23-1211

No. _____

In the Supreme Court of the United States

SCARBOROUGH,

Petitioner,

v.

C.C.P. NORTHAMPTON, ET AL.,

Respondents.

On Petition for a Writ of Certiorari to the United States Court of Appeals for the Third Circuit

PETITION FOR A WRIT OF CERTIORARI

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May 7, 2024
SUPREME COURT PRESS ♦ (888) 958-5705 ♦ BOSTON, MASSACHUSETTS

QUESTIONS PRESENTED

Petitioner presents the following questions to this Court and asserts all below should be answered in the affirmative:

1. Whether the Court below misconstrues Petitioner's principal cause of action?

2. Whether this Rule 60(d)(3) motion raises preserved federal claims of first instance?

3. Whether District Court has jurisdiction over Petitioner's constitutional challenges to state action?

4. Whether judicial notice must be granted, for the Court's requirement to hear Petitioner's claims?

5. Whether Petitioner is prejudiced, by the refusal to review his motion for narrowly tailored expedited discovery of the fraudulently concealed facts?

6. Whether Petitioner's prima facie evidence has established an obligatory rebuttable presumption?

7. Whether the unconstitutional Order is facially void and should be immediately quashed by default?

PARTIES INVOLVED AND CORPORATE DISCLOSURE STATEMENT

Petitioner and Plaintiff-Appellant below

- E. Thomas Scarborough, III

  Mr. Scarborough is a private entity, whereas there is no parent or publicly held company.

Respondents and Defendants-Appellees below

- Court of Common Pleas of Northampton County
- Supreme Court of Pennsylvania

LIST OF PROCEEDINGS

U.S. Court of Appeals for the Third Circuit

No. 23-2414

Scarborough, *Appellant,* v.
Court of Common Pleas of Northampton County, et al., *Appellees*

Date of Final: January 18, 2024

Date of Rehearing Denial: February 16, 2024

U.S. District Court, Eastern District of Pennsylvania

No. 18-2436

Scarborough, *Plaintiff,* v.
Court of Common Pleas of Northampton County, et al., *Defendants*

Date of Opinion: August 1, 2023

U.S. Court of Appeals for the Third Circuit

No. 23-2021

In Re: Scarborough, *Petitioner*

Date of Final: July 28, 2023

U.S. Court of Appeals for the Third Circuit

No. 23-1284

In Re: Scarborough, *Petitioner*

Date of Final Opinion: February 28, 2023

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JUDICIAL RULES

INTRODUCTION

E. Thomas Scarborough III respectfully requests that this Court reverse the judgement of the United States Court of Appeals for the Third Circuit and exercise jurisdiction over the federal questions presented and over the lower court decisions, which conflict with prior decisions and binding precedent.[1]

Claims raise significant Constitutional issues and allege felonies, but despite Petitioner's diligence the state court will not investigate these federal crimes, nor decide the issues of fact tendered to it. "When the state trier of fact has made no express findings, District Court must hold an evidentiary hearing."[2]

This Rule 60(d)(3) motion seeks to vacate this unconstitutional order, illegally obtained by fraud on the court and is purposed to discover the identity of the party-defendants, to identify the genuine issues and finally reveal the fraudulently concealed facts.[3]

In 2021 Petitioner motioned for narrowly tailored expedited discovery, as the material facts remain concealed. But the Court below would not review his motion for a preliminary injunction for discovery.

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[1] *E.g. Stanley v. Illinois*, 405 U.S. 645, 649-651 (1972) and *Palmore v. Sidoti*, 466 U.S. 429, 434 (1984).

[2] *Townsend v. Sain*, 372 U.S. 293, 294 (1963).

[3] *E.g. Hazel Atlas v. Hartford Empire*, 322 U.S. 238, 244-46 (1944) and *Universal Oil v. Root Refining*, 328 U.S. 575, 580 (1946).

By wrongly limiting the scope of review to only "two motions," compounded with Respondent's failure to defend, he is unable to proceed and is prejudiced.

Court's forever find immunity applicable, without ever granting discovery or even requiring a response.

No authority will inquire whether agreement was reached, nor investigate the pertinent jurisdictional challenges. Why it took more than eleven years to have an unprepared hearing has never been explored.

OPINIONS BELOW

The opinion of the U.S. Court of Appeals for the Third Circuit in No. 23-2414, dated January 18, 2024 is included in the Appendix at (1a). Prior decisions of the Third Circuit in Nos. 23-2021 and 23-1284, are reprinted at (14a) and (19a). The opinions of the E.D. Pennsylvania are in No. 5-18-cv-02436 and is reprinted at (9a) and (25a).

JURISDICTION

The appeals court entered its judgments on January 18, 2024 (1a) and October 13, 2023 (7a), and denied a petition for rehearing en banc on February 16, 2024 (30a). Jurisdiction is invoked pursuant to 28 U.S.C. § 1254(1).

STATUTORY PROVISIONS INVOLVED

A present and actual controversy exists between Petitioner and Respondent concerning their rights and respective duties and contends the violation of his rights protected by the 5th and 14th Amendments and under 42 U.S.C. § 1983; § 1985(3); § 1986; § 1988; § 12202, Title VII of the Civil Rights Act (1964), 23 Pa. C.S.A. § 5327(a); § 5328(a)(b) and § 6303.

STATEMENT OF THE CASE

C.C.P. Bucks County resolved Petitioner's divorce, but the material facts surrounding how or why the intruder C.C.P. Northampton County ever became involved with Scarborough's petition to share custody of his daughter where he resides, remains concealed.

The court record fictitiously shows a custody agreement where the Mother was illegally awarded primary custody by gender, without agreement, personal jurisdiction, authority, discovery, nor a trial, two months after the initial contested custody conference, wrongly held in Northampton County.

Scarborough's gender (male), was the determining factor and/or a motivating factor, in the trespassing state actor court's unconstitutional custody award.

"Intentional discrimination on the basis of gender by state actors violates the Equal Protection Clause."[4]

Scarborough participated unilaterally prior to litigation, but custody evaluation and his protected fundamental rights were "deferred" or withheld from 2005 to 2010. This contested custody action did not have a trial until 2016, where the Judge failed to obtain nor consider the missing record as stipulated.

After the trial, the conference officer deliberately rotated the trial Judge that had just fined Mother for her ongoing contemptuous conduct and fraudulently documented an agreement, which fictitiously alleges that Father agreed to be prohibited from contacting the appointed evaluator and deceitfully claims that he agreed to quash his Fifth Petition for contempt.

The state Supreme Court ignored multiple Kings Bench petitions. The state Disciplinary Board refused to investigate why it took more than eleven years to have an unprepared hearing. "One of the first duties of government is to afford the laws protection."[5]

No authority has ever investigated these claims, where this Rule 60(d)(3) motion raises his new § 1986 claim, for the refusal to prevent a § 1985 conspiracy. The Court below will not hear these new claims, but instead have held that said claims are "relitigated."

Scarborough continues to claim that the court has been defiled, but the court has held that this action was instead caused by "dismissing his appeals."

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[4] *J.E.B. v. Alabama*, 511 U.S. 127, 130-131 (1994) .

[5] *Marbury v. Madison*, 5 U.S. 137, 163 (1803).

Petitioner seeks the discovery that Respondent will not grant and advances prima facie evidence that clearly reveals the lack of personal jurisdiction found in Northampton County and which unequivocally shows the illegal Order void on it's face.

Petitioner was contemptuously alienated several months each year and now sees his daughter maybe once a year. "Few consequences of judicial action are so grave as the severance of natural family ties."[6]

The acceptable boundaries between government and citizen must be determined, by exercising authority over the questions presented, which are of exceptional importance to every father's rights.

I. Legal Background

Among other things, 18-2436 raises fraud on the court, but the record shows the limited review and dismissal of only a singular "lone" claim for "violating his due process rights by dismissing his appeals," holding that new claims "cannot be raised on appeal."

"The Court may consider a plain error not among the questions presented but evident from the record and otherwise within its jurisdiction to decide."[7]

In 2021, his Rule 60(d)(3) motion was advanced, which properly raises significant claims of first instance, as fraud on the court and the other serious claims were not previously reviewed or dismissed.

Petitioner motions for preliminary injunctive relief for discovery, to determine whether Respondent

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[6] *M.L.B. v. S.L.J.*, 519 U.S. 102, 118 (1996) citing 455 U.S. 745, 753.

[7] Supreme Court Rule 24(1)(a).

ever established personal jurisdiction and to quash the unconstitutional custody award, that was illegally obtained by fraud on the court (*inter alia*).

But the court below, refused to review Petitioner's motion for narrowly tailored expedited discovery of the fraudulently concealed material facts.

Respondent's failure to plead or otherwise defend their involvement with his action, caused Petitioner to file his Rule 55 Motion. But the court below would not review his motion for default judgment.

Petitioner filed timely, his Rule 59(e) motion for reconsideration of the September 7, 2022 opinion.

The undue delay with quashing the illegal order, instigated requests for mandamus.

Scarborough filed timely his appeal of the August 1, 2023 judgment and he now appeals the final dismissal of the new claims raised in his Rule 60(d)(3) motion and incorporates by reference, the allegations, facts and requests for relief set forth in his prior filings as fully set forth herein.

II. Facts and Procedural History

Petitioner's credible facts are not disputed and substantially evidence a § 1985 conspiracy, which Respondent has refused to prevent. His § 1986 claim is neglected as this illegal, unconstitutional Order remains fraudulently misrepresented in the official court record as a custody "agreement."

The egregious misconduct was directed to the court itself as this illegal Order continues to deceive the court, to undermine the integrity of the judicial process and to prejudicially influence the decisions.

Others conspired to willfully deprive federal rights under the color of state law, to cover up federal crimes by maliciously abusing discovery.

The connivance alleged includes abusing the discovery of his child's best interest. The unprepared hearing was delayed for more than eleven years and the underlying matter remains unprepared for trial.

About one month prior to the birth of their child, Mother moved from her residence with Scarborough in Bucks County PA, to Northampton County PA.

Petitioner believes that Mother suffers from Borderline-Personality-Disorder and her relocation was intended to alienate, a behavior commonly described as Parental-Alienation-Syndrome.

In June 2005, Petitioner filed a Complaint requesting "divorce" and "joint" legal and physical custody in C.C.P. Bucks, as he was deliberately and chronically alienated from his infant daughter; (137a).

His custody action was purposefully initiated within six months in Bucks County, to establish jurisdiction in the appropriate venue and to prevent it from being established elsewhere. Prothonotary receipts verify the venue of original jurisdiction; (142a).

In 2007, a Decree of Divorce was entered by C.C.P. Bucks, but for reasons that remain concealed, the initial contested custody conference was unlawfully held in Northampton County, on September 15, 2005.

Scarborough's original counselor filed Exhibit "1" in Bucks County and could easily attest to the fact that agreement was not reached at the initial contested custody conference; but no one has asked.

No authority has ever investigated whether agreement was reached, or why the custody portion of his Complaint was nefariously entertained in the wrong jurisdiction. Respondent is unable to plead or otherwise defend their illegal involvement.

How or why C.C.P. Northampton County became involved with Scarborough's initial Petition remains fraudulently concealed, because neither the state nor federal court has ever required a response, nor has any court ever granted discovery (*emphasis added*).

Officer Hogan (a Judge's daughter) granted Mother primary physical custody, by fictitiously alleging that Petitioner agreed to her having primary physical custody and agreed to his infant daughter being raised in a foreign venue. However, this agreed Order is shown absurd, by clear prima facie evidence.

The unconstitutional custody award is illegal, because C.C.P. Northampton County lacked personal jurisdiction over Petitioner, his property and action and is illegal because Scarborough did not consent.

The illegal Order was entered by a Officer who did not have authority to grant primary physical custody and it was the result of Fraud Upon the Court.

Officer Hogan's brief involvement, was limited to the initial thirty-minute contested conference, where she illegally neglected his daughter's best interest.[8]

State actor Officers' Hogan, Murray and Tresslar conspired and committed felonies on the Court.[9]

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[8] *I.e.* 23 Pa. C.S.A. § 5323; § 5327(a) and § 5328(a)(b).

[9] 18 U.S.C. § 241; § 242; § 1001(a); § 1038(b) & 18 Pa.C.S. § 4911.

These court officials also abandoned the clear legal duty to discover what is best for his child.[10]

This initial conference predates PA-Act 112 of 2010, where Scarborough was told that women have a superior right to custody. Officer Hogan informed him that "women get custody 90% of the time," but (137a) shows that "primary custody" was not even an issue raised in the underlying litigation/proceedings.

Officer Hogan illegally granted Mother primary physical custody, without a trial or an evidentiary hearing and without allowing Scarborough to obtain a Custody Evaluation involving both parents, without just cause and without proving him to be unfit.

Officer Hogan granted Mother primary physical custody without requiring Mother to participate in a custody evaluation, even though she had agreed to undergo a custody evaluation with Dr. Esteve and without considering timely; psychological evidence, testing, and diagnostic data demonstrating that Mother suffers from Borderline-Personality-Disorder.

Mother then petitioned to delay visitation and was rushed to the hospital, as she broke out in hives, when overnight visitation was finally granted in 2006.

Officer Hogan failed to consider her relocation motives, when unconstitutionally seizing jurisdiction and illegally proceeded with the custody action even though venue should have been in Bucks County.

The court has a legal duty to discover a parents motives prior to endorsing relocation, to assure that

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[10] 23 Pa. C.S.A. § 6303.

the move isn't "to frustrate the visitation rights" or "to impede the development of a healthy relationship."[11]

By failing to discover her motives, prior to illegally enacting Orders without consent in the wrong venue, Officers lacking personal jurisdiction allowed Mother to remove this child from the proper venue, aiding and abetting her motive to alienate this child.

The fictitious November 16, 2005 custody Order, ludicrously alleges that Scarborough agreed to an Order granting Mother primary custody in a foreign venue without custody evaluation, right of first refusal, equitable time or vacation (*emphasis added*).

His repeated Pleas for equitable time, vacation, right of first refusal and custody evaluation were then withheld or "deferred" from 2005 until 2010. No one has ever inquired, or been required to explain why?

The illegal Order spuriously pretends that he agreed to these fundamental deprivations and which unequivocally shows numerous badges of fraud, when considering these clear and convincing facts.

(145a) vilely asserts agreement without custody evaluation, when the pre-trial statements show the parties agreement. Father participated unilaterally.

Mother's compliance with her participation in the parent's agreed custody evaluation would have been Ordered, had Officer Hogan considered the pretrial

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[11] *Gruber v. Gruber*, 583 A.2d 434, 185 (Pa. Super. Ct. 1990).

statements, or if C.C.P. Northampton County custody conferences were recorded by stenographers.[12]

The state Supreme Court expressly affirms that custody conferences are not a tribunal.[13]

However, as clearly shown by these documents, Mother was iniquitously and fraudulently awarded primary custody in an inapt venue, by Officer Hogan, without having personal jurisdiction, authority, agreement, discovery nor a trial, more then two months after the initial contested conference.

Pursuant to state law, custody conference Officers are precluded from hearing issues of custody.[14]

But the state agencies do not oversee the conduct of conference Officers. The law is frequently ignored, as these court officials are accountable to no one.[15]

Immediately following the initial contested conference, Petitioner's original counselor instructed him to appeal the forthcoming Order and to quickly obtain an attorney from Northampton County.

However, a year later, Scarborough retrospectively learned that his new attorney wrongly assumed the Order to be interim. Had his new advocate read the illegal, fraudulent, unconstitutional custody Order, he would have appealed it as his client demanded.

A year later, his new advocate advised Petitioner that the court would have Ordered Mother to comply

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12 *I.e.* 18 Pa. C.S.A. § 4911.

13 *Ashford v. Ashford*, 576 A.2d 1076, 129 (Pa. Super. 1990).

14 23 Pa. C.S.A. § 3321 and Pa. R.C.P. § 1920.51(a)(2)(iii).

15 *E.g.* 713 A.2d 1104 and 789 A.2d 280.

with her agreement for custody evaluation with Dr. Esteve, had he appealed the Order.

That is, discovery of his child's best interest would have been allowed, had Due Process been afforded.

Meritless excuses were manufactured for the ongoing refusal to appoint the agreed custody evaluator, as his reports cannot be unduly influenced, but instead, uniquely understand Mother's avoidance of evaluation. Only he could best determine her motive to relocate back then [*inter alia*].

In September 2006, Dr. Esteve's role was materially modified in the official court record to rule out his involvement, which has been speciously ruled out several times since. Moreover, opposing counsel initiated a frivolous claim against Dr. Esteve, aiming to permanently rule out this experts involvement.

Petitioner refused his new counselor's request to bring a frivolous suit against his original attorney, in order to similarly fabricate an imaginary conflict.

Both Dr. Esteve and his original attorney have personal experience and knowledge, that could expose the fraudulently concealed facts and reveal the motives, for the willful malicious abuse of discovery.

Both attorneys conspired, striving to disqualify these material witnesses from involvement with this matter, to cover-up the egregious crimes inflicted on the Court, on Scarborough and on his child.

Court's have granted an appeal nunc pro tunc on the basis that a right to appeal may not be deprived by ineffective counsel. Instead, his daughter remains alienated, the facts remain concealed and case status remains obfuscated, by Officers conspiring to injure.

After the deadline for appeal, his new counselor petitioned the court for custody evaluation, advancing the pretrial statements, which evidence the parents agreement for custody evaluation with Dr. Esteve.

A custody conference was held on February 10, 2006. The outcome of this custody conference remains withheld and the underlying custody matter remains unprepared for trial. Officer Hogan was replaced by Officer Murray, who neglected his Plea for discovery.

Neither Officer had personal jurisdiction nor authority over Scarborough's Petition, but instead had a conflict with discovering Mother's mental fitness, relating to the discovery of her motive to relocate and her ability to share custody.

The failure to document the February 10, 2006 custody conference obstructed the administration of law, intending to conceal case status, abuse discovery, delay hearing and cover up the fraud inflicted upon the Court. State actor Northampton County Officers and their accomplices, who are found to have abused discovery, participate in the federal crimes and are alleged to be accessories after the fact. *i.e.* § 241.

Petitioner's new advocate advised him, that he would never obtain the change in outcome needed for actionable cause against him or the others.

Officer Murray materially modified the official court record, changing Dr. Esteve's role from the parties agreed custody evaluator, to "marital therapist." He maliciously abused discovery, to prevent any change in outcome, sacrificing his child's best interest to cover up crimes and to conceal the fraud inflicted on the court, to protect his colleagues.

Officer Murray waited five years to allow family vacation, right of first refusal and custody evaluation.

He retaliated to Scarborough's objection, with increasing connivance to include the willful withholding and/or deferring of fundamental parental rights, the continuing interference with discovery and by the ongoing neglect to enforce the illegal Order.

Awarding custody by gender is unconstitutional. Moreover, Pennsylvania courts are required to consider very significant controlling factors, prior to endorsing relocation. It is illegal to award custody, without considering all of the relevant factors.[16]

Mother instructed the daycare provider, to not allow their child to have contact with her father and would inexplicably call the police when Scarborough attempted to visit his daughter at daycare.

For five years, the police were governed by the illegal Order, which deceitfully asserts that Petitioner agreed to the withholding of his right to first refusal. This unconstitutional Order is void on its face.

The *Gruber* court also determined that the courts are not free to ignore or discount the economic factors, when allowing a parent to move a child. The Central Bucks(County) School District held Mother's tenured lucrative position for two years (maternity policy).

Mother reneged on her paid Sabbatical in Bucks County, to receive half-pay in Northampton County. Her relocation was endorsed by C.C.P. Northampton County, because Officer Hogan had already awarded her primary custody in the foreign venue, a year prior.

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[16] 23 Pa. C.S.A. § 5328(a).

State law specifies relocation requirements. Rather, Petitioner retrospectively learned of Mother's permanent relocation, after the fact, through his attorney at the September 2006 custody conference, which was deliberately delayed for 224 days, until after she returned to work, in the foreign venue.[17]

Had Due Process been afforded, the court would have instructed Mother to return to work and share.

Instead, his new attorney withheld case status, as he failed to appeal (or read) the illegal Order, as it was wrongly assumed interim. *See* Rule 1.4.

Through his counsel, shared physical custody was conditionally offered by Officer Murray, but only if Petitioner would relocate to the foreign venue.

However, because Scarborough was unwilling to relocate; additional time, right of first refusal, vacation and custody evaluation were deferred or withheld until after his child enrolled in kindergarten five years later. That is, once his daughter was enrolled in school, sharing custody is not plausible.

Officer Murray permitted Mother to unilaterally dictate the schedule and to cruelly ruin his child's paternal bond. The withholding of his parental rights was expressly contradicted by the documented opinions of the agreed custody evaluator. Petitioner is a fit father. This plain fact has since been affirmed, with every other bridled attempt for discovery.

The completion of the parties' agreed custody evaluation with Dr. Esteve remains necessary for trial preparation. Instead, psychological evaluations were

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[17] 231 Pa. § 1915.17 (for notice); 231 Pa. § 1930.4 (for service).

Ordered with Dr. Kinney, which document Mother's claim that she had never met Dr. Esteve and that he was never the parent's "marital therapist."

Later, Dr. Kinney was disciplined and sanctioned for his unethical behavior in another case and he was no longer qualified to complete an evaluation.

The raw data from the testing confirmed Father's concerns regarding Mother's mental health and stability. The May 15, 2007 Order required release of MMPI-2 raw data "within seventy-two (72) hours," but her 2006 MMPI-2 raw data was not released.

Discovery was again delayed, waiting almost 300 days to again mandate the release of the 2006 MMPI-2 raw data "within twenty-four (24) hours." When the 2006 raw data was finally released in 2008, it was permanently obstructed by Order.

Custody evaluators' are prohibited from reviewing Mother's significant and peculiar psychological data.

A Custody Conference was held on April 4, 2008, where Officer Murray recommends: "a custody evaluation without prior testing (MMPI-2) and reports, in order to avoid prolonged litigation and Father's request for increased time is "DEFERRED."

This recommendation, which obstructed the finally released 2006 MMPI-2 raw data, was then entered into an Order, where custody evaluators' are prohibited from reviewing Mother's psychological data, while improperly restricting a newly appointed evaluator from contact or consultation with previous psychologists. It's oddly reasoned that "their reports are the subject of criticism by both parties."

On May 9, 2008 Scarborough filed a Motion for Designation of Complex Custody Case and Allowance of Discovery. Hearing was delayed another 190 days. This Motion was then "DENIED." The December 16, 2008 Order, astonishingly concludes on page 12 that: "Father's request that Dr. Nastasee be permitted to contact or consult with Dr. Esteve, Dr. Kinney, and Dr. Gordon will be denied. In accordance with the same reasoning, we additionally deny his request to allow Dr. Nastasee to review Dr. Kinney's raw data."

Dr. Nastasee declined his appointment. Scarborough's Plea for Reconsideration of the December 16, 2008 Interlocutory Order was "DENIED." This Order obstructs future evaluator's from reviewing MMPI-2 raw data and prohibits future evaluator's from having contact with prior evaluators and other experts. This case was designated as "not complex," obstructing the most objective evidence (MMPI-2). "there shall be no discovery in a simple custody proceeding."[18]

To cover up crimes, Mother's MMPI-2 raw data was obstructed by Order and this case was designated "non complex." After three years, Petitioner's third attorney withdrew, advising him to find an out of town lawyer to request an out of town judge.

On June 26, 2009, Scarborough petitioned for "Special Relief," advancing the Parties agreement for a custody evaluation with Dr. Esteve. While an Order was entered for a hearing to take place on July 31, 2009, the hearing was not held nor was it ruled upon.

In 2010, Dr. Ginsberg completed a custody evaluation but was improperly restricted by Order. Dr.

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[18] 231 Pa. Code § 1930.5(a)

Ginsberg was unable to view the MMPI-2 raw data, nor contact other experts, to understand how the most objective evidence was tampered with. This evaluation confirmed that he should not have been denied vacation and other parental rights for five years and concluded that three of every four weekends his daughter should be with her father. But instead, Mother unilaterally dictated the schedule.

Dr. Ginsberg reports Mother "does not understand the importance to (child's) development of having Father involved," Mother "minimizes the importance and nature of Father's relationship with their child."

Said report also documents Mother's claim of being coached by her attorney with the MMPI-2. The state Disciplinary Board would not investigate.

In 2010, Dr. Gordon completed an expert report that critiqued Dr. Ginsberg's custody evaluation and exposes the maliciously abused process. This evidence demonstrates that Mother was coached by her lawyer, to conceal "significant elevation in a scale called psychopathic deviant" and "suffers from Borderline-Personality-Disorder."[19]

Despite numerous requests for custody evaluation, to void the Order granting Mother primary physical custody, and for a trial, this fast-tracked custody action went from early 2005, until 2016, without having a custody trial. The trial was unprepared and delayed because the discovery of Mother's mental fitness was deliberately obstructed.

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[19] See MMPI-2 raw data 126-MM-2018 (Exhibit 17), docketed 19-2455-Appendix on September 27, 2019; (unsealed PHI).

The ongoing malicious abuse of discovery, was purposed to prevent any change in outcome needed for actionable cause, by interfering with the discovery of his daughter's best interest. Each instance of interference, shows badges of fraud on the court.

Officer Murray obstructed Petitioner's attempts for discovery in the underlying custody matter, by the failure to document the February 2006 conference, by deliberately delaying hearing, by materially modifying the official court record and without adequate basis disallowing Dr. Esteve from being the custody evaluator. He disallowed and/or ruled out all possible neutral custody evaluators and appointed Dr. Kinney to serve as an evaluator, even though he was not qualified and had been sanctioned and reprimanded by the State Licensing Board for violating ethical principles and deviating from professional guidelines and standards.

Officer Murray manipulated the two year delay, for the release of Mother's MMPI-2 raw data and when finally released, orchestrated the Ordered obstruction of the most objective evidence. He then influenced the court's "non complex" designation, to obstruct discovery of the fraud inflicted on the court and to willfully hinder any change in outcome needed, for actionable cause verses him or his fellow abettors.

Officer Murray deliberately manipulated and rotated unfamiliar Judges, causing the court's failure to read and consider all of Petitioner's pleadings and manipulated the routine denial of Motions and Petitions, without consideration nor oral argument and fostered the failure to act upon, or rule upon said Pleas. His Kings Bench Petition (271-MT-2011) and other key exhibits were removed from the record.

Officers' Murray and Tresslar failed to require Mother to comply with agreements and they both neglected to enforce the illegal Order.

From April 2008, until February 2016, the court dealt with Petitions for Contempt against Mother and Petitions to modify custody. Generally, the Petitions resulted in Mother being found in contempt and minor changes in Petitioner/Father's partial-custody/visitation/ parenting time schedule.

Counselors ubiquitously abandoned the factual procedural history, but billed considerably for reading emails, for consultations, for filing numerous contempt petitions, for unsuccessful attempts with trial preparation and for clandestine assistance with filing pro se Kings Bench petitions.

Petitioner had no choice but to pay $20,000-$25,000 annually or Mother would have terminated his fundamental parental rights much sooner.

Scarborough was billed in excess of $75,000 for the first unprepared hearing, where Mother refused to admit that her conduct was ever contemptuous.

The ongoing neglect to enforce the order, ratified this fallacious view, which also detrimentally influences his daughter's mistaken perspectives of her Mother's assumed entitlements. His daughter believes that she (not her Mother), decides to not visit her father, nor answer his phone calls or texts. Her chronic lifelong alienation, is viewed as normal.

In December 2015, the parents again agreed that Dr. Esteve would complete a custody evaluation. But Mother's attorney interfered with trial preparation and violated Rule 4.1, by falsely alleging that Dr. Esteve

would not complete the Parties agreed custody evaluation. This email remains discoverable. The state Disciplinary Board would not investigate.

This custody action took over eleven years to have an unprepared hearing, which was finally held in February 2016. The trial was unprepared because the discovery of Mother's mental fitness was obstructed.

The court did not have a current and valid custody evaluation for its decision articulated in the June 9, 2016 Order. The delayed trial was conducted without a full custody evaluation. Any opinions offered by any custody experts were not beneficial to the Court due to the fact that too much time passed between the limited/partial examinations and the custody trial.

The central issue, Parental-Alienation-Syndrome, was not even raised nor considered at the trial, as the discovery of Mother's mental fitness was obstructed.

However, Dr. Gordon testified that he reviewed the raw data from the psychological testing and he believed Mother was coached by her attorney, so she would "respond positively to the information in the MMPI testing" and Dr. Gordon testified: "Mother's testing data revealed that she had significant elevation in a scale called psychopathic deviant."

The June 9, 2016 Order adjudicated Petitioner's Fourth Petition for contempt and fined Mother, holding her in contempt of court, with strong warnings for further non-compliance.

However, the abandoned concealed facts are ubiquitously considered beyond the scope of custody, as his attorney informed him of how Mother's original counselor violated Rule 1023, but would not tell the

court, nor appeal the errant procedural history stated in this Order. Also, the Judge failed to afford Due Process, as he did not obtain nor consider the missing record as stipulated, while first offering opinions and conclusions after the reconsideration hearing.

The parents were both represented, from early 2005 through August 2016 when his fourth attorney drowned. The duty to report misconduct was viewed aspirational by everyone and the authorities would not investigate pro se allegations. *See* Rule 8.3

In September 2016, his "Fifth Petition For Contempt," was filed pro se, to advance the excluded, missing record and Mother's non-compliance, that predictably continued after the trial.

Officer Tresslar contacted Scarborough, through opposing counsel to schedule a teleconference, in order to attempt an informal dismissal of his Petition. The email from counsel remains discoverable.

This Officer frequently compared Petitioner's custody action with her own personal custody battle and prejudicially favored Mother by gender. She influenced the routine denial of his Pleas without consideration nor oral argument and the failure to act upon, or rule upon said Pleas.

Officer Tresslar obstructed Petitioner's attempts for discovery, by fraudulently documenting that he agreed to quash his Fifth Petition for contempt and agreed to be prohibited from contacting Dr. Lane.

Without adequate basis Dr. Esteve was disallowed from being the custody evaluator and all possible neutral evaluators were ruled out.

Officer Tresslar appointed Dr. Lane to complete a Brief Focused Evaluation, but she did not allow the evaluator to have contact with Petitioner, which made it impossible for a complete and accurate evaluation to be completed. Due to the improper restrictions, he was unable to learn about any of the relevant issues.

Had the trial judge adjudicated Scarborough's Fifth Petition, the facts could be finally understood. Instead, Officer Tresslar manipulated a very different outcome by illegally quashing his Petition and by deliberately changing the Judge. As he was promised, a change in outcome would never be obtained.

The deliberately rotated Judge refused to read his Pleas and lacked a rudimentary understanding. Petitioner was excluded from participating and was denied his fundamental right of access to the court.

The January 5, 2017 Order does not require Mother to coparent, which has in essence terminated Scarborough's relationship with his daughter.

Importantly, his daughter has been alienated since birth and the abused process deliberately cripples any ability to adjudicate the relevant issues.

Officers are empowered to maliciously abuse the process via non-recorded conferences, convoluted with illegal ex-parte communications with evaluators, attorneys and Judges. These state actors relentlessly manufacture desired outcomes, by interfering with evaluation, by materially modifying the court record and by fraudulently entering fictitious agreements.

The voluminous case file hides the abandoned factual procedural history from unfamiliar Judges, who are intentionally rotated and unduly influenced

by their colleagues, who manipulate the court's failure to read and consider his pleadings.

Courts' continue to find these claims frivolous because Judges will only read prior rulings, but have never considered Petitioner's well plead facts. The Docket prejudices, where the entire record must be made *void ab inito*, as fraud vitiates everything.

Neither Northampton County, nor their C.C.P. has adequately supervised, overseen nor regulated the egregious misconduct of their Officers, who were the state actor policy makers.[20]

Throughout the course of the custody litigation, his protected federal rights were continuously and egregiously violated and the judgement below, wrongly dismisses these never reviewed claims.[21]

The unconstitutional custody award failed to consider the best interest of Petitioner's child, which detrimentally required her to travel considerable distances between parents, only to be alienated from her father. The illegal Order causes irreparable harm.

The illegal Order was entered based on the recommendations of a conference Officer and not upon the determination of a Judge as required by law.

C.C.P. Northampton has allowed it's Officers to act outside the scope of law, by illegally enacting Orders without consent nor personal jurisdiction.

Respondent failed to enforce the illegal Order and caused confusion by routinely changing Judges.

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[20] *Cf. Coleman v. Kaye*, 87 F.3d 1491, 1499 (3d Cir. 1996).

[21] *I.e.* 42 U.S.C. § 1983, § 1985(3), § 1986, § 1988 and § 12202.

Petitioner's choices for his daughter were not acknowledged nor considered, continuously violating his fundamental right to raise his child.

Respondent failed to protect the constitutionally protected relationship of a parent and child.

SUMMARY OF ARGUMENT

The Court previously affirmed the holding of a singular "lone" claim and held that new claims cannot be raised on appeal. Therefore, the merits of this Rule 60(d)(3) motion were never reviewed, as the prior decision makes no mention of fraud on the court, nor acknowledge the other new claims or serious crimes.

On page 1 of his Rule 60(d)(3) Motion, he sets forth his new claims. Petitioner was informed that women have a superior right to custody, but Equal Protection was not previously raised, reviewed, nor decided.

The court below abuses its discretion when wrongly affirming that Scarborough's new claims are "another recitation of the same allegations and complaints." These conspiracy, criminal fraud and abusive discovery claims have never been recognized, understood, reviewed, investigated nor dismissed.

This judgment errs when disregarding essential motions and by ignoring the applicable equitable estoppel principles advanced, instead affirming that this Rule 60(d)(3) motion is "procedurally improper."

Petitioner's Rule 60(d)(3) motion seeks to quash an illegal Order, as the unconstitutional custody award remains fraudulently misrepresented in the

court record as an "agreement" and there is no statute of limitations for bringing a fraud on the court claim.

This appeal involves Petitioner's ongoing quest for the investigation of federal crimes, where his motion seeks the discovery that Respondent will not grant.

This federal action was caused by the deliberately indifferent state actor court's ongoing refusal to even acknowledge Scarborough's fundamental rights or his jurisdictional challenges or his desperate pleas for discovery. Respondent refused to even read his pleas.

Petitioner has a fundamental right of access to the courts, but no one will read his pleas. To dismiss these new claims as frivolous, substantially shows that courts remain completely unaware of his meaningful causes of action. Judges have only considered prior rulings. But nothing could possibly be gleaned from previous judgments, as fraud vitiates everything.

Despite claiming to have "carefully reviewed the record," it was wrongly held that an officer of the court did not inflict fraud on the court, but instead "his ex-wife." The judgment below misapprehends his new claims, by materially modifying the perpetrator; (5a).

His ex-wife did not "fraudulently advise the state court that he had consented," but instead was fraudulently awarded primary custody by gender, in an inapt venue, by an officer of a trespassing court.

This judgment errs when affirming that he is not raising new claims, but instead is merely relitigating a § 1983 claim "for violating his due process rights by dismissing his appeals." By failing to read, recognize

or acknowledge Petitioner's jurisdictional challenges, the applicable equitable estoppel doctrines, his equal protection or § 1986 claim, his § 12202 claim is proved. Courts are unfamiliar, as no one will read his Pleas.

If fraud on the court and § 1985 were previously reviewed, the prior ruling untenably held that court officials are afforded immunity to maliciously abuse discovery, conceal fraud and to perpetrate crimes.[22]

When considered, Scarborough's well pled facts are undisputed and the Court assumes that all facts are true and gives him "the benefit of all reasonable inferences one can draw from these facts."[23]

However, these facts along with his prime facie evidence were disregarded. The Court would not even review Petitioner's motion for discovery and did not require a response to his jurisdictional challenges. Instead, it was held that the concealed facts are not egregious, lack merit and aren't preserved for appeal.

Discovery has not ever been granted. This fact remains overlooked because every review has been limited to only what other misinformed Judges have previously held. These facts necessitate discovery.

Petitioner's facts and prima facie evidence expose a § 1985 conspiracy, unequivocally showing that Respondent never established personal jurisdiction over

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22 18 U.S.C. § 241, § 242, § 1001(a), § 1038(b).

23 *Leatherman v. Tarrant County Narc. ICU,* 507 U.S. 163, 164 (1993).

him, his property nor his action, which was aptly filed where he resides in Bucks County.[24]

Scarborough raises very relevant jurisdictional challenges, germane to the Court's prior holding of immunity under the 11th Amendment as, "a judge is not immune for actions, though judicial in nature, taken in the complete absence of all jurisdiction."[25]

Absent investigation, discovery, or rebuttal, it was wrongly determined that: 1.) this unconstitutional, illegal Order is not void on its face; 2.) he is not a crime victim; 3.) he is precluded from raising new claims; 4.) his parental rights are not constitutionally protected; 5.) this trespassing court is immune and somehow obtained personal jurisdiction; 6.) immunity is applicable for fraud on the court and for felonies; 7.) an officer of the court did not engage in egregious misconduct, but instead his ex-wife; 8.) custody wasn't illegally awarded by gender and; 9.) the obfuscated issues and concealed facts aren't extraordinary.

This case must be reversed and remanded for a trial, as these are ultimate merits determinations, that should not be reached at threshold inquiry. The question for the Court of Appeals "was not whether (he) had shown that his case is extraordinary; it was whether jurists of reason could debate that issue."[26]

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[24] *Ins. Corp. Ireland v. Comp. des Bauxites*, 456 U.S. 694, 702 (1982).

[25] *Mireles v. Waco*, 502 U.S. 9, 12 (1991).

[26] *Buck v. Davis*, 137 S.Ct 759, 773-774 (2017), similarly demonstrated prejudice under *Strickland v. Washington*, 466 U.S. 668 (1984).

No authority has ever investigated these pro se complaints. It is extraordinary that Courts' have never required a response nor granted discovery.[27]

Discernment of the fraudulently concealed facts or issues and the party-defendants, could only be obtained by first granting discovery. Time could not toll for the participants involved in this conspiracy.[28]

But § 1985 isn't acknowledged, where the facts are ignored since 135-MM-2009. "Under Rule 52(a)[29] District Court is required to set forth findings of fact."

Where the trial court fails to make findings, the judgment is vacated and the action is remanded for appropriate findings to be made. Federal jurisdiction is exercised, "where the state court demonstrated inability or unwillingness to protect federal rights."[30]

How or why this trespassing court ever became involved, remains a key fraudulently concealed material fact, as C.C.P. Northampton County failed to plead or otherwise defend their illegal involvement.

Petitioner asks this Court to review and grant his Rule 55 motion for default judgment and require a response to his important jurisdictional challenges.

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27 Federal Court, DOJ, State Court, J.C.B., Disciplinary Board.

28 *Zenith Radio v. Hazeltine Research*, 401 U.S. 321, 335-338 (1971).

29 *Bradley v. Pittsburgh Bd.-Edu*, 910 F.2d 1172, 1178 (3d Cir. 1990).

30 *Haring v. Prosise*, 462 U.S. 306, 314 (1983).

ARGUMENT

I. THE COURT BELOW MISCONSTRUES PETITIONER'S PRINCIPAL CAUSE OF ACTION

Judgements have not recognized or acknowledged Petitioner's constitutionally protected rights, nor his other fundamental causes of action.[31]

This judgement reviews only "two motions for an abuse of discretion" citing two unrelated cases.[32]

Neither case is relevant or involves egregious deprivations of fundamental parental rights, which are reviewed under the strict scrutiny standard.[33]

The panel misapprehended facts that materially affected the outcome of the appeal, by relying on District Court's strange understanding of Petitioner's meaningful causes of action and errs when affirming that "dismissing his appeals" caused this action.

It was held that this Rule 60(d)(3) motion is not intended to discover the concealed facts, or whether the court was defiled, but rather "to relitigate matters of disagreement" and "to litigate child custody."

Petitioner renews his request to read his pleas, as his claims are surely not frivolous when discerned.[34]

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[31] *Cf. Cooper v. Aaron*, 358 U.S. 1, 18 (1958); 28 U.S.C. § 453.

[32] 176 F.3d 669, 673 and 862 F.3d 1157, 1166 (4a).

[33] *Troxel v. Granville,* 530 U.S. 57, 80 (2000).

[34] *Steffel v. Thompson*, 415 U.S. 452, 460-61 (1974) quoting 111 U.S. 624, 637.

This judgment again dismisses these serious claims absent any comprehension of his federal rights and especially errs when affirming that Petitioner's fundamental parental rights are not constitutionally protected against governmental interference.[35]

This Honorable Court quashes custody Orders.[36]

II. THIS RULE 60(D)(3) MOTION RAISES PRESERVED FEDERAL CLAIMS OF FIRST INSTANCE

The Court previously held that the outlines of Petitioner's claims are "not at all clear," while affirming the review of a singular "lone" claim, deciding that new claims cannot be raised on appeal.[37]

This new judgment now egregiously errs when conversely affirming that instead, he is now "reciting the same allegations and complaints" (plural).

Petitioner's never reviewed new claims were again dismissed without cognizance or hearing.[38]

Scarborough is not "relitigating a § 1983 claim for dismissing his appeals," but instead his Rule 60(d)(3) motion clearly raises a new § 1986 claim for neglecting to prevent a § 1985 conspiracy (*inter alia*).

The Court relies upon a dissimilar case, where "some arguments" were not considered, because they had not been previously made in his Rule 60(b)

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35 *Stanley v. Illinois, supra,* 651.

36 *Palmore v. Sidoti, supra,* 434 citing 334 U.S. 1, 14 and 100 U.S. 339, 346-347.

37 *I.e.* "fraud on the court" or "42 U.S.C. § 12202".

38 *E.g.* federal crimes, civil conspiracy, abusive discovery, fraud on the court, power to prevent, equal protection.

motion or at the evidentiary hearing. But these claims are preserved for appeal, as his Rule 60(d)(3) motion first raises these new claims, not his Rule 59(e) motion.[39]

As this Honorable Court explained in *Lawlor v. National Screen Service*, res judicata does not bar a suit, even if it involves the same course of wrongful conduct as alleged earlier, so long as the suit alleges new facts or a worsening of the earlier conditions.[40]

That is precisely the case here, where new facts are alleged and the injuries Scarborough has suffered have indeed worsened. The ongoing failure to exercise jurisdiction causes irreparable harm.

III. DISTRICT COURT HAS JURISDICTION OVER PETITIONER'S CONSTITUTIONAL CHALLENGES TO STATE ACTION.

Federal Court is not deprived jurisdiction, where a state action does not reach the merits.[41]

Federal Court clearly has jurisdiction over federal crimes and certainly has jurisdiction over whether the process required in this underlying custody suit was adequate as, "adequacy is itself a federal question."[42]

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[39] 632 F.3d 399, 401-02; (4a).

[40] *Id.* 349 U.S. 322, 327 (1955).

[41] *Whiteford v. Reed*, 155 F.3d 671, 674 (3d Cir. 1998).

[42] *Lee v. Kemna*, 534 U.S. 362, 375 (2002).

Federal jurisdiction is exercised over violators of parental rights when determining custody.[43]

Conspiracies when awarding custody may be heard decades later.[44]

But District Court found Scarborough's motion, "procedurally improper," holding that the merits of this motion to quash an illegal Order are barred by time and errs when relying on a dissimilar case, where a different rule; 60(b) imposes a time limit.[45]

The Appellate Court affirmed that Rule 60(d)(3) claims cannot be time-barred, but instead held that the fraud must be directed at District Court, first raising this waivable affirmative defense sua sponte. The case cited merely shows that judgments procured by fraud on the district court may be vacated.[46]

The Court distinguishes between errors by the state court and fraud on the state court, where fraud provides a basis for suit in circuit court.[47]

"The court of chancery is always open to hear complaints against fraud."[48]

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[43] *B.S. v. Somerset County*, 704 F.3d 250, 271 (3d Cir. 2013), citing *Mathews v. Eldridge*, 424 U.S 319, 333 (1976), quoting 380 U.S 545, 552

[44] *Brokaw v. Weaver, Mercer Cnty., Illinois*, 235 F.3d 1000, 1012 (7th Cir. 2000)

[45] 187 F.2d 93, 94-95; (13a).

[46] 549 F.3d 905, 912; (5a).

[47] *Barrow v. Hunton*, 99 U.S. 80 (1878), 83; 111 U.S. 640, 667 and 129 U.S. 86, 101.

[48] *Marshall v. Holmes*, 141 U.S. 589, 595-99 (1891).

The misconduct alleged is far more egregious than the case cited, if considering his undisputed facts.[49]

The Court should vacate this void Order and reverse, as it possesses the inherent power to vacate a judgement obtained by fraud and "to investigate whether a judgement was obtained by fraud."[50]

IV. JUDICIAL NOTICE MUST BE GRANTED, FOR THE COURT'S REQUIREMENT TO HEAR PETITIONER'S CLAIMS.

Because District Court ignored his other motions, the Appellate Court also disregarded Petitioner's motions for preliminary injunctive relief for narrowly tailored expedited discovery, for partial summary judgment, for default judgment and to seal the record.

Petitioner's motion for judicial notice was not considered or reviewed, but instead the Court "must take judicial notice if the party requests it."[51]

The Court didn't require the plead judicial notice:

a.) "there is no statute of limitations for bringing a fraud upon the court claim;"[52]

b.) "the merits of Plaintiff's Hazel Atlas claim have never been decided;"

c.) "When the state trier of fact has made no express findings, the District Court must

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49 874 F.3d 142, 150; (4a).

50 *Universal Oil, supra* 580; *Cf.* 169 F.2d 514, 523.

51 F. R .Evid. 201(c)(2).

52 *Hazel Atlas, supra* 244.

> hold an evidentiary hearing if the State Court did not decide the issues of fact tendered to it."[53]

Judicial notice must be given for the plain fact, District Court must hold an evidentiary hearing.

V. PETITIONER IS PREJUDICED BY THE REFUSAL TO REVIEW HIS MOTION, FOR NARROWLY TAILORED EXPEDITED DISCOVERY OF THE FRAUDULENTLY CONCEALED FACTS.

No authority has ever investigated whether agreement was reached, or why the custody portion of his Complaint was nefariously entertained in the[54] wrong jurisdiction. Discovery has never been granted.

This plea represents a final desperate attempt, to explore the operative causes of Petitioner's injuries and to finally obtain discovery of the fraudulently concealed facts, that Respondent will not investigate.

This federal action was provoked by the state court, who has repeatedly refused to read, consider or investigate the fraud or the other crimes alleged.[55]

Since this action was initiated, the state court has again ignored two additional Kings Bench petitions that request this exact same relief for discovery.[56]

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53 *Townsend, supra* 294.

54 For "the fundamental right of access to the courts" or "the process required in child custody" *see Tennessee v. Lane*, 541 U.S. 509 (2004) citing *Popovich v. C.C.P. Cuyahoga*, 276 F.3d 808, 815 (6th Cir. 2002).

55 135-MM-2009, 271-MT-2011, 684-MAL-2017.

56 126-MM-2018 and 42-MM-2021 (ECF #12).

In 2021 District Court was motioned for discovery, to determine the operative causes of his injuries and to amend the party-defendant(s) as cogent questions remain. Fact-finding, such as investigation, would assist the Court, with determining the issues and identifying the persons and parties to this action, as required by the legal standard for res judicata.[57]

The needed facts and the controlling law could not possibly be concurred, without discovery. Neither the party-defendants, the issues nor the facts could be identified, without first granting discovery.[58]

But this judgment wrongly limits the scope of review to only "two motions" and avoids the applicable equitable estoppel principles raised, for why the Court should Order narrowly tailored discovery.[59]

There is no justifiable reason to exclude his other important motions, especially when the relevant facts remain fraudulently concealed. By overlooking his essential motion for discovery, compounded with Respondent's ongoing failure to defend, Petitioner is prejudiced and he is unable to proceed with his action.

The Court has never reached the question of what would've constituted minimally sufficient discovery.

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[57] *Harris v. Pernsley*, 755 F.2d 338, 342 (3d Cir. 1984).

[58] *Oshiver v. Levin*, et.al, 38 F.3d 1380, 1389 (3d Cir. 1994).

[59] Continuing Violation, Equitable Tolling, Fraudulent Concealment and Fraud Upon The Court Doctrines.

Without discovery, the Court cannot properly judge the merits and will continue to misconstrue Scarborough's meaningful causes of action.[60]

His Rule 59(e) motion was advanced because (25a) dismissed these new claims, unaware of his Rule 15 motion to amend the party-defendants and without documenting any apparent justifying reason.[61]

This judgement finally recognizes/reviews his motion for leave to amend, but denies relief for "undue delay." However, District Court has failed to exercise jurisdiction for almost six years and requests for mandamus were instigated by the tardy judgement, which was unreasonably delayed for 593 days.

The Court failed to recognize his discovery motion, but held "he doesn't present newly discovered evidence; he had ample opportunity earlier in the case to name new defendants." This opinion is vacuous, as discovery is withheld and the additional time has not remedied the prejudice suffered in preparing his case.

The failure to act and the deliberate indifference to the ongoing breached legal duty to protect his rights, engenders an insidious confirmation bias.[62]

Every Foman factor is instead applicable to the state court's ongoing failure to defend and ongoing refusal to investigate the federal crimes alleged. Discovery was not withheld in the case cited.[63]

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60 *Nesbitt v. Erie Coach*, 416 Pa. 89, 97 (1964).

61 *Foman v. Davis*, 371 U.S. 178, 182 (1962).

62 *Cf. Haines v. Kerner*, 404 U.S. 519, 520-521 (1972).

63 252 F.3d 267, 273-74; (6a).

Another case is cited where the order denying leave to amend was vacated and remanded for further proceedings. Just like here "the plaintiff had received no disclosures from the State Defendants."[64]

Despite his prima facie evidence and his well pled facts that make manifest the serious nature of his claims, it was held that "he failed to show that he was entitled to amend his complaint to assert new claims."

VI. PETITIONER'S PRIMA FACIE EVIDENCE HAS ESTABLISHED AN OBLIGATORY REBUTTABLE PRESUMPTION

Petitioner advances prima facie evidence that unequivocally shows, C.C.P. Northampton County could not have personal jurisdiction over him and which clearly justifies a verdict in his favor.[65]

But it was prejudicially held that a response is not required, failing to recognize Respondent's burden of proving jurisdiction when challenged.[66]

Relevant questions about personal jurisdiction are raised, as a Judge is subject to liability "when he has acted in the clear absence of all jurisdiction."[67]

C.C.P. Northampton County cannot confer jurisdiction where none existed and cannot make a void

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64 875 F.3d 140, 147-149; (6a).

65 *See* F. R .Evid. 301; (137a); (142a).

66 *E.g. Time-Share Club v. Atlantic Resorts*, 735 F.2d 61, 66 (3rd Cir. 1984).

67 *Stump v. Sparkman*, 435 U.S. 349, 357 (1978).

proceeding valid. It is clear and well established law that a void order can be challenged in any court.[68]

Immunity isn't afforded to a court absent personal jurisdiction, illegally trespassing on nonresidents.[69]

Respondent failed to prevent a § 1985 conspiracy, refusing to review these claims or grant discovery.[70]

"It is absolutely prohibited to deprive anyone of life, liberty or property without due process of law."[71]

The facts meet the legal standard. Nothing limits a court's power to set aside a judgment for fraud.[72]

VII. THE UNCONSTITUTIONAL ORDER IS FACIALLY VOID AND SHOULD BE IMMEDIATELY QUASHED BY DEFAULT.

Respondent fails to plead or otherwise defend their illegal involvement and has never rebutted any allegation. But his Rule 55 Motion was not reviewed, nor was a response required (7a). This decision should be reversed as it prejudices. Petitioner is unable to[73] proceed and has no other means for obtaining relief.

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68 *Williamson v. Berry*, 49 U.S. 495, 540 (1850).

69 *Kulko v. Superior Court*, 436 U.S. 84, 91 (1978); *Elliott v. Piersol*, 26 U.S. 328-29 (1828); *Rankin v. Howard*, 633 F.2d 844, 848-49 (9th Cir. 1980).

70 *Supreme Court of Virginia v. Consumers Union*, 446 U.S. 719, 735 (1980); *Clark v. Clabaugh*, 20 F.3d 1290 (3d Cir. 1994), 1298; *Novotny v. Great American FSL*, 584 F.2d 1235 (3d Cir. 1979).

71 *U.S. v. Lee*, 106 U.S. 196 , 220 (1882). *See also Scheuer v. Rhodes*, 416 U.S. 232, 237; *Ex Parte Young*, 209 U.S. 123 (1908).

72 *Herring v. United States*, 424 F.3d 384, 390 (3d Cir. 2005).

73 *E.g. Broadcast Music v. Long*, No. 14-CV-449 (M.D. Pa. 2014).

Petitioner's challenges are overlooked, but there is "no discretion to ignore that lack of jurisdiction."[74]

The Court typically notices challenges, reversing and remanding cases for jurisdictional discovery.[75]

The Court must first accept jurisdiction, in order to obtain the concealed material facts.[76]

Discovery would show the Chamberlain factors applicable, as the unconstitutional custody award outrageously states that he agreed for his infant child to be estranged from him in an inapt foreign venue.[77]

Respondent could not have a viable, litigable defense, as Scarborough's plea for "joint custody" in Bucks County, is both clear and convincing, that he and his daughter are victims of serious federal crimes.

Petitioner is entitled to relief, as his prima facie evidence unequivocally proves his claims.[78]

This Honorable Court may be in as good a position as the trial court, to judge documentary evidence.[79]

When findings of fact are not made and the facts are undisputed, this Court can make such findings.[80]

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[74] *Joyce v. U.S.*, 474 F.2d 215, 219 (3rd Cir. 1973).

[75] *E.g.* 318 F.3d 446, 456; 232 F.3d 376, 380; 193 F.3d 766, 776.

[76] *Hagans v. Lavine*, 415 U.S. 528, 542-43 (1974) citing 327 U.S. 678.

[77] *Chamberlain v. Giampapa*, 210 F.3d 154, 164 (3d Cir. 2000).

[78] *Scheuer supra*, 236.

[79] *E.g.* 180 F.2d 537, 539; 635 F.2d 763, 765; 615 F.2d 479, 483

[80] *U.S. v. Gypsum*, 333 U.S. 364, 395 (1948).

Petitioner asks this Honorable Court to consider his prima facie evidence, contemplate the undisputed facts and grant him default judgment; *I.e.* 65(a)(2).

CONCLUSION

Thus, for the reasons stated in his prior filings and in this petition, the Court should award him default summary judgement and quash the facially void illegal, unconstitutional order. His Motions should be granted, where this case should be reversed and remanded to an impartial, interested forum for further proceedings, such as a trial on the merits.

Respectfully submitted,

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