

22-5963
No. _____

FILED
SEP 12 2022

OFFICE OF THE CLERK
SUPREME COURT, U.S.

IN THE

ORIGINAL

SUPREME COURT OF THE UNITED STATES

Russell Spain — PETITIONER
(Your Name)

vs.

Shenese Jones — RESPONDENT(S)

ON PETITION FOR A WRIT OF CERTIORARI TO

State of New York Court of Appeals
(NAME OF COURT THAT LAST RULED ON MERITS OF YOUR CASE)

PETITION FOR WRIT OF CERTIORARI

Russell Spain
(Your Name)

2027 Pacific St Apt 3F
(Address)

Brooklyn NY 11233
(City, State, Zip Code)

347-793-8814
(Phone Number)

RECEIVED

OCT 24 2022

OFFICE OF THE CLERK
SUPREME COURT, U.S.

QUESTIONS PRESENTED

- 1- Did the lower Courts (Kings County Family Court, Supreme Court of the State of New York Appellate Division Second Judicial Department) preside within the scope of the authority of the United States Constitution?
- 2- Did the lower court violate federal law towards the petitioner?
- 3- Are these unconstitutional practices an issue of National security?
- 4- Does this Writ comply in pursuant to Rule 10
- 5- Are there grounds for federal law violation as a defense in this matter?
- 6- Is this matter about custody or is there hidden parameters involved?

LIST OF PARTIES

All parties appear in the caption of the case on the cover page.

All parties **do not** appear in the caption of the case on the cover page. A list of all parties to the proceeding in the court whose judgment is the subject of this petition is as follows:

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JURISDICTION

For cases from **federal courts**:

The date on which the United States Court of Appeals decided my case was _____.

No petition for rehearing was timely filed in my case.

A timely petition for rehearing was denied by the United States Court of Appeals on the following date: _____, and a copy of the order denying rehearing appears at Appendix _____.

An extension of time to file the petition for a writ of certiorari was granted to and including _____ (date) on _____ (date) in Application No. __A_____.

The jurisdiction of this Court is invoked under 28 U. S. C. § 1254(1).

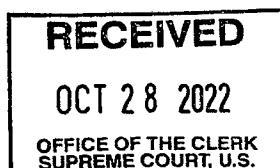
For cases from **state courts**:

The date on which the highest state court decided my case was 6/14/2022.
A copy of that decision appears at Appendix 001a.

A timely petition for rehearing was thereafter denied on the following date: 6/14/2022, and a copy of the order denying rehearing appears at Appendix _____.

An extension of time to file the petition for a writ of certiorari was granted to and including _____ (date) on _____ (date) in Application No. __A_____.

The jurisdiction of this Court is invoked under 28 U. S. C. § 1257(a).



STATEMENT OF THE CASE

I apologize if this writ isn't as eloquent as one drafted by a polished attorney. I am just a man who is fighting for his rights to be a father. Unfortunately, as unskilled that I am at producing the perfect writ of Cert. this is the only Court that can (if willing, hopefully) rectify this matter according to the rule of law.

The Petitioner filed a petition for joint custody in Kings County Family Court. The Petitioner filed the petition for custody due to the Respondent refusing to give Petitioner access to the child in question. Prior to the filing, the Petitioner left the home that he shared with the Respondent due to the extreme violence issued by the Respondent. The hostility made the living situation unhealthy and the child in question was subjected to picking up this behavior as normal. The best for all parties involved was to coparent. After not having access (not even a photograph of the child in question) for a month and a half, the Petitioner filed joint custody in Kings County Family Court. One week after the child in question first birthday, Kings County Family Court held the first hearing of this matter.

The biggest violation of the Petitioner's constitutional rights. is the forging of the Judge's signature on court sealed orders.¹ This is a violation of the equal protection clause due to the fact; all the forged orders favored the Respondent. It is also federal crimes.² This will be addressed imminently.

¹ APPX. 6, APPX. 7, APPX. 8, APPX. 9, APPX. 10, APPX. 11, APPX. 12, APPX. 13.

² 18 U.S. Code § 505 - Seals of courts; signatures of judges or court officers, 8 U.S. Code § 1324c - Penalties for document fraud, 18 U.S. Code § 1001 - Statements or entries generally, 42 U.S. Code § 1981 - Equal rights under the law, 18 U.S. Code § 1038 - False information and hoaxes, 18 U.S. Code

From the inception, Kings County Family Court disregarded the allegations and evidence of domestic violence. When the petition for custody was filed, Spain (Petitioner) plead at every hearing including to each magistrate, court attorney and judge) about the domestic violence and the severity of it. But to no avail.³ Family Court determines which parent should have custody based on the best interest of the child. There were different circumstances where the Respondent violated the best interest of the child (custodial interference, parental alienation, endangerment to the welfare of the child) yet the standards of Family Court were never a factor.⁴.

Upon the inception the issuance of the temporary order has made this matter in family court void. All temporary order hearings which reduce parental rights without all three elements are unlawful and void. They are also intentional civil rights violations. The orders ordered that the Petitioner “parenting time,” equaled to five (5) days a month. Whereas the daycare (in which the Respondent hid the

³ § 1028 - Fraud and related activity in connection with identification documents, authentication features, and information, 18 U.S. Code § 471 - Obligations or securities of United States

⁴ *Where either party to an action concerning custody of or a right to visitation with a child alleges in a sworn petition or complaint or sworn answer, cross-petition, counterclaim or other sworn responsive pleading that the other party has committed an act of domestic violence against the party making the allegation or a family or household member of either party, as such family or household member is defined in article eight of the family court act, and such allegations are proven by a preponderance of the evidence, the court must consider the effect of such domestic violence upon the best interests of the child, together with such other facts and circumstances as the court deems relevant in making a direction pursuant to this section and state on the record how such findings, facts and circumstances factored into the direction. (DRL. 240, Best Interest of the Child doctrine).*

⁴ *see Eschbach v Eschbach, 56 NY2d 167, 171 [1982]; Matter of Sahadath v Andaverde, 145 AD3d 731 [2016].* This is a violation of the Petitioner’s due process right of the 14th amendment pursuant to DRL 240

child in question) was allowed to have the child in question more than either parent.⁵

This matter was transferred to magistrate Gloria Martinez. At the inception of the hearings with magistrate Martinez, the Respondent's attorney (during the time of the Kings County Family Court proceedings) requested a Court Order Investigation. In which Magistrate Martinez stated, "I was going to order that anyways." This is another violation the due process right of the 14th amendment.⁶ No evidence to substantiate this order was submitted. This violation of the 14th amendment due process right and fourth amendment right to privacy. The Petitioner plead with Magistrate Martinez that there are acts of domestic violence (from the Respondent) in the presence of the child in question. Magistrate Martinez replied, "Sir, you don't have evidence. You have (inaudible) your point of view, and you have things that you think from your perspective"⁷ Violating Spain's 14th amendment right, equal protection clause. Magistrate Martinez rejected Spain's pleads and evidence which protected the Respondent.⁸ With the rejection of evidence, what were the grounds for Magistrate Martinez to order the COI (Court Order Investigation)?

The Petitioner made several pleads to start the trial process to magistrate Martinez. Like Toshia Mcknight, magistrate Martinez told the Petitioner to save

⁵ *In all cases there shall be no prima facie right to the custody of the child in either parent, but the court shall determine solely what is for the best interest of the child, and what will best promote its welfare and happiness, and make award accordingly. NYS DRL Section 70(a)).*

⁶ N.Y. Family Court Law 1034 – Power to Order Investigations, there must be probable cause.

⁷ (APPX. 35,

⁸ 25 CFR § 11.440 - Tampering with or fabricating physical evidence.

his evidence for trial and made excuses not to go to trial. The next hearing took place in an office, presided by Court Attorney Bonnie Gershon. This is when the forged court sealed documents begin to appear.

Upon the first face to face encounter with Court Attorney Gershon, the Petitioner pleaded that the Respondent attacked him with a knife in the presence of the child in question, who was younger than a year old. The Petitioner added that he has a recording of the attacks. Court Attorney Bonnie Gershon told the Petitioner to save the evidence for trial. The two hearings with Court Attorney Gershon were only about the Petitioner giving the Respondent the time that was scheduled for him with the child in question. These schedules rearrangement types of hearings happened often in the matter.

Once again, this is when the forged instruments begin to surface. There are numerous Court sealed orders with different signatures of Judge Kusakabe.⁹

Court Attorney Bonnie Gershon issued unauthorized orders for an COI (court order investigation). There was never any evidence permitted or submitted to substantiate a need for a COI pursuant to *DRL. 240, Best Interest of the Child doctrine.*

The Petitioner told Court Attorney Bonnie Gershon that he would like to go to trial. Her response was the judge is a very busy man and he has no open dates for trial.

⁹ APPX. 6, APPX. 7, APPX. 8, APPX. 9, APPX. 10, APPX. 11, APPX. 12, APPX. 13.

This is a violation of the Petitioner and Respondent's 7th amendment right to a speedy trial.

During these hearings, Court Attorney Bonnie Gershon told the Petitioner to "shut up," and "be quiet" when questioning her actions. Also in these hearings, there was a conversation between Court Attorney Bonnie Gershon and the Respondent's attorney. The topics revealed that the two of them are very close friends. Court Attorney Gershon also uttered that "she wasn't here to help me."

There aren't any transcripts for the two hearings with Court Attorney Bonnie Gershon, yet there are Court sealed orders for the dates of these hearing. Allegedly, signed by Judge Kusakabe.

The hearings finally got transferred to a sitting judge. Bonnie Gershon informed the Petitioner that the case was going to trial. In between the two hearings with Court Attorney Bonnie Gershon, there was an emergency Order to show cause hearing with Judge Kusakabe. The emergency was to give the Petitioner's scheduled time with the child in question (which landed on a holiday) to the Respondent. After the Petitioner refused to surrender his scheduled time with the child in question. Judge Kusakabe ordered that the time allotted to the Petitioner, be relinquished to the Respondent. The biases continued to violate the equal protection clause of the constitution.

Judge Kusakabe threatened Spain by saying, "I've made it very clear that this is not going to happen and if it happens then I'm going to restrict your time (with child in

question). I promise you that.”¹⁰ This is in response to the opposing attorney stating that the Petitioner continues to drop off the child in question late and pick her up early. Though, a void order does not need to be honored.¹¹ a day care center is not school. And the child in question was not the legal age required by law to attend school. Judge Kusakabe never threaten the Respondent, only the Petitioner.

Judge Kusakabe continued to violate due process law of the 14th amendment and the Canons of the Code of Conduct for United States Judges. While discussing the order of protection the Petitioner had against the Respondent. The violations against the Petitioner’s rights continued. The opposing party attorney requested CNT 722-c funds for the Respondent, fully aware that the Respondent doesn’t qualify. Why would a lawyer (who is cognizant of the law) make this request, knowing that her client (the Respondent) paid for legal representation services? Nonetheless, Judge Kusakabe, who was also aware that the Respondent does not qualify for CNT 722-c, verbally granted the request of CNT 722-c by saying, “okay.”¹² Which again, violates the Petitioner’s equal protection clause and due process rights of the 14th amendment.¹³

¹⁰ APPX 35. (Tr.9/16/2016 pg. 33 line 5-9).

¹¹ *Because a proceeding for civil contempt is remedial in its nature there can be no liability for civil contempt if the injunction violated is ultimately held to have been erroneously issued. United States v. United Mine Workers, 330 U.S. 258, 295 (1947)*

¹² APPX. 36. (Tr. 9/16/2016 pg. 31 line 19-24.)

¹³ *New York Consolidated Laws, County Law - CNT § 722-c. Services other than counsel; Upon a finding in an ex parte proceeding that investigative, expert or other services are necessary and that the defendant or other person described in section two hundred forty-nine or section two hundred sixty-two of the family court act , article six-C of the correction law or section four hundred seven of the surrogate's court procedure act , is financially unable to obtain them, the court shall authorize counsel, whether or not assigned in accordance with a plan, to obtain the services on behalf of the defendant or such other person.*

How did the opposing attorney know that Judge Kusakabe would grant CNT 722-c, when he should not have?¹⁴ Throughout this Kings County Family Court matter, the Petitioner's 14th amendment right (equal protection clause) was violated to favor the Respondent.

This matter is plagued with egregious violations of the Petitioner's constitutional rights. Judge Kusakabe stated that there is no law stating that a fit father get equal time with their child(ren) as a mother do.¹⁵ This is contradiction of equal protection clause of the 14th amendment. of US Constitution: "No Bill of Attainder or ex post facto law shall be passed."¹⁶ What law is Judge Kusakabe mentioning of? It's either Judge Kusakabe is being completely impartial or is incompetent.

Judge Kusakabe also stated that there is no formula when considering who gets custody.¹⁷ This is deliberate fraud on the court on behalf of the Judge. Judge Kusakabe did not consider Best Interest of the Child, Domestic Relation Law, N.Y. Constitution, U.S. Constitution, nor New York Family Court Act. These are some of the formulas in which a competent, non-bias judge can use to adjudicate this matter and every custody issue before him. Judge Kusakabe further added that there is nothing in the 14th amendment that states a fit father does not get equal time with a mother when it come to the child(ren).

¹⁴ 18 U.S. Code § 241 - Conspiracy against rights

¹⁵ 18 U.S. Code § 1001 – Statements or Entries Generally, 18 U.S. Code § 1038 – False information and hoaxes.

¹⁶ 42 U.S. Code § 1981 - Equal rights under the law. Article 1 Section 9 Clause 3

¹⁷ APPX. 36. (TR. 9/16/2016 pg.12 line 15-24).

April 3, 2017, the Petitioner demanded that Judge Kusakabe recuse himself from this matter.¹⁸ The Petitioner stated to the court that Judge Kusakabe allowed fraudulent court sealed orders to be enforced. This unequivocally voids the whole matter.¹⁹ Several signatures of judge Kusakabe are entirely different.²⁰

When it comes to forged signatures on a court order. It is not obvious to prove that its arbitrary and capricious.²¹ Judge Kusakabe refused to recuse himself or address the Petitioner's allegations about the fraudulent court sealed orders (and every other allegation the Petitioner had made).²² The same day the Petitioner put Judge Kusakabe on notice about the forged court sealed orders, the Respondent withdrawn her order of protection.

Judge Kusakabe presided over a one-party trial and no jury. This is a violation of the seventh amendment.²³ Judge Kusakabe stated that there is nothing in the constitution that states a [fit] father has equal time with the mother. He

¹⁸ APPX. 37. pg. 4, ¶ 8 – pg. 8 ¶ 1

¹⁹ 28 U.S. Code § 455 (a).

²⁰ APPX. 6, APPX. 7, APPX. 8, APPX. 9, APPX. 10, APPX. 11, APPX. 12, APPX. 13

²¹ *In Re: United States v. Reich (Court of Appeals, Second Circuit, Judge SOTOMAYOR)* states “though suggesting in *dictum* that “much could be said for” the view that § 505 did require an intent to defraud”. Stating to imply that any said documents are forged one must prove intent. Which is not cited in 18 U.S.C. § 505.

²² Rule 2.11: Disqualification: (A) A judge shall disqualify himself or herself in any proceeding in which the judge's impartiality* might reasonably be questioned, including but not limited to the following circumstances: (1) The judge has a personal bias or prejudice concerning a party or a party's lawyer, or personal knowledge* of facts that are in dispute in the proceeding.

²³ In Suits at common law, where the value in controversy shall exceed twenty dollars, the right of trial by jury shall be preserved, and no fact tried by a jury, shall be otherwise re-examined in any Court of the United States than \$20 according to the rules of the common law

(Kusakabe) further stated that there is nothing in case law that states a father get equal time as a mother.²⁴

Judge Kusakabe further committed fraud on the court stating, Judge saying 2nd Dept is the highest court. Judge Kusakabe also added that the 2nd Department (Appellate Division Second Judicial Department) case law supersede the 4th amendment of the Constitution. ²⁵

Article VI, Paragraph 2 of the U.S. Constitution is commonly referred to as the Supremacy Clause. It establishes that the federal constitution, and federal law generally, take precedence over state laws, and even state constitutions.

Judge Kusakabe continued to practice law from the bench. Which displayed his impartiality. Why would a sitting Judge say "I'm a little bit hesitant to do that I'm going to do that, but I sense we're going to get to get served with a -- the Court's going to be-- a motion is going to be filed to vacate a default judgment right after this. And that's why I -- but I'm hesitant to do it and yet because this is

²⁴ "...if [a man] is a fit father, the State spites its own articulated goal when it needlessly separates him from his [children]." Justice Byron R. White. *Stanley v. Illinois* (1972) 405 U.S. 745, 652-53.

²⁵ The Supreme Court of the United States (SCOTUS) is the highest court in the federal judiciary of the United States. It has ultimate appellate jurisdiction over all U.S. federal court cases, and over state court cases that involve a point of federal law.

https://en.m.wikipedia.org/wiki/Supreme_Court_of_the_United_States

unfortunately the way that we may have to proceed forward.”²⁶ (Judge Kusakabe stated “we’re going to get served...”^{27 28}

Why did Judge Kusakabe choose a side in an impartial position and as an oath keeper of the constitution? Did the Judge have special interest in this case? Why would Judge Kusakabe be hesitant because of what any party may file? Judge Kusakabe proclaimed that he was a litigant in this matter. This substantiates the level of biasness involved in this Kings County Family Court matter.

Judge Kusakabe perjured himself again (and committed fraud on the court, again) when he stated, “Mr. Spain walked out of the court on the last court date after telling this Court that the Court had to recuse itself and would not allow me to speak to address him unless I met his demands.” Judge Kusakabe failed to mention the Petitioner addressed the Court about the forged Court sealed orders.^{29, 30} Judge Kusakabe also failed to mention (on record) that he had the Petitioner removed of the courtroom.³¹

²⁶ APPX 38, TR 4/20/2017, pg. 4, ¶ 15 – pg. 5, ¶ 3).

²⁷ *we pronoun, plural in construction \ 'wē\ Definition of we (Entry 1 of 2)*

1: I and the rest of a group that includes me: you and I : you and I and another or others : I and another or others not including you —used as pronoun of the first person plural.

<https://www.merriam-webster.com/dictionary/we>

²⁸ *we're, contraction \ 'wir, 'wər, 'wē'r\ Definition of we're: we are https://www.merriam-webster.com/saved-words*

²⁹ APPX KK. (TR. 4/3/2017 p. 4. ¶ 12, p. 5 ¶ 10, ¶ 16)

³⁰ 18 U.S. Code § 505 - Seals of courts; signatures of judges or court officers, 18 U.S. Code § 1001 - Statements or entries generally, 18 U.S. Code § 1038 - False information and hoaxes, 18 U.S. Code § 1028 - Fraud and related activity in connection with identification documents, authentication features, and information, 18 U.S. Code § 471 - Obligations or securities of United States, 25 CFR § 11.440 - Tampering with or fabricating physical evidence.

³¹ APPX 37. (TR. 4/3/2017 p. 7, ¶19 - ¶ 21)

Judge Kusakabe added, “And he has failed to appear today. I will set this down for an inquest. I will send a notice of inquest.” This inquest in which Judge Kusakabe mention of does not exist. The Petitioner demanded proof of service (affidavit of service) of the summons for the inquest. An inquest is not a trial. Nonetheless, a one-party trial took place. If it was a trial, then Judge Kusakabe could have ruled for the Respondent instead of issuing a default order. There were dates scheduled and labeled trial. A one-party trial or inquest is unconstitutional.³²

The Petitioner inquired from Judge Kusakabe about the certificate of readiness and note of issue.^{33, 34} The Petitioner was either denied or ignored. Nonetheless, the one-party trial proceeded, and the one-party trial continued.

Judge Kusakabe issued a final order and judgment. Neither contained “conclusion of law” or “finding of facts.” The order only contained instructions. Such as, for the Petitioner to ask and notify the Respondent, about the time spent with the child in question.

Throughout the entirety of this matter, the Petitioner filed numerous appeals (on void orders) to the Supreme Court of the State of New York Appellate Division Second Judicial Department. The Petitioner provided the exact evidence and facts

³² *The right to adjudicate concerning the subject-matter in the given case. To constitute this there are three essentials: The court must have cognizance of the class of case to which the one to be adjudicated belongs; second, the proper party must be present; and third the point decided on must be in substance and effect within the issue. Reynolds v. Stockton 140 U.S. 254, 268. Emphasis “the proper party must be present.”*

³³ 22 NYCRR § 202.21.

³⁴ APPX. 29

filed with this Writ but to no avail. Each were denied or dismissed without explanation, conclusion of law or finding of facts.³⁵

Upon filing the notice of appeal with Appellate Division Second Judicial Department, the Petitioner met resistance. The Petitioner received an email from Beverly Stanley with an attachment of a list of transcripts and an email of six (6) transcripts. This list of transcripts, omitted over ten (10) transcripts.³⁶ Petitioner notified (2nd Judicial case manager and Jackie Vazquez) that the list does not contain all the transcripts to every hearing that took place in Kings County Family Court.³⁷ But to no avail.³⁸ The Petitioner filed a Writ of Mandamus for the court to compel to the order for the transcripts that was omitted. Nonetheless, the court set a 60-day time limit to perfect the appeal. The Petitioner received the 2nd transcripts list, there was still two transcripts that was omitted. The Petitioner was ignored and informed that he has 60 days to perfect his appeal. The Petitioner had to perfect his appeal with omitted transcripts. The omitted transcripts are those in which Bonnie Gershon presided over the hearings.³⁹ Also, the point in this matter, when the forged orders surfaced.

The Petitioner had to notify the Presiding Justice (Alan Scheinkman) about the thwarting of his appeal. But to avail.

³⁵ APPX. 19, APPX. 20, APPX. 21, APPX 22, APPX. 23, APPX. 24, APPX. 25, APPX. 26.

³⁶ APPX. 28

³⁷ APPX. 27

³⁹ 25 CFR § 11.440

Upon perfecting the appeal, several judicial notices were attempted to be filed but the Petitioner met resistance. Each attempt made (which was filed according to law) by the Petitioner⁴⁰ were rejected. The Petitioner advised the clerk of the court (Aprilanne Agostino) the law in which he was privy to filing the judicial notice. Resistance was meet once again to the point that the clerk of the court denied the Petitioner's Judicial Notice.⁴¹ The clerk of the court, subsequently, blocked the Petitioner from emailing her.⁴² After the Petitioner filings was rejected and was blocked by the Clerk of the Court, the Deputy Clerk emailed the Petitioner (on different occasions) about rejecting filings with perjured explanations of the law.⁴³ A clerk cannot refuse filings.⁴⁴

Ironically, one of the associate Justice (Paul Wooten) recused himself from presiding over a civil suit the Petitioner filed against the Respondent for defamation and harassment.⁴⁵ Associate Justice Wooten and the other Justices that ruled on this matter ignored every clear and convincing fact that the Petitioner has proven (which would supersede any default order/ judgment).

After a long delay, the Appellate Division disregarded every fact (with convincing evidence) and dismissed the appeal citing default.⁴⁶ The Appellate Division ignored the forged judge signatures, NYC and NYS statutes and state and federal

⁴⁰ CPLR 4511(d), (e), FRE 201(a), (b)(2), (c)(2), (d)

⁴¹ APPX. 30

⁴² APPX. 31 Clerk of the Court blocking Petitioner access to email her.

⁴³ APPX. 32

⁴⁴ FRCP Rule 5 (d)(4)

⁴⁵ APPX.33 Justice Wooten recusal order

⁴⁶ APPX. 2

constitution. ⁴⁷ The Petitioner filed several appeals the duration of the Family Court proceedings. All was denied.

The Court of Appeals STATE OF NEW YORK. dismissed the Petitioner's leave to appeal, disregarding the Petitioner proving that the Respondent never served the Petitioner the appellate division order/ judgment nor the notice of entry pursuant to CPLR 460.20 and CPLR 5513[a].

The Petitioner also showed the court how void the lower court and appellate division proceedings were, which supersedes any default order. But to no avail. Not by any means or law that a default judgment could have been adjudicated fairly without violating one's due process rights and equal protection under the law.⁴⁸, ⁴⁹

The denial of the Petitioner's leave of appeal lacks conclusions of law or finding of facts. The vagueness of this order allows Rule 10 to be compared to any state leave of appeal case that was granted.⁵⁰

Reasons for Granting the Petition

⁴⁷ 42 U.S. Code § 3795a Falsification or concealment of facts, 10 U.S. Code § 923 - Art., 123. Forgery

⁴⁸ *Rule that default judgment fixing the amount of recovery in absence of introduction of supporting evidence is void and not merely erroneous or voidable obtains with regard to exemplary as well as compensatory damages. Graves v. Walters, Okla.App., 534 P.2d 702 (1975).*

⁴⁹ *A party is not in default so long as he has a pleading on file which makes an issue in the case that requires proof on the part of the opposite party in order to entitle him to recover. Millikan v. Booth, Okla., 4 Okla. 713, 46 P. 489 (1896).*

⁵⁰ *It is true that this Court has held the "void for vagueness" doctrine applicable to civil as well as criminal actions. See...personality," as used by the Congress in § 212(a)(4), Civil as well as criminal statutes must be sufficiently clear as to give a fair warning of the...statute, it cannot be invalidated on void for vagueness grounds. (American Civil Liberties Union v. Board of Education (1963) 59 Cal.2d 203..., 379 P.2d 4].*

From the inception, the Petitioner inalienable and Constitutional rights were confiscated. By doing so, it allowed the Respondent to keep the child in question alienated from her father (Petitioner). The courts refuse to rectify the matter which hindered the father daughter relationship up to now. The extreme behavior of the Respondent consists of numerous unjustifiable visits to the Petitioner's residence on behalf of the Respondent. Which can be detrimental on many levels.

The family court unconstitutional practice which has destroys the core of the natural family on scales of a threat to national security. It causes irreparable damage that has been fatal throughout the country. When the courts push people to the precipice, they become desperate. and desperate people do desperate things.

There isn't a court in the state of New York that would take on this custody matter in question. Presumably, the courts acknowledge Kings County Family court constitutional transgressions. Nonetheless, not one court would apply the rule of law and review in its merits, statutes, state and federal constitution. The question remains. Why not? Do the Petitioner have a history of being abusive, towards anyone? Did the Petitioner abuse the child in question? Is the Petitioner a repeated felony to where the 13th amendment supersedes the 14th amendment? If this Honorable Court doesn't step in and apply the rule of law, how will the Petitioner even be able to enjoy the joys of raising his offspring?

The Petitioner filed several motions for Leave to Appeal in the Supreme Court Appellate Division. Second Judicial Department. Every attempt displayed clear and convincing evidence and facts according to New York statutes, state and federal

constitution. Every attempt the Petitioner made was denied or dismissed without finding of facts or conclusions of law. Can the courts strip any American citizen of their God given and inalienable rights? Though, depression is creeping in, stronger and stronger. The Petitioner has never given up.

DOWNFALL OF CHILDREN RAISED BY ONE PARENT.

Sole custody is proven to be child abuse, driving 20 different social pathologies up between 660% and 2400% each.⁵¹ “Children of single parents are more prone to various psychiatric illnesses, alcohol abuse, and suicide attempts than children from homes with two parents. One of the common reasons for single parenting is divorce.” It’s affecting the children whose mind are delicate and fragile. Which can probably lead to a life of crime or repeated unhealthy behavior when it comes to relationships. Single-parent children can feel frightened, stressed, and frustrated by the difference between their lives and their friends’. Children of single parents are more prone to various psychiatric illnesses, alcohol abuse, and suicide attempts than children from homes with two parents.⁵²

⁵¹ https://fathersunite.org/statistics_on_fatherlessness.html

⁵² https://www.medicinenet.com/how_does_single_parenting_affect_a_child/article.htm

Monitoring these trends is important because children's living arrangements can have implications for children's outcomes, such as academic achievements, internalizing problems (e.g., depression and anxiety), and externalizing problems (e.g., anger and aggression).⁵³

According to the U.S. Census Bureau, 18.4 million children, 1 in 4, live without a biological, step, or adoptive father in the home. * <https://www.fatherhood.org/father-absence-statistic>

It had a fatal precedence that is a matter of National security but it's also global. For example, take Mohammed Goher. After fear of losing the little visitation that he had with his 3 (three) children. He took their lives and tried to take his own. Harris County Homicide Sgt. Ben Beall told the Chronicle Goher shot one of his girls in a bedroom and his son and other daughter who were asleep in another room. Then, Beall said, Goher shot himself. <https://www.nbcnews.com/news/amp/wbna39259068>

And Debie Hackett from Texas. After but shutout of being in an eleven-month child's life from her ex-partner. She took her own life.⁵⁴

Like this matter. The Petitioner has been fighting to be a father in his daughter's life since she was the age of eleven months old. Not insinuating that the Petitioner can do these acts of violence (he is not). The Petitioner decided fight using the rule

⁵³ <https://www.census.gov/library/stories/2021/04/number-of-children-living-only-with-their-mothers-has-doubled-in-past-50-years.htm>

⁵⁴ <https://www.mrcustodycoach.com/blog/tx-debie-hackett-commits-suicide-after-losing-child-custody-bid>

of law instead. This is a display of how this family court problem is bigger than the Petitioner.

In West Covina California, David Earl Kooyman, after protesting 13 hours straight in front of courthouse over losing a custody battle. Kooyman, committed suicide by putting a bullet in his head. When the “fit” parent, uses the term lost a custody battle. It’s not defined as equal custody.

I beg this court to ask why this is so, by way of granting this Writ of Certiorari. Fit fathers need hope and not fear being a father in this Republic. Here is a list of others who suffered from their rights being violated by the family court system. The ones without a media source never got media coverage. Brieze Montiero, Freddie dalton III, Billy Brame, Maxine Bucholz

More can be added but only 9000 words are allowed in this Writ. The similarities in these cases with the Petitioner’s case is the violation of the 14th amendment right of due process and equal protection of the law. This gives one parent custodial rights over the other and most times, it is never relinquished back to the law. This is done without any adjudication of facts nor partiality. Lives are ruined forever which can make situations desperate. When this happens, it has been proven many people take desperate measures. It plagued the mind of the “custodial” parent to believe they have the power of a diplomat or demigod. Many of their decisions when it comes to the child(ren) in question, can be deemed erratic and unhealthy. This becomes very detrimental to the deprived parties (noncustodial and child(ren)).

The results of these judicial transgressions are that the Petitioner have had no contact with the child in question since 2018. The Petitioner and the child in question had a strong bond before and after the court proceedings. Until the Petitioner had no contact with the child in question. The transgressions of the lower court empowered the Respondent to alienate both the Petitioner and the child in question. Does the child in question long for or even remember the Petitioner like she used to? If the child in question doesn't, why is this so?

Conclusion

In closing, proven in this certiorari, by clear and convincing evidence that the Petitioner's constitutional rights were nonexistent, without exception, on every level, in every court. This matter is void pursuant FRCP Rule 60 (b)(1), (3), (4), (6). Each court in this matter has proven their deficiency or blatant biasness. How did Judge Kusakabe rule on this matter? Was it adverse inference?⁵⁵ Judge Kusakabe

⁵⁵ adverse inference. A detrimental conclusion drawn by the fact-finder from a party's failure to produce evidence that is within the party's control. Some courts allow the inference only if the party's failure is attributable to bad faith. Also termed adverse presumption. Cf. SPOLIATION (1). 2. The process by which such a conclusion is reached; the process of thought by which one moves from evidence to proof.

- infer, vb
- inferential, ad
inferrer, n.
inference-on-inference rule. (1940)

stated that if the Petitioner do not tell him what his disability is. He (Judge Kusakabe) would use adverse inference, against the Petitioner when it comes down to deciding custody.⁵⁶ Spain is protected by the 4th amendment (which is the supreme law of the land), The Constitution of the State of New York Article 1 § 12 and HIPAA (Health Insurance Portability and Accountability Act), which supersedes any case law. Judge Kusakabe discriminated the Petitioner because of being handicapped and ruled in favor of the Respondent.⁵⁷

The founding fathers created the Constitution in hindsight to protect American citizens for legal and illegal practices like this. The Petitioner was never protected or adjudicated by the rule of law. Not even statutes or case law that Kings County Family Court are based on. The 5th and 14th amendment to the United States Constitution each contains a due process clause. The due process clause. The due process clause acts as a safeguard from arbitrary denial of life, liberty, or property by the Government outside the sanction of law.

The Petitioner never abandoned the child in question. He abandoned the unhealthy relationship which was influential on the child in question. This is very traumatic for the child in question's tender mind. But why did this occur? If the Petitioner would have enforced his inalienable rights. The police would have accused him of kidnapping and put bullets in him. If the Petitioner would appear at the residence

⁵⁷ Model Rules of Professional Conduct, Rule 8.4: Misconduct

of the child in question. He would at least get arrested on false allegations. In which the Respondent has a propensity of doing.

From the inception, the Petitioner inalienable and Constitutional rights were confiscated. By doing so, it allowed the Respondent to keep the child in question alienated from her father (Petitioner). The courts refuse to rectify the matter which hindered the father daughter relationship up to now. The Petitioner made another attempt to handle this matter outside of the courts. The Petitioner reached out to the Respondent via text messages but was ignored⁵⁸ Without granting this writ, there is no logical remedy to repairing the lost time (and days to come) of the once bond the Petitioner had with the child in question.

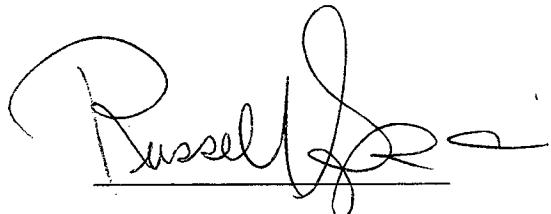
The Petitioner's only way and hope is SCOTUS. This is the last hope for the rule of law to be applied and the key to rebuilding what was destroyed by Kings County Family Court. It was apparent that no court in New York State was going to uphold the law in this matter. Nonetheless, protecting Kings County Family Court from their tyranny should not have come at the expense of the bond between the Petitioner and child in question. Which now is beyond repair.

Each adjudicator stepped outside of his delegated constitutional power. As a sitting judge. Judge Kusakabe violated almost every Canon of the Code of Conduct for United States Judges at the expense of the Petitioner and child in question

⁵⁸ APPX. 34 text messages to the Respondent

For the reason in this Writ. This petition for a writ of certiorari should be granted.

Respectfully submitted,



Date: 10/10/2022

STATE OF NEW YORK
COUNTY OF KINGS
SIGNED BEFORE ME ON 10/10/2022

Russell Sain



PIYUSH B. SONI
Notary Public, State of New York
No. 01SO6038647
Qualified in Kings County
Commission Expires March 20, 2026