization conflicts with the tenets and practices of the church or religious denomination of which the applicant/parent/guardian is a member. I/We understand that if there is an outbreak of a vaccine-preventable disease that my child has not been fully immunized against, my child may be at risk for disease and may be excluded from school or child care until he/she is determined to no longer be at risk of developing the disease.

Lady Donna 444-7657 Aug 13, 2018
Signature of Parent(s) or Guardian(s) Telephone Date
 (Form valid from July 1 through June 30)

State of Alaska
 Judicial District 3rd Judicial ss.

The foregoing instrument was acknowledged before me by
LADY D DUTCHESS on this 13th day of
August, 2018.

Witness my hand and seal.
Cris Parrocha
Notary Public (Signature)
CRIS PARROCHA
Notary's printed name
Anchorage AK
Notary's city
 My commission expires 10-16-21





State of Alaska Religious Exemption Form

Effective July 1, 2013

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	I.D.	
<i>Name of Child</i>		<i>Birth date</i>

I/We affirm that immunization conflicts with the tenets and practices of the church or religious denomination of which the applicant/parent/guardian is a member. I/We understand that if there is an outbreak of a vaccine-preventable disease that my child has not been fully immunized against, my child may be at risk for disease and may be excluded from school or child care until he/she is determined to no longer be at risk of developing the disease.

Socylonna H
Signature of Parent(s) or Guardian(s)

907-444-7657
Telephone

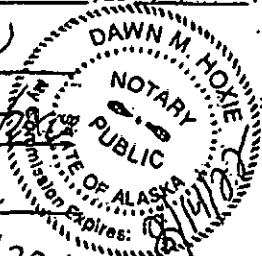
August 13, 2014
Date
(Form valid from July 1 through June 30)

State of Alaska
Judicial District 3rd SS.

The foregoing instrument was acknowledged before me by
Lady Dutchess on this 12 day of
August, 2014

Witness my hand and seal
[Signature]
Notary Public (Signature)

Dawn M. Hoke
Notary's printed name
Eagle River
Notary's city
My commission expires 2/14/22





State of Alaska Religious Exemption Form

Effective July 1, 2013

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Name of child

M.D. _____
Birth date

I/We affirm that immunization conflicts with the tenets and practices of the church or religious denomination of which the applicant/parent/guardian is a member. I/We understand that if there is an outbreak of a vaccine-preventable disease that my child has not been fully immunized against, my child may be at risk for disease and may be excluded from school or child care until he/she is determined to no longer be at risk of developing the disease.

Jacqueline T.
Signature of Parent(s) or Guardian(s)

907-444-7657
Telephone

August 12, 2013
Date

(Form valid from July 1 through June 30)

State of Alaska

Judicial District 3rd SS.

The foregoing instrument was acknowledged before me by
Lady Dutchess on this 12 day of

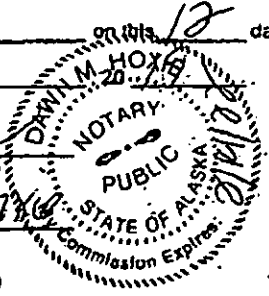
Witness my hand and seal.
August

Dawn M. Hill
Notary Public (Signature)

Dawn M. Hill
Notary's printed name

Eagle River
Notary's city

My commission expires 2/14/22



12/3/2019

Gmail - Dutch children: Vacancies



ShadowLight Monastery <monasteryofshadowlight@gmail.com>

Dutch children: Vacancies

Jason Dutch <akdutch.com@gmail.com>

Sat, Oct 26, 2019 at 10:56 AM

To: ShadowLight Monastery <monasteryofshadowlight@gmail.com>

You statement is not correct I can take the girls for vaccinations whenever. The paperwork you filed doesn't pertain to anything outside of an exemption. If you want to prevent me from getting the girls vacancies you will have to file with the court faster than I can get them into the doctor office. The nurse said that they have a lot of exemptions but they are still in compliance they just aren't required to be one parent will still get the vacancies done. Again your paperwork has nothing to do with me or my rights. Thats a fact! But nice power trip

[Quoted text hidden]

12/3/2019

Gmail - Dutch children: Vacancies



ShadowLight Monastery <monasteryofshadowlight@gmail.com>

Dutch children: Vacancies

Jason Dutch <akdutch.com@gmail.com>

Mon, Oct 28, 2019 at 12:28 PM

To: "Watson, Kaela T (DOA)" <kaela.watson@alaska.gov>

Cc: ShadowLight Monastery <monasteryofshadowlight@gmail.com>

I just got off the phone with the doctor office they said they only need one parent unless a court order prevents and there is none. Thats for all treatment and vaccines. (I have said okay to vacancies each time I took the girls to the doctor.) They already had some of the shots and supposed to do the booster shot. I will cancel all doctor appointments as requested.

(Quoted text hidden)

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EVIDENTIARY HEARING

BEFORE THE HONORABLE HERMAN G. WALKER
Superior Court Judge

Anchorage, Alaska
November 5, 2020
2:35 p.m.

APPEARANCES:

FOR THE PLAINTIFF:

JASON DUTCH
(Via teleconferencing)
In Propria Persona

FOR THE DEFENDANT:

LADY DONNA DUTCHESS
(Via teleconferencing)
In Propria Persona

ALSO PRESENT:

KAELA WATSON
(Via teleconferencing)
Guardian ad Litem

1 MS. DUTCHESS: -- a party to.

2 THE COURT: But what are they going to testify to? I
3 mean, I've read your briefing. I understand your religious
4 basis for not wanting the kids vaccinated. I understand that.

5 MS. DUTCHESS: Right. She's basically going to back that
6 up. And then when we were all married -- when we were married,
7 Jason and I were married, and she's, we were like married
8 couples, her and her husband Sherman. And so we -- we hung out
9 a lot. And so she was part of those conversations where she
10 heard Jason and I discussing, you know, the ongoing controversy
11 regarding vaccinations and his position on it. So she over --
12 she was part of that. So she could testify toward that.

13 However, since 2015, I mean, my position really came under
14 the -- the monastery and the church and the religion and -- and
15 the -- and the constitution that we had notarized. And so
16 everything kind of solidified right there. And basically I'm
17 probably going to just repeat the exact same thing I put in my
18 brief.

19 THE COURT: Okay. And Mr. Dutch, your position is you
20 want the kids vaccinated; is that right?

21 MR. DUTCH: Yes, Your Honor.

22 THE COURT: All right. So this is -- I understand the
23 both -- the parties' position. And Ms. -- as the guardian ad
24 litem for the kids, Ms. Watson, did you want to weigh in on
25 this issue?

1 them vaccinated in the last five years. And that was because I
2 thought we were -- had an agreement of not vaccinating, so they
3 were under the religious exemption. I didn't know until, like
4 I said, last year that he had changed his mind (indiscernible)
5 we had an agreement.

6 THE COURT: So --

7 MS. DUTCHESS: And that's pretty much --

8 THE COURT: -- Mr. Dutch, why --

9 MS. DUTCHESS: That's what I (indiscernible).

10 THE COURT: Why haven't you had your daughters vaccinated?

11 MR. DUTCH: Your Honor, she's referring to -- the time
12 period she's referring to that I didn't have custody of the
13 children. I didn't have anything to do with them for the
14 several (indiscernible) there. When I found out about it, it
15 was in 2019 that she stopped vaccinate -- vaccinating them.
16 She -- I had very little contact with the girls for the first
17 -- in the time period she's saying we were talking, that's
18 completely not true. The entire time period, that's all, in
19 fact and findings of the Court, Your Honor.

20 THE COURT: Well, that's --

21 MR. DUTCH: There was no contact. I didn't even know
22 where the girls were going to school, Your Honor.

23 THE COURT: So is it true that at some point you had
24 discussed this with her about not vaccinating the kids? You
25 had problems with vaccinations?

1 MR. DUTCH: No. No, Your Honor. We never dis --
2 discussed it. She stopped vaccinating them. I did not know
3 that. She -- I thought she had kept on doing it just like we
4 were doing when they were (indiscernible) school. I had no
5 idea until 2019 --

6 THE COURT: All right.

7 MR. DUTCH: -- when the school called and said they
8 weren't current on their vaccines, and then she said I couldn't
9 vaccinate them.

10 THE COURT: So, Ms. Dutchess, did you say you have a
11 witness that can refute that testimony?

12 MS. DUTCHESS: Yes. I have Carmen who was privy to the
13 conversations that we had in the past where she heard Jason say
14 that he had -- he was against vaccinations. And so -- and he's
15 saying that he hasn't had access to the girls. But he's had
16 access to the girls. I mean, you -- you gave him access to --

17 THE COURT: Yeah, I know.

18 MS. DUTCHESS: -- to the girls.

19 THE COURT: I remember.

20 MS. DUTCHESS: I mean, I don't under -- that I don't
21 understand. He doesn't know where they're going to school?

22 THE COURT: All right, so let's --

23 MS. DUTCHESS: He's had access to the girls.

24 THE COURT: Let's put this --

25 MS. DUTCHESS: I -- that part I don't get.

1 still married. It was before you guys had moved out to
2 Houston. We were in your living room. And I remember we
3 were talking about, you know, just various things, health
4 things, and vaccinations. And we were both kind of, I
5 felt we were, like, kind of all on the same pages, you
6 know, certain vaccinations we were against for our
7 children. Like, we didn't think that they needed
8 vaccinations and we weren't going to vaccinate our kids
9 for certain things.

10 Q And specifically regarding Jason, what was his -- what was
11 his position that you saw and heard?

12 A He seemed -- he seemed to be on the same page with the
13 vaccinations that he was not -- he didn't think the kids
14 needed vaccinations either. And, you know, just basically
15 our general stance on believing that kids being
16 over-medicated, over-vaccinated for everything, and
17 believing that there's other alternatives besides
18 vaccinations for health and other things.

19 MS. DUTCHES: Okay, Your Honor, that's all -- all I have
20 to ask her.

21 [REDACTED]

[REDACTED]

[REDACTED]

[REDACTED]

[REDACTED]

1 IN THE SUPERIOR COURT FOR THE STATE OF ALASKA
2 THIRD JUDICIAL DISTRICT

3 JASON DUTCH,)
4 Plaintiff,)
5 v.)
6 LADY DONNA DUTCHESS,)
7 Defendant.)
8 Case No.: 3AN-15-08063 CI)

9 VOLUME I
10 MOTION HEARING
11 BEFORE THE HONORABLE HERMAN G. WALKER
12 Superior Court Judge

12 Anchorage, Alaska
13 April 28, 2021
3:05 p.m.

14 APPEARANCES (telephonically):

15 FOR THE PLAINTIFF: JASON DUTCH
In Propria Persona
16 FOR THE DEFENDANT: LADY DONNA DUTCHESS
In Propria Persona
17 ALSO PRESENT: KAELE WATSON
18 Guardian ad litem

19 DISCLAIMER

20 Transcripts Prepared for the Alaska Court System
21 The Alaska Court System accepted this transcript based on either review of a
22 random sample or without review because the transcriber's work has
23 consistently met Court System Standards. Because it is possible that this
24 transcript may contain some errors, the Court System encourages parties to
25 listen to the recordings of critical portions of the proceedings and bring
any significant errors to the ACS Transcript Coordinator's attention
immediately. Audio played in court has been completed to the best of the
transcriber's knowledge.

1 P R O C E E D I N G S

2 Courtroom 404

3 03:05:01

4 THE COURT: Okay, we're on record in 3AN-15-8063 Civil in
5 Dutch versus Dutchess. Mr. Dutch, can you hear me?

6 MR. DUTCH: Yes, Your Honor.

7 THE COURT: Ms. Dutchess, can you hear me?

8 MS. DUTCHESS: Yes, I can.

9 THE COURT: And then, Ms. Watson, can you hear me?

10 MS. WATSON: Yes, Your Honor.

11 THE COURT: All right. So this is the time set on the
12 stat -- for a status hearing in this matter. First of all, I
13 want to apologize to the parties regarding the vaccination
14 issue, because I had thought I had issued an order last time we
15 were here, because I didn't really -- this is a unique
16 situation where mom wants to not get the kids vaccinated for
17 her religious beliefs; father has a different take on it. And
18 so I didn't know where the law was.

19 I had my law clerk research it. I thought that there was
20 an order issued and, for some reason, it fell through the
21 cracks. And so that's why there wasn't an order issued. I
22 didn't realize an order was not issued until I got Ms. Watson's
23 notice, okay.

24 So that's partly why we are here today. I've -- I do
25 intend to -- I will get an order out very shortly, because what

1 had happened was my law clerk had done the research and, for
2 some reason, it was not in front of me to issue an order on
3 after the research.

4 But that doesn't change a couple of the serious issues.
5 Number one, issue of Mr. Dutch getting the vaccinations without
6 the Court issuing an order. That's clearly -- you didn't have
7 the authority to do that, Mr. Dutch. And so did the -- Ms.
8 Watson, did the kids actually get the vaccination?

9 MS. WATSON: Yes, Your Honor. They got -- and I believe
10 I attached the immunization record with my motion.

11 THE COURT: Right.

12 MS. WATSON: So, I mean, they -- I believe they were
13 caught up on their major vaccines. They did not get, for
14 example, like the flu shot; that's something they didn't get.
15 But the major vaccines, they got.

16 THE COURT: So explain to me, Mr. Dutch, why you acted
17 without a court order? If, at a minimum, if I -- this slipped
18 through the cracks like it had, you should have sent something
19 to the Court saying, Judge, where's the order so we know what
20 to do. But you took it upon yourself to get this without even
21 notifying Ms. Dutchess.

22 MR. DUTCH: We ran into a problem here at the house. We
23 had a cat with a major tetanus infection and had to go have
24 surgery and get put down. The vet informed me on how
25 infectious tetanus is, and M.D. had'n't had her tetanus shot,

I.D.

1 and [REDACTED] hadn't had hers.

2 There wasn't really a whole lot of time to just -- to
3 wheel and deal with Donna, and for Donna to say, well, the kids
4 have to stay with me, because it's not safe at your house.
5 And, also, and stuff I asked Donna last year, what she did is
6 ask for home remed -- she said, it's in her -- her religion, it
7 says that they have home -- they -- they have the choice of
8 doing vaccines or home remedies. I asked her what home
9 remedies she had for the vaccine that she wasn't interested in
10 doing; she never replied. She doesn't give me what her plan is
11 for any -- anything for -- there is no plan for tetanus or
12 anything like that.

13 I would have just got tetanus when I was there for the
14 girls, but I was, like -- it was kind of an opportunity to get
15 them caught up on some stuff, and I -- I only did what the
16 doctor thought was the most important ones.

17 And, as far as everybody was -- my understanding was that
18 since the girls had been getting their vaccines, the law says
19 that the girls can continue to get their vaccines unless
20 there's a court order saying that -- stop.

21 But if they weren't getting vaccines, and then I wanted
22 to give them vaccines, then I needed the court order to get
23 them vaccines. But they've been getting vaccines. It was --
24 she -- that was how it was explained to me. So it was, like, I
25 had -- I didn't need to go --

1 THE COURT: Do you -- that wasn't explained to you by the
2 Court. We left this with the Court needing to make a decision
3 on this matter. That was not explained to you at all. I don't
4 know who explained that to you, but that's not the way the law
5 works. So you not only made a decision without consulting with
6 Ms. Dutchess in this matter, on something as serious as getting
7 the girls vaccinations; that's one issue.

8 The second issue is this issue regarding -- according to
9 Ms. Dutchess's notice, were you aware, Ms. Watson, of the
10 children going back to the doctor to deal with I.D. I'm
11 looking at these e-mails. Did you get a copy of this, by the
12 way, Ms. Watson?

13 MS. WATSON: Yes, Your Honor.

14 THE COURT: Okay.

15 MS. WATSON: And --

16 THE COURT: Can you fill me in on what's going on?

17 MS. WATSON: Yes, Your Honor. So that happened
18 before -- now, I don't have them in front of me, but it
19 happened before they got the vaccine, and that's kind of,
20 actually, what prompted me to do records requests to her doctor
21 is because of that appointment.

22 I remember getting that e-mail from Mr. Dutch about they
23 went in for, you know, an appointment, and that the doctor had
24 a fat -- quote/unquote, fat talk with I.D. and I asked him
25 what that meant. You can see that in the e-mail.

Revelation 18 New King James Version

The Fall of Babylon the Great

18 After these things I saw another angel coming down from heaven, having great authority, and the earth was illuminated with his glory. ² And he cried ^{loudly} mightily with a loud voice, saying, "Babylon the great is fallen, is fallen, and has become a dwelling place of demons, a prison for every foul spirit, and a cage for every unclean and hated bird! ³ For all the nations have drunk of the wine of the wrath of her fornication, the kings of the earth have committed fornication with her, and the merchants of the earth have become rich through the ^{abundance} abundance of her luxury."

⁴ And I heard another voice from heaven saying, "Come out of her, my people, lest you share in her sins, and lest you receive of her plagues. ⁵ For her sins ^{have} have reached to heaven, and God has remembered her iniquities. ⁶ Render to her just as she rendered ^{to} to you, and repay her double according to her works; in the cup which she has mixed, mix double for her. ⁷ In the measure that she glorified herself and lived ^{luxuriously} luxuriously, in the same measure give her torment and sorrow; for she says in her heart, 'I sit *as* queen, and am no widow, and will not see sorrow.' ⁸ Therefore her plagues will come in one day—death and mourning and famine. And she will be utterly burned with fire, for strong *is* the Lord God who ^{judges} judges her.

The World Mourns Babylon's Fall

⁹ "The kings of the earth who committed fornication and lived luxuriously with her will weep and lament for her, when they see the smoke of her burning, ¹⁰ standing at a distance for fear of her torment, saying, 'Alas, alas, that great city Babylon, that mighty city! For in one hour your judgment has come.'

¹¹ "And the merchants of the earth will weep and mourn over her, for no one buys their merchandise anymore: ¹² merchandise of gold and silver, precious stones and pearls, fine linen and purple, silk and scarlet, every kind of citron wood, every kind of object of ivory, every kind of object of most precious wood, bronze, iron, and marble; ¹³ and cinnamon and incense, fragrant oil and frankincense, wine and oil, fine flour and wheat, cattle and sheep, horses and chariots, and bodies and souls of men. ¹⁴ The fruit that

your soul longed for has gone from you, and all the things which are rich and splendid have ¹⁵gone from you, and you shall find them no more at all. ¹⁵ The merchants of these things, who became rich by her, will stand at a distance for fear of her torment, weeping and wailing, ¹⁶ and saying, 'Alas, alas, that great city that was clothed in fine linen, purple, and scarlet, and adorned with gold and precious stones and pearls! ¹⁷ For in one hour such great riches ¹⁸came to nothing.' Every shipmaster, all who travel by ship, sailors, and as many as trade on the sea, stood at a distance ¹⁸ and cried out when they saw the smoke of her burning, saying, 'What is like this great city?'

¹⁹ "They threw dust on their heads and cried out, weeping and wailing, and saying, 'Alas, alas, that great city, in which all who had ships on the sea became rich by her wealth! For in one hour she ²⁰is made desolate.'

²⁰ "Rejoice over her, O heaven, and you ²¹holy apostles and prophets, for God has avenged you on her!"

Finality of Babylon's Fall

²¹ Then a mighty angel took up a stone like a great millstone and threw it into the sea, saying, "Thus with violence the great city Babylon shall be thrown down, and shall not be found anymore. ²² The sound of harpists, musicians, flutists, and trumpeters shall not be heard in you anymore. No craftsman of any craft shall be found in you anymore, and the sound of a millstone shall not be heard in you anymore. ²³ The light of a lamp shall not shine in you anymore, and the voice of bridegroom and bride shall not be heard in you anymore. For your merchants were the great men of the earth, for by your sorcery all the nations were deceived. ²⁴ And in her was found the blood of prophets and saints, and of all who were slain on the earth."

Footnotes

- a. Revelation 18:2 NU, M omit *mightily*
- b. Revelation 18:3 Lit. *strengths*
- c. Revelation 18:5 NU, M *have been heaped up*
- d. Revelation 18:6 NU, M omit *to you*
- e. Revelation 18:7 *sensually*
- f. Revelation 18:8 NU, M *has judged*
- g. Revelation 18:14 NU, M *been lost to you*
- h. Revelation 18:17 *have been laid waste*
- i. Revelation 18:19 *have been laid waste*
- j. Revelation 18:20 NU, M *saints and apostles*

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...the
Strong's
with the best of
[unclear]

SORCERIES (5)		
for the multitude of thys s	Is 47:9	3785
and with the multitude of thys s	Is 47:12	3785
time he had he watched them with s	Acts 8:11	3095
of thys s	Rev 9:21	5331
for by thys s	Rev 18:23	5331

ner of the
 demnation of theirs; hence His denunciation of
 them, e.g., Matt. 6:2, 5, 16; 15:7 and chapter 23.
 See: TDNT—9:11, 1246; BAGD—853b; THAYER—
 649b.

5331. **φαρμακεία** {3x} *pharmakēia*, *far-mak-i'-ah*; from 5332; *medication* ("pharmacy"), i.e. (by extens.) *magic* (lit. or fig.):—*sorcery* {2x}, *witchcraft* {1x}.

Primarily *pharmakeia* signified the use of medicine, drugs, spells; then, poisoning; then, witchcraft (Gal 5:20; Rev 9:21; 18:23). In sorcery the use of drugs, whether simple or potent, was generally accompanied by incantations and appeals to occult powers, with the provision of various charms, amulets, etc., professedly designed to keep the applicant or patient from the attention and power of devils, but actually to impress the applicant with the mysterious resources and powers of the sorcerer. See: BAGD—854a; THAYER—649d.

5332. **φαρμακεύς** {1x} *pharmakēus*, *far-mak-y-oos'*; from **φάρμακον** *pharmakōn*, (a drug, i.e. spell-giving *poison*: a *druggist* ("pharmacist") or *poisoner*, i.e. (by extens.) a *magician*:—*sorcerer* {1x} See: BAGD—854a; THAYER—649d.