



23-153

No. 22A1024

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SUPREME COURT OF THE UNITED STATES

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RICHARD RYNN, next friend and parent of MR, a  
minor,

Petitioner

V.

GEORGE A Mckay, in his official capacity as  
Director of the Arizona Department of Child Safety,  
and personally, et al

Respondents

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On petition for a Writ of Certiorari to  
The United States Court of Appeals  
For the Ninth Circuit

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PETITION FOR WRIT OF CERTIORARI

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## **QUESTIONS PRESENTED**

1. Does court err omitting facts, dismissing Defendants that kidnapped child, interfered in legal custody, interfered in parental rights, with actions under color of law, in breach of legal signed contract, without judicial authorization and without cause?
2. Does court err in dismissing complaint without ruling on factual subject matter of constitutional rights violations of case?

## **PARTIES TO PROCEEDING**

State of Arizona, Department of Child Safety, Gregory Mckay, Desert Vista Behavioral Health Center, UHS, Quail Run Behavioral Health, La Frontera Empact

## **RELATED CASES**

Rynn V DCS Arizona Supreme court case No. CV- 23-0156-PR

Rynn V Daniel Washburn Arizona Supreme court case No. CV- 23-0157-PR

In Dependency of MR. Division Two  
case No. 2 CA-JV 2023-0098

Rynn v First Transit U.S. Supr. Ct. No. 22A1001

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## REASONS FOR GRANTING THE WRIT

Petition required to resolve constitutional rights violations, interference in parental rights, custody rights, correct factual flaws in judgment's that affect case. Clearly judgements tainted by fraud, referring to April 28, 2017, ex parte judgments, that are not legally enforceable, April 28, 2017, ex parte judgements not disclosed to Rynn until year 2022 in violation of due process-----17

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## **PETITION FOR WRIT OF CERTIORARI**

Appellant Rynn respectfully petitions for a writ of certiorari to review judgement of court of Appeals for the Ninth circuit and United States District court for the District of Arizona.

### **Opinions Below**

Decisions of Ninth Circuit Court of Appeals

Denial of rehearing, March. 1, 2023

Ninth Circuit Court of Appeals

Memorandum, Affirmed Nov.23, 2022

District Court Filed July. 9, 2021

Order Docket No. 96

District Court Filed August. 18, 2021

Order, Docket No. 101

District Court Order Filed August 16, 2018

Order Docket No. 59

### **Jurisdiction**

Appellants Rehearing was denied to the Ninth Circuit Court of Appeals court on March. 1, 2023. Appellants were granted a sixty-day extension within the ninety days and timely filed this petition within the extended

sixty-day time limit. This court has jurisdiction per 28 U.S. Code § 1257.

### **Constitutional Provisions Involved**

Rynn rights violated under Fifth and Fourteenth Amendments of Constitution. Constitutional rights violated under section 242 title 18. Violation of section 1983 title 42 state is person subject to liability. Due Process Violations, Parental rights violations Interference of legal custody, violations of AZ Rule 65.

Per Fifth and Fourteenth Amendments of the United States Constitution. No person shall be deprived of life liberty, violating due process of law, nor deny any person within its jurisdiction the equal protection of the laws. Ingraham v. Wright, 430 U.S. 651, 97 S.Ct. 1401 (1977)

Supreme Court stated liberty includes "freedom from bodily restraint and punishment" and "a right to be free from and to obtain judicial relief, for unjustified intrusions on personal security."

### **STATEMENT OF THE CASE**

This action arose as a kidnapping, assault on April 24, 2017, upon discharge of Rynn daughter returning

home, depriving Rynn liberty rights, constitutional rights violations, interference in legal custody, interference in parental rights, violations of due process, under color of law after a seven day stay of classes at Quail Run location.

Quail Run doctor Tan Fermo told Rynn to take daughter home and Tan Fermo under contractual legal agreement, ordered signed discharge of Rynn daughter (M.R.) to return home on April 24, 2017. Quail Run had a duty to release and return M.R. home on April 24, 2017. Instead of returning M.R. home as legally contractually required, Quail Run, La Frontera without authority, unconstitutionally, unlawfully physically seized M.R. under color of law in Maricopa County without cause from telephone fax from state DCS in Pinal County not physically by state DCS, without obtaining legal custody, without



legal authority, without cause, during April 24, 2017,  
legal discharge to return home.

Defendants on April 24, 2017, unlawfully breached  
legal contract requiring M.R. to return home with  
parents Rynn. Defendants breached contract by  
seizing, imprisoning M.R. instead of returning M.R.  
home on April 24, 2017, as contractually required.  
Breach of contract, interference in legal custody  
continued to last date of accrual of actions under color  
of law to October 9, 2018. Plaintiffs' complaint  
contains sufficient factual allegations to plausibly  
demonstrate elements of each asserted claim.

In *Washington v. Glucksberg*, 521 U.S. 702 (1997),  
Constitution, and Due Process Clause of Fourteenth  
Amendment, protects fundamental right of parents to  
direct the care, upbringing, and education of their  
children. Due Process Clause in Fifth and Fourteenth  
Amendments to United States Constitution, prohibit  
deprivation of "life, liberty, without due process of law.

Defendants provided falsification of facts to courts.

The state violated Rynn constitutional rights to due

process, state does not have a legally enforceable judgement against Rynn and does not have authority over Rynn rights to his children.

State did not serve any court papers to Rynn.

District court judgement is factually false, omitted facts, fraudulent, district court judgment of an arrival of DCS is not cited to record. (Dk.59, pg. 2, line 10)

DCS did not arrive, did not take custody, did not seize Rynn daughter (M.R.) on April 24, 2017, and did not have authority to interfere in Richard Rynn parental rights to custody of his daughter. Defendant La Frontera Renee Miller agreed, contractually provided classes at facility of Defendant Quail Run on April 17, 2017.

Warrant, court order, notice was never issued to seize M.R. on April 24, 2017, bringing liability to Defendants.

Fourth Amendment of Constitution protects citizens from unreasonable search and seizure. Sixth

Amendment guarantees right to public trial, right to lawyer, right to impartial jury, right to know who accusers are, nature of charges, evidence against you.

Rynn deprived constitutional rights under fourth, sixth, fourteenth amendments. Defendant Quail Run entered into a signed legal contractual agreement with Rynn on April 20, 2017. Performance under contract was solely conditioned on M.R. being returned home on April 24, 2017. Defendants had implied obligation to make a reasonable, good faith effort to satisfy contract by returning M.R. home on April 24, 2017. Marcella seized and assaulted on April 24, 2017, without cause, instead of being returned home as contractually required. Dispute not resolved. Legal questions and Contradictions remain between evidence and judgements affecting substantial rights under Rule 103. Fraud proven as Discrepancy between date M.R. seized April 24, 2017, and date of ex parte one party filing April 28, 2017, dependency case,

proving no jurisdiction for a dependency case, and  
actions under color of law, in violation of section 1983  
title 42, violation of due process rights.

State lied to courts, abuse of process, had no legal authority for dependency case, violation of Rynn constitutional rights, due process rights, custody rights, parental rights. AZ § 1-602, Court failure to review material facts, evidence provided by Rynn that affects final judgements. Section 1983 claim against City, state or its officers and those conspiring with it. Plaintiff shows (1) acts by defendants 2) under color of state law 3) deprived Plaintiff of civil rights (such as parent rights), privileges or immunities, and 4) caused damage to Plaintiff.

Defendants did not obtain legal custody of M.R. on April 24, 2017, to October 9, 2018.

1983 claim against either the City or its officers and those conspiring with it. plaintiff shows that 1) acts by

defendants 2) under color of state law 3) deprived him of civil rights (such as parent rights), privileges or immunities, and 4) caused him damage. Thornton v. City of St. Helens, 425 F.3d 1158, 1163-64 (9<sup>th</sup> Cir. 2005) (quoting Shoshone-Barnnock Tribes v. Idaho Fish & Game Comm'n, 42 F.3d 1278, 1284 (9<sup>th</sup> Cir. 1994)). Plaintiff alleges that he suffered a specific injury as a result of the conduct of each particular defendant, and alleges an affirmative link between the injury and that conduct of that defendant. Rizzo v. Good, 423 U.S. 362, 371-72, 377 (1976).

There is conflict between United States District court decision and the evidence.

Errors in final rulings of District court judge John Tuchi Contradictions remain between A and B below.

COURT ORDER (Dk.. 59), 8/16/2018, Case No.:  
2:18-cv-00414-JJT

A. (Dk.. 59, Pg. 2 line 9 to 12) when DCS arrived Zammit reported threat. DCS took custody of M.R. and did not return her to her parents. (Dk. 98 pg. 4)

B. Not true, DCS did not arrive and no threats  
exist on April 24 2017. (Dk. 98 pg. 4) (Dk. 110,  
pg. 1-18)

Court judgements entirely untrue, judgements differ  
entirely from Plaintiffs account of the crime,  
Defendants dismissed without adjudicating pending  
motions, for Summary judgement, AZ Rule 60 motion  
for New Trial, etc. and without an answer from  
Defendants in violation of Fed. Rule 12 (a) due process  
violation. (Dk. 110, pg. 1-18)(Dk. 82, 98, 108)  
Errors remain, failure to address factual matters in  
dispute. Proven bias, evidence omitted, judgement in  
direct contradiction to material evidence supported by  
the record and by Plaintiff personal knowledge of facts  
that are in dispute. Obstruction of justice, Defendants  
purposely lied, omitted material evidence revealed in  
year 2022 in violation of Brady Rule, to subvert final  
judgement to one party without a fair trial.

Fed. Rule 103, (a)(b)(2)(c)(e) court may take notice of error affecting substantial rights.(Commonwealth v Arias 2017 Mass. App. Lexis 148) (Nov. 9, 2017)(Hardwick v. County Of Orange, No. 15-55563 9<sup>th</sup> Cir., 2017) (Beltran v. Santa Clara County. 514 F.3d 906) (9<sup>th</sup> Cir. 2008) District court John Tuchi failed to recuse himself, Tuchi wife Maria del Mar Verdin employed by state Defendants until year 2014 and employed by Department of Child Safety (DCS). Arizona Rule 2.11 (A) A judge shall disqualify himself 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 personal bias or prejudice concerning a party, or personal knowledge of facts that are in dispute in the proceeding. (c) was a material witness concerning the matter; or(d) previously presided as a judge over the matter in another court. Judge John Tuchi is a

material witness in the proceeding of Plaintiff lawsuit

First Transit (Dk. 11) (U.S. Supr. Ct. No. 22A1001)

### **REASONS FOR GRANTING WRIT**

Writ required to resolve fraud, deprivations of constitutional rights. Clearly judgements tainted by fraud, to avoid deprivations of Rynn constitutional rights of liberty, custody rights, parental rights, contractual rights, due process rights, etc. Judgements untrue, vague, failure to adjudicate causes of action starting on April 24, 2017, to last date on October 9, 2018. Fraud remains on record. Defendant Quail Run UHS, Candy Zammit, La Frontera, Renee Miller, etc. each acted under color of law as state actors for Arizona State. State lied, did not take custody of M.R., acted outside of their authority. Defendants, each is responsible for violating custody, parental rights, violations of liberty, violations of civil, constitutional rights, without cause, from causes of action of injury



on April 24, 2017, to October 9, 2018. Ninth circuit failed to correct errors in district courts judgements. Rynn District court Rule 60 motion, rule 59 motion, Ninth circuit Opening Brief, Motion for reconsideration stated DCS did not arrive, courts failed to address the fact DCS did not arrive on April 24, 2017, facts remain in dispute without a final judgement on the merits, in violation of due process.

Court failed to adjudicate a final judgment as it is apparent from the record factual actions on April 24, 2017, not adjudicated, judge biased, Plaintiff evidence not in judgement that DCS did not arrive on April 24, 2017 and did not take custody of Rynn daughter. Truth matters, court must have accurate material facts or judgement is void. State cannot lie of custody without cause, without arriving to Plaintiff and daughter MR. on April 24, 2017. Plaintiff complaint is about an arrival of a paper from DCS, DCS did not

arrive (fraudulent paper). Paper faxed to Quail Run. on April 24, 2017, is now known as fraudulent, not legal. Plaintiffs' complaint said Plaintiff was given a document that said DCS took legal custody. (Doc. 60 pg. 5) a false document given by La Frontera to Plaintiff not by state in contradiction (fraud) to District Court ruling: *DCS arrived, DCS took custody, and DCS did not return her.* (Document 59 Filed 08/16/18 Page 2) Plaintiff objects to State Defendants falsification of material facts on brief to district court (perjury) State Defendants said: *state took emergency custody of MR and filed a dependency petition.* (Doc. 62 page 3) In order for state to take custody of MR state must seize MR.. It is apparent from the record State failed to seize MR. on April 24, 2017. It is apparent from the record there was no emergency and State did not take custody of Plaintiffs daughter on April 24, 2017. State was not at location

of MR and did not see or touch, did not talk to Plaintiff daughter MR. on April 24, 2017.

State did not have authority to phone and fax QR. and LF on April 24, 2017, and lie about a custody as Plaintiff daughter custody belongs to legal birth parents Plaintiff Richard and wife Gelliana. New evidence Discovered in year 2022, State Defendant did not file a court petition until four days later on April 28, 2017, (Doc. 62-1, pg. 1-20) petition is proven false, fraudulent, filed ex parte, without a summons, and without service to Plaintiff in violation of due process, and without notifying courts that state did not seize Plaintiff daughter on April 24, 2017. Rule 4.1, Service of process required.

Violation of due process, Johnson v. Zerbst, 304 U.S. 458, 58 S.Ct. 1019; Pure Oil Co. v. City of Northlake, 10 Ill.2d 241, 245, 140 N.E. 2d 289 (1956)

Defendants responsible for violating Plaintiff constitutional rights, State Defendant did not obtain a legally enforceable judgement, did not obtain legal custody of Plaintiff daughter. Private companies Quail Run and La Frontera for profit seized, kidnapped, Plaintiff daughter at facility of Quail Run during discharge to go home under color of law for state and not by state.

Compensation rightfully due, Defendants interfered in custody, parental rights, caused intentional emotional distress, violated constitutional, civil rights. Case expanded in multiple courts, with errors. multiple contradictions to judge's rulings, unresolved. State Defendant has no immunity for fraud, actions outside of their authority, lying about issues central to case proven by evidence in contrary to statements by Defendants. (Monell v. Department of Social Services 436 U.S. 658) (1978) Ariz. R. Civ. P. 9. Plaintiff

prejudiced by dismissal of case while dispute not  
resolved on the merits.

A.R.S. Rule 52 (5) Questioning the Evidentiary  
Support. A party may question the sufficiency of the  
evidence supporting the findings(6) Setting Aside the  
Findings. Must be set aside when clearly erroneous.

Fed. R. Civ. P. 52(a)(6) Fraud upon the court, In re  
Village of Willowbrook, 37 Ill, App. 3d 393(1962)

### **Conclusion**

For the foregoing reasons, Rynn respectfully  
requests court issue Writ of Certiorari to review  
judgment of Ninth Circuit Court of Appeals and  
District court of Arizona.

**RESPECTFULLY SUBMITTED**

this 31<sup>st</sup> day of July 2023.

  
Richard Rynn