No. ___

IN THE

Supreme Court of the United States

MEGAN KATHRYN SULLIVAN,

Petitioner,

v.

AMANDA MARIE SEATON.,

Respondent.

On Petition for a Writ of Certiorari
to the Supreme Court of Georgia

PETITION FOR A WRIT OF CERTIORARI

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QUESTION PRESENTED

Does a State violate a fit mother's 14th Amendment due process rights if a trial court, without independent judgment, accepts verbatim a proposed order from the opposing party, resulting in a step-parent adoption and termination of the mother's rights, when the decision explicitly rests on "unclear" evidence and the mother's absence of meaningful contact with the child for a year—a situation intentionally and undisputedly orchestrated by the father and step-mother, who used all available means to prevent the mother from accessing the child?

RELATED PROCEEDINGS

Amanda Marie Seaton v. Megan Sullivan, No. 2018A-4(F) (Butts County Superior Court of the State of Georgia).

Megan Sullivan v. Amanda Marie Seaton, No. 2022V-0027(F) (Butts County Superior Court of the State of Georgia).

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PETITION FOR A WRIT OF CERTIORARI

Petitioner Megan Kathryn Sullivan respectfully petitions for a writ of certiorari to review the judgment of the Georgia Supreme Court.

OPINIONS BELOW

The Georgia Supreme Court's order refusing discretionary review (App., infra, at 1a) is unreported. The order refusing discretionary review from the Georgia Court of Appeals En Banc (App., infra, at 2a) is unreported. The order refusing discretionary review from the Georgia Court of Appeals (App., infra, at 3a) is unreported. The judgment entered by the Butts County Trial Court (App., infra, at 4a) is unreported. The underlying step-parent adoption order entered by the Butts County Trial Court (App., infra, at 14a) is unreported.

JURISDICTION

The Georgia Supreme Court denied a timely petition for discretionary review on May 16, 2023. This Court has jurisdiction under 28 U.S.C. § 1257(a).

RELEVANT CONSTITUTIONAL PROVISION

The Fourteenth Amendment to the United States Constitution provides in pertinent part:

All persons born or naturalized in the United States, and subject to the jurisdiction thereof, are citizens of the United States and of the state wherein they reside. No state shall make or enforce any law which shall abridge the privileges or immunities of citizens of the United States; nor shall any state deprive any

person of life, liberty, or property, without due process of law; nor deny to any person within its jurisdiction the equal protection of the laws.

INTRODUCTION

The liberty interest parents have in familial relations with their children is a natural God given right that has been enshrined in our law. It is a right that preexists government and one that we "retain" as a people separate and apart from any statute or constitution. *See In the Interest of E. G. L. B.,* 342 Ga. App. 839, 848 (1), 805 S.E.2d 285 (2017)

For most parents, the joy of having and raising a child is among the most rewarding and fulfilling aspects of life. The Petitioner is widely recognized as a devoted and capable mother. Despite being left by her ex-husband shortly after the birth of their child, she took on two jobs to meet all of her child's needs. Petitioner has never been convicted of a crime, nor has there ever been a finding of neglect or an inability to provide for her child. In all respects, she is considered a fit and stable mother. Her second child, over whom she has custody, is well-adjusted, happy, and an honor roll student at school.

The Petitioner finds herself entangled in a legal system where her ex-husband has forcibly taken their child from her using clearly improper strategies, violating her due process rights. These actions were aimed at removing the child from her care and terminating her parental rights. Primary custody of the child was unjustly transferred from the mother to the father through default judgment. In this scheme, the father knowingly served papers to an incorrect address and then deceived the court by falsely stating that the Petitioner could not be found or contacted, despite having her up-to-date contact information. After securing primary custody by default, he took all measures possible to keep their daughter away from the Petitioner for over a year.

The Petitioner struggled tirelessly to reconnect with her child, but the father successfully employed tactics to keep her away, enabling his new wife to terminate the Petitioner's parental rights by filing for step-parent adoption.

The step-parent adoption petition, initiated by the Petitioner's ex-husband and his new wife, sought to terminate the Petitioner's parental rights. They alleged "abandonment" because of her lack of “meaningful contact” with the child for over a year. To achieve this, they attempted to serve the Petitioner with legal papers using the wrong name and address, even though they had her correct and up-to-date information. Fortunately, the Petitioner discovered the case by chance through a notice by publication. Upon learning about the proceedings, she promptly hired an attorney to contest them. When the father and step-mother were unable to persuade the Petitioner to agree to an open adoption, the matter proceeded to a hearing. During a brief, off the record closed proceeding, the father and step-mother acknowledged their deliberate alienation, justifying it as protection against the mother's “sporadic contact.” The trial culminated in an order that neglected to provide independent written findings or conclusions. Alarmingly, the judge signed the step-mother's largely misleading and false proposed order verbatim without any changes.

The order's lack of constitutional validity amplifies the injustice. It not only acknowledges the father and step-mother's deliberate actions to separate the child from the Petitioner and block contact but also fails to present any evidence of harm, abuse, crime, or neglect that would justify terminating parental rights. This carelessly drafted

document does not base its decision on the clear and convincing evidence that the Constitution requires. Instead of providing concrete reasons, it ambiguously refers to the evidence concerning abandonment and the mother's ability to provide a secure and stable home as "unclear."

However, the Petitioner's fight for her daughter continued beyond the trial level. When she saw the actual order for the first time—since she had never been served a copy of it—she immediately asked the trial court to vacate the order, arguing that it was invalid on its face according to statute and that it did not comply with due process. Despite her efforts, the same trial judge simply signed the step-mother's proposed order again, using the exact same wording.

Despite taking the battle all the way to the Georgia Supreme Court, not a single appellate court offered a written opinion to determine the constitutional validity of the order. Even a dissenting Georgia Supreme Court Judge, who disagreed with the denial of review by the Georgia Supreme Court, provided no written opinion to explain why he thought it should be taken up by that court.

This ongoing struggle has led to the current petition before this Court. It transcends the protection of the Petitioner's constitutional rights, standing as a plea on behalf of all fit parents. It aims to safeguard them from the terrifying reality of having their children unjustly taken from them, based on “unclear evidence” and no independent finding of facts or law by a judge, an egregious violation of due process.

Thus, review is necessary to remind Courts of this nation that in any order analyzing whether a statute has been met to terminate a parents rights,

Judges have a concomitant *constitutional* duty to assess—whether there has been *clear and convincing evidence* that the statutory and constitutional criteria for terminating the natural parent's rights have been proven. This is because there is no judicial determination which has more drastic significance than that of permanently severing a natural parent-child relationship and, for this reason, it must be scrutinized deliberately and exercised most cautiously.

For all the reasons discussed further in this brief, the Court should grant this petition and grant this Mother an opportunity to have her case meaningfully reviewed and heard because the constitution and due process mandates it.

STATEMENT OF THE CASE

A. Legal background

This Court has long regarded the interest of parents in their children as a fundamental liberty interest protected by the substantive component of the Fourteenth Amendment's Due Process Clause. *Troxel v. Granville*, 530 U.S. 57, 65- 67 (2000); *M.L.B. v. S.L.J.*, 519 U.S. 102, 119 (1996); *Santosky v. Kramer*, 455 U.S. 745, 753 (1982); *Quilloin v. Walcott*, 434 U.S. 246, 255 (1978). Parental rights have been deemed "rights far more precious . . . than property rights." *May v. Anderson*, 345 U.S. 528, 533 (1953). This Court has characterized the termination of parental rights as "severe," "irreversible," and as among the most "grave" consequences of "judicial action." *M.L.B.*, 519 U.S. at 118-19 (quoting *Santosky*, 455 U.S. at 759, 787). "Termination denies the natural parents physical custody, as well as the rights ever to visit, communicate with, or regain

custody of the child." *Santosky*, 455 U.S. at 749. Because the termination of parental rights signifies "the severance of natural family ties," the Court has stated that this form of state action "demands the close consideration the Court has long required when a family association so undeniably important is at stake." *M.L.B.*, 519 U.S. at 116-19

The Due Process Clause forbids States from removing a minor child from a parent's custody without a hearing on that parent's fitness. *Stanley v. Illinois*, 405 U.S. 645, 658 (1972) ("all [] parents are constitutionally entitled to a hearing on their fitness before their children are removed from their custody").

This Court recognizes that due process protects a parent's "fundamental right" to "the care, custody, and control of their minor children." *Troxel v. Granville*, 530 U.S. 57, 66 (2000). Unless a parent is unfit, a court cannot separate parent and child—even if the court believes it is in the child's best interests. *Stanley v. Illinois*, 405 U.S. 645, 653-658 (1972).

Terminating a parent's rights to her child, and thus forever foreclosing the possibility of restoring the natural parent-child relationship, is governmental extinguishment of the parent and child's constitutional right to familial relations." *In the Interest of S. O. C.,*332 Ga. App. 738, 743, 774 S.E.2d 785 (2015). Thus, the "analysis is guided by an overarching constitutionally based principle that the termination of parental rights is a remedy of last resort which can be sustained only when there is clear and convincing evidence." Id. at 742, 774 S.E.2d 785.

Among the constitutionally mandated fundamentally fair procedures" is a heightened

standard of proof — clear and convincing evidence. *Santosky,* 455 U.S. at 769, 102 S.Ct. 1388. This standard minimizes the risk of unnecessary or erroneous governmental interference with fundamental parental rights. Clear and convincing evidence enables the fact-finder to form a firm belief or conviction regarding the truth of the facts, and eliminates any serious or substantial doubt about the correctness of these factual findings." The clear-and-convincing-evidence standard ensures that the facts are established as highly probable, rather than as simply more probable than not.

Consequently, before any court may completely and irrevocably sever a parent's rights in his natural child, "due process requires that the State support its allegations by at least clear and convincing evidence." *Santosky v. Kramer* (1982), 455 U.S. 745, 747-748, 102 S.Ct. 1388, 71 L.Ed.2d 599; *see M.L.B. v. S.L.J.* (1996), 519 U.S. 102, 118, 117 S.Ct. 555, 136 L.Ed.2d 473.

The magnitude of this deprivation is of critical significance in the due process calculus, for the process to which an individual is entitled is in part determined "by the extent to which he may be `condemned to suffer grievous loss.'" *Goldberg* v. *Kelly,* 397 U. S. 254, 263 (1970), quoting *Joint Anti-Fascist Refugee Committee* v. *McGrath,* 341 U. S. 123, 168 (1951) (Frankfurter, J., concurring). See *Little* v. *Streater, 452 U.S. 1, 12, 101 S. Ct. 2202 (1981)*; *Morrissey* v. *Brewer,* 408 U. S. 471, 481 (1972). Surely there can be few losses more grievous than the abrogation of parental rights.

The "more stringent the burden of proof a party must bear, the more that party bears the risk of an

erroneous decision." *Cruzan* v. *Director, Mo. Dept. of Health,* 497 U. S. 261, 283 (1990). For that reason, this Court has held that due process places a heightened burden of proof on the State in civil proceedings in which the "individual interests at stake . . . are both `particularly important' and `more substantial than mere loss of money.'" *Santosky* v. *Kramer,* 455 U. S. 745, 756 (1982) (termination of parental rights) (quoting *Addington,* 441 U. S., at 424).

Applying the constitutionally mandated standard of review this Court is bound to do so bearing in mind that the State may not infringe upon or sever this fiercely guarded right of familial relations except in the most compelling and extraordinary of circumstances.

B. The present controversy

Petitioner, Megan Kathryn Sullivan, the mother of two children, single-handedly raised her oldest daughter, A.M.S., for the first five years of her life, forming a strong bond. During this time, A.M.S.'s father, Matthew Seaton, was largely absent and provided little support, falling behind on child support for almost four years after his divorce from Ms. Sullivan.

Starting in July 2014, Mr. Seaton and his new wife, Amanda Marie Seaton, began to show interest in A.M.S.'s life. Ms. Sullivan welcomed this, as she wanted both parents to be involved in her daughter's life.

However, unexpectedly, Mr. Seaton petitioned for primary custody in September of 2014. In March of 2015, Ms. Sullivan cross petitioned for sanctions against Mr. Seaton for failure to pay child support for

almost four years. After several months of litigation, Ms. Sullivan's attorney eventually withdrew because Ms. Sullivan no longer had the financial resources to continue to litigate both cases. Mr. Seaton seized the opportunity to ask for a final custody order and to dismiss the contempt motion against him in February of 2016, Mr. Seaton asked for a hearing setting a final order of custody and to vacate the contempt motion against him for non-payment of child support. Mr. Seaton intentionally sent notice of the custody hearing to a wrong address, despite having up to date contact information and as Ms. Sullivan was not informed, she couldn't attend. Consequently, the court awarded primary custody to Mr. Seaton by default and dismissed Ms. Sullivan's contempt motion. At that hearing on February 28, 2016, a final order of custody was issued awarding primary custody to Mr. Seaton and vacating Ms. Sullivan's contempt motion for child support by default.

Ms. Sullivan was never served with, informed of, or saw the default orders until they were attached as an exhibit to Ms. Seaton's step-parent adoption in 2018. A few months after the default custody order and dismissal of the contempt petition was obtained, Mr. Seaton and his new wife took all possible steps to alienate Ms. Sullivan from A.M.S., eventually blocking calls, blocking visits, and not allowing Ms. Sullivan contact with A.M.S.. Despite all of this, Ms. Sullivan continued to reach out and beg for access to her child.

In March of 2018, Ms. Seaton filed a petition for step-parent adoption, which falsely alleged that Ms. Sullivan 1) abandoned the child; 2) did not pay child

support for a period of more than 12 months; 3) did not ever provide support or care for the child since the beginning of her life; and 4) did not have meaningful contact with the child without justifiable cause.

Eventually, on December 19, 2018, a hearing of less than two hours was presented before the Judge in a proceeding closed to the public. No transcript of the proceeding was obtained because the trial judge asked the court reporter to leave. No independent investigation of the allegations was done as required by O.C.G.A. § 19-8-16(a) and Mr. and Ms. Seaton unequivocally admitted to alienating and blocking visitation and communication between Ms. Sullivan and A.M.S. from May 2016 to the date of the hearing.

On January 28, 2019, the Step-Parent Adoption was granted. No independent findings of facts or conclusions of law were created by the trial judge. The trial judge signed Ms. Seaton's proposed order verbatim, without any modifications, strike throughs or additions. The order itself stated that Mr. and Ms. Seaton alienated A.M.S. from her mother, Ms. Sullivan, and that it was "unclear" how much meaningful time Ms. Sullivan spent with A.M.S. prior to the alienation. The judge's order also provided that there was "scarce evidence" regarding Ms. Sullivan's ability or inability to provide a secure and stable home for A.M.S. pursuant to O.C.G.A § 19-8-10 (b) with no further discussion.

The order itself nowhere near met the "clear and convincing" standard as required by the Constitution. Upon receiving a copy of the actual order, Petitioner took steps to file a motion for the judge to reconsider and vacate its order arguing it did not have the

statutory and constitutional authority to issue such an order because the requirements were not met on the orders face.

However, despite the fact that the strict requirements for the step-parent adoption order were not met, the trial judge once again approved the step-mother's proposed order word for word. Instead of addressing the constitutional and statutory deficiencies that were brought to the court's attention to set aside the order, the judge chose to resolve the case solely on the basis that more than 6 months had passed since the step-parent adoption order was issued.

However, the Petitioner has continued to fight against this constitutionally invalid order, challenging it all the way to the Georgia Supreme Court. Unfortunately, not a single court of review has provided a written opinion explaining whether or why the order was constitutionally sound. While one Georgia Supreme Court Judge dissented regarding the denial of review by the Georgia Supreme Court, he did not provide any opinion to explain his dissent.

This situation underscores the importance of the petition presented to the United States Supreme Court. A review is not only critical to protect the Petitioner's constitutional rights to her child but also vital for all fit parents. Without proper guidance from the Court, these parents could have their children unconstitutionally taken away from them, in violation of the due process clause of the 14th Amendment to the Constitution.

REASONS FOR GRANTING THE PETITION

This case satisfies this Court's traditional certiorari criteria. Certiorari is warranted for three reasons. First, the Trial Courts decision offends the constitution and conflicts with this Court's due process holdings in *Stanley* and the cases following it. Second, the question is exceptionally important, is ripe for review, and requires a uniform national answer. Third, this case is an ideal vehicle in which to answer the substantive due process question presented. Review is warranted.

I. The Trial Court's decision offends the constitution and conflicts with this Court's Due Process precedent.

The Due Process Clause in the Fourteenth Amendment of the United States Constitution protects a natural parent's paramount constitutional right to the custody and control of his or her children. *See Troxel v. Granville,* 530 U.S. 57, 72-73, 120 S. Ct. 2054, 147 L. Ed. 2d 49 (2000). Absent a finding that a parent is (1) unfit or (2) has acted inconsistently with his or her constitutionally protected parental status, the parent's right to the custody, care, and control of his or her child must prevail. A trial court's determination that a parent's conduct is inconsistent with his or her constitutionally protected status must be supported by clear and convincing evidence.

From the wording of the order itself, it is evident that the trial court failed to provide the Petitioner with due process. This failure is highlighted by the court's lack of independent findings of facts and conclusions of law when repeatedly signing the step-mother's orders verbatim. Moreover, the court

essentially determined that the Petitioner had abandoned her child and that the termination of her parental rights was in the child's best interests, without adequately justifying these conclusions.

However, the party seeking to terminate parental rights has the burden to present clear and convincing evidence showing that the parent is not capable or is unwilling to discharge his or her parental responsibilities and that there are no viable alternatives to terminating parental rights. Here the step-mother utterly failed to meet that burden.

When deciding whether to terminate parental rights, the primary focus of a court is to protect the welfare of children and at the same time to protect the rights of their parents. Thus, a court should terminate parental rights only in the most egregious of circumstances.

Because the trial court did not, have consideration of all the viable alternatives to terminating Petitioners parental rights, and find by clear and convincing evidence that none existed, the order terminating her rights must be reversed as unconstitutional under the 14th amendment.

Termination of parental rights is a drastic measure, and there are no means by which those rights, once legitimately terminated, can be reinstated.

The order on its face does not rise to the level of being so clear and convincing as to support termination of the parental rights of the mother, as such action is the last and most extreme disposition permitted by the constitution.

II. The Question Presented is Exceptionally *important and requires a uniform national answer.*

The most natural of relationships, the relationship between parent and child has long been granted special solicitude by American courts. The United States Supreme Court has recognized that "[t]he rights to conceive and to raise one's children have been deemed essential, basic civil rights of man, and [are] (r)ights far more precious . . . than property rights[.]" *Stanley v. Illinois,* 405 U.S. 645, 651 (1972) (ellipsis in original) (internal quotation marks and citations omitted). As a result, a mother's "`interest . . . in the care, custody, and control of [her] children . . . is perhaps the oldest of the fundamental liberty interests recognized by' the United States Supreme Court." *Bedell v. Price,* 70 Va. App. 497, 504-05 (2019)(second ellipsis in original) (quoting *Troxel v. Granville,* 530 U.S. 57, 65 (2000) (plurality opinion)); . This fundamental liberty interest, grounded in the Due Process Clause of the Fourteenth Amendment, dictates "that the custody, care and nurture of the child reside first in the parents, whose primary function and freedom include preparation for obligations the state can neither supply nor hinder." *Prince v. Massachusetts,* 321 U.S. 158, 166 (1944).

A party, whether an individual or the state, seeking to terminate the relationship between a parent and child must make several showings by clear and convincing evidence. *Santosky v. Kramer,* 455 U.S. 745, 769 (1982). As a threshold matter, the party seeking termination must establish that termination serves the best interests of the child; however, the Constitution requires more than a

showing of the best interests of the child to terminate parental rights. To survive constitutional scrutiny, termination also requires clear and convincing evidence of parental unfitness, *Quilloin v. Walcott,* 434 U.S. 246, 255 (1978), and that continuing the parent-child relationship will result in long term harm to a child. *Id,*

An interest is not a "compelling governmental interest" when the state acts selectively to protect that interest but "`leaves appreciable damage to that supposedly vital interest unprotected.'" *Church of the Lukumi Babalu Aye, Inc. v. City of Hialeah,* 508 U.S. 520, 547, 113 S.Ct. 2217, 124 L.Ed.2d 472 (1993)(quoting *Florida Star v. B.J.F.,* 491 U.S. 524, 541-42, 109 S.Ct. 2603, 105 L.Ed.2d 443 (1989) (Scalia, J., concurring in part and concurring in the judgment)).:

The Court has stated *that* "the state's power to interfere in the parent-child relationship is subject to a finding of harm to the child. In *Wisconsin v. Yoder,* 406 U.S. 205 (1972), for example, the United States Supreme Court deemed significant the fact that Amish children would not be harmed by receiving an Amish education rather than a public education. *Yoder,*406 U.S. at 230, 92 S.Ct. at 1540. Likewise, in *Pierce v. Society of Sisters,* 268 U.S. 510 (1925), the Court found that parents' decisions to send their children to private schools were `not inherently harmful,' as there was `nothing in the. . . records to indicate that [the private schools] have failed to discharge their obligations to patrons, students, or the state.' *Pierce,* 268 U.S. at 534, 45 S.Ct. at 573. In *Meyer v. Nebraska,* 262 U.S. 390 (1923), a case in which a teacher had been convicted of teaching a child German, the Court found that

`proficiency in a foreign language . . . is not injurious to the health, morals or understanding of the ordinary child,' and thus the state's desire `to foster a homogeneous people with American ideals' was insufficient justification for forbidding foreign language instruction. 262 U.S. at 402-3, 43 S.Ct. at 628. In *Stanley v. Illinois,* 405 U.S. 645, 92 S.Ct. 1208, 31 L.Ed.2d 551 (1972), the Court required an individualized finding of parental neglect before stripping an unwed father of his parental rights. On the other hand, the Court upheld the conviction of a parent who allowed her child to sell religious magazines, approving state interference designed to prevent `psychological or physical injury' to the child. *See Prince v. Massachusetts,* 321 U.S. 158, 170, 64 S.Ct. 438, 444, 88 L.Ed. 645 (1944).

Lastly, in something as significant as the termination of parental rights, there should be a documented record of the proceedings, including independent findings of fact and conclusions of law. Here, the trial court had no recording or take down of the what happened during the hearing and no independent judgment. It repeatedly signed off on the opposing party's proposed order word for word. The adoption of the deficient proposed order from the step-mother's lawyer by the trial court demands close examination, particularly when parental rights are at stake and there is no recorded account of the proceedings. *See Outdoor Adv. Ass'n of Ga., Inc. v. Dep't of Transp.,* 186 Ga. App. 550, 550, 367 S.E.2d 827 (1988) ("It has been noted that when the trial court adopts verbatim the proposed findings and conclusions of the prevailing party the adequacy of the findings is more apt to be questioned, the losing party may forfeit his undeniable right to be assured

that his position has been thoroughly considered, and the independence of the trial court's thought process may be cast in doubt.")

This Court should grant this petition to provide clear guidance and establish specific guidelines for the nation's courts on the necessary protections that must be in place to align with fundamental principles of fairness and due process. Why is this essential? Because the Constitution demands it, and any instance where even one child is unconstitutionally taken away from a fit parent—as occurred in this case—is one instance too many.

III. This case is an excellent vehicle for resolving the issue

The issue in this case is substantial and sure to recur if not directly addressed. The state courts consider thousands of adoption petitions each year and each must follow due process and must support its decision by clear and convincing evidence as required by the constitution. This case presents a clean and straightforward vehicle for answering the question presented and there are no ancillary or unique facts or considerations that would prevent his Court from issuing a decision of general applicability.

CONCLUSION

For the foregoing reasons, the petition for a writ of certiorari should be granted.

Respectfully submitted,

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August 14, 2023

No. ___

IN THE

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MEGAN KATHRYN SULLIVAN,

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APPENDIX TO PETITION FOR A WRIT OF CERTIORARI

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APPENDIX A

SUPREME COURT OF THE STATE OF GEORGIA

Case No. S23C0127

MEGAN KATHRYN SULLIVAN Plaintiff-Appellant, v. AMANDA MARIE SEATON Defendant-Appellee.	FILED on May 16, 2023

The Honorable Supreme Court met pursuant to adjournment. The following order was passed:

MEGAN KATHRYN SULLIVAN V. AMANDA MARIE SEATON.

The Supreme Court today denied the petition for certiorari in this case.

All the Justices concur, except Peterson, P.K., who dissents.

Court of Appeals Case No. A22D0448.

SUPREME COURT OF THE STATE OF GEORGIA

Clerk's Office, Atlanta

I certify that the above is a true extract from the minutes of the Supreme Court of Georgia.

Witness my signature and the seal of said court hereto affixed the day and year last above written.

s/ Supreme Court Clerk and Court Executive Therese Barnes

APPENDIX B

COURT OF APPEALS

OF THE STATE OF GEORGIA

Case No. A22D0448

MEGAN KATHRYN SULLIVAN Plaintiff-Appellant, v. AMANDA MARIE SEATON, Defendant-Appellee.	FILED in ATLANTA on August 16, 2022

The Court of Appeals hereby passes the following order:

A22D0448. MEGAN KATHRYN SULLIVAN V. AMANDA MARIE SEATON.

Upon consideration of the APELLANT'S Motion for Reconsideration in the above styled case, it is ordered that the motion is hereby DENIED.

Court of Appeals of the State of Georgia
Clerk's Office, Atlanta, August 16, 2022.

I certify that the above is a true extract from the minutes of the Court of Appeals of Georgia.

Witness my signature and the seal of said court hereto affixed the day and year last above written.

s/ Stephen E. Castlen, Clerk

APPENDIX C

COURT OF APPEALS

OF THE STATE OF GEORGIA

Case No. A22D0448

MEGAN KATHRYN SULLIVAN Plaintiff-Appellant, v. AMANDA MARIE SEATON, Defendant-Appellee.	FILED in ATLANTA on July 27, 2022

The Court of Appeals hereby passes the following order:

A22D0448. MEGAN KATHRYN SULLIVAN

V.

AMANDA MARIE SEATON.

Upon consideration of the Application for Discretionary Appeal, it is ordered that it be hereby DENIED.

LC NUMBERS: 2022c0027 2018A4

Court of Appeals of the State of Georgia

Clerk's Office, Atlanta, July 27, 2022.

I certify that the above is a true extract from the minutes of the Court of Appeals of Georgia.

Witness my signature and the seal of said court hereto affixed the day and year last above written.

s/ Stephen E. Castlen, Clerk

APPENDIX D

IN THE SUPERIOR COURT OF BUTTS COUNTY

STATE OF GEORGIA

CIVIL ACTION FILE NO.: 184A(F)

IN THE INTEREST OF	FILED on January 25, 2019
[redacted],	AMANDA MARIE SEATON
DOB: [redacted]	Petitioner: Step-Parent Adoption
SEX: Female	
Minor Child	

FINAL ORDER ON ADOPTION

The Court held a final hearing on December 19, 2018 on the Petition for Step-Parent Adoption which is contested by the Respondent, Megan Sullivan, who is the minor child's natural Mother. Petitioner and Respondent were both represented by counsel and both Petitioner and Respondent testified at the hearing. Petitioner had two other witnesses testify as well: her husband Matt Seaton, the minor child's natural Father who has primary custody of the minor child, and Kristin Siriani, the sister of the Respondent.

After hearing from the parties, witnesses, and considering the evidence, the Court makes the following **FINDINGS OF FACT:**

The natural parents were divorced in 2011 and Respondent was granted primary custody of the minor child, [redacted] (hereinafter referred to as "AMS"), now age nine (9) years. After the divorce Respondent subsequently began travelling between Georgia and North Carolina, where she subsequently moved permanently. Due to AMS being left with the maternal grandparents in Georgia for long periods of time while Respondent was in North Carolina, natural Father began court proceedings to modify custody of AMS. On the day of the final hearing on the modification action, the parties reached an agreement that included the natural Father obtaining primary custody of AMS, visitation with Respondent, and a delayed date for Respondent to begin paying child support to natural Father. The delayed date, twenty-four (24) months from August 14, 2015, was due to Respondent alleging that natural Father was in arrears for non-payment of child support to her while she had custody. The Final Order Granting Modification of Custody, Support, and Visitation, entered by the Superior Court of Henry County, Georgia on February 25, 2016, was admitted into evidence and the Court notes that the Final Order contains a Child Support Addendum, also entered by that Court on the same date. Pursuant to the Child Support Addendum, Respondent's first date to begin paying child support to the natural Father was September 1, 2017 in the amount of $245.00 per month. It is undisputed that Respondent never paid any child support to the natural Father and is now fifteen (15) months in arrears on this support obligation, even though Respondent testified that she is and has been gainfully employed in the adult entertainment industry as a dancer. The Petition was filed on March 12, 2018 and testimony was that since

only six (6) months of non-payment of support had transpired when the Petition was filed, Petitioner did not allege in the initial pleading circumstances which would satisfy OCGA 19-8-10(b)(2). Petitioner did subsequently amend her pleadings on December 19, 2018 alleging that Respondent was now fifteen (16) months in arrears without ever paying anything or providing anything for the care and support of AMS as required by law and judicial decree, however pursuant to OCGA 9-11-15(c) the amended pleading relates back to the date of filing the initial pleading, hence (b)(2) is still not satisfied. However, it is undisputed that Respondent has never paid anything or provided anything for the care and support of AMS for a period of fifteen months at the time of the hearing, not even after the Petition for Adoption was filed.

The Court also considered the testimony of the witnesses regarding Respondent's communication or attempts to make a bona fide attempt to communicate with AMS in a meaningful, supportive, and parent manner pursuant to OCGA 19-8-10(b)(1). The evidence adduced during the hearing was that after the modification order was entered on February 25, 2015 Respondent continued to live in North Carolina and continued to rely on her Mother (AMS' maternal grandmother) to assist with visitation between Respondent and AMS. The testimony was that often Respondent would pick up AMS from the home of the natural Father, take AMS to the grandmother's home and drop her off. It is unclear how much time Respondent actually spent with AMS during visitation periods, but either grandfather or grandmother would always bring AMS back to the home of natural Father at the end of the visitation period. Visitation became complicated when Respondent's mother passed away on October 6, 2016. Testimony was that Respondent would speak with the natural Father and AMS by telephone and make plans to visit with AMS but would frequently fail to show up for the visitation period as planned. AMS would look forward to these visits with Respondent and then be disappointed when Respondent and would have anxiety attacks, biting her nails and visibly shaking. These behaviors were corroborated by the sister of Respondent in her testimony. At school AMS became disruptive and exhibited emotional disturbances at school and at home. Natural Father and Petitioner engaged a therapist to begin counseling with AMS to address her anxiety attacks and her emotional disturbances. AMS met with the therapist weekly for almost a year in 2016 and 2017. Both natural Father and Petitioner testified that after several meetings with the therapist

(who was not called as a witness) to discuss these behaviors of AMS, it was their joint conclusion that things needed to change in the relationship between Respondent and AMS. Natural Father wrote two letters to Respondent on April 21, 2016 and on May 26, 2016 stating the change in behavior of AMS, the counseling with the therapist, and the need to address the behavior of Respondent in visiting with AMS in an effort to alleviate the anxiety and emotional disturbances suffered by AMS. Both letters stated that unless things changed with Respondent's behavior in visiting with AMS, that visitation and contact would not be permitted. Respondent testified that she received both letters but did not reply to either letter sent to her. Thereafter, Respondent had no further visitation with AMS and called or texted natural Father or Petitioner thirteen (13) times in the first thirty-one (31) month time period between May 26, 2016 and December 19, 2018 asking to visit or speak with AMS on the telephone. Several of these phone calls were during the holiday periods when natural Father and his family would be at a lake in central Georgia where cell phone service was not good and natural Father testified that he could not receive the call from Respondent. Nevertheless, natural Father did not allow further contact between Respondent and AMS. Natural father and Petitioner both testified that their action was based on consultations with the child's therapist and what they thought was in the best interests of AMS in an attempt to address her issues with anxiety and emotional disturbances. They both testified that they tried to alert Respondent to these concerns in their letters to Respondent on April 21, 2016 and May 26, 2016, to no avail. Respondent testified that she had been made aware that the anxiety attacks and emotional

disturbances were due to her inconsistent, sporadic, and irregular contact with AMS and that AMS had been seeing a therapist in this regard. Respondent nevertheless denied that her inconsistent, sporadic, and irregular contact with AMS was not in the best interest of AMS.

After considering the testimony of all the witnesses, the Court finds that while natural Father did hinder Respondent in exercising phone contact with AMS and visiting with AMS, his hinderance was founded in attempting to protect AMS from the inconsistent, sporadic, and irregular contact between Respondent and AMS, particularly AMS' periodic anticipation of visiting with Respondent only to be greatly disappointed when Respondent failed to show for the scheduled visitation. Testimony was that Respondent only visited with AMS four times between the time natural Father gained primary custody on August 15, 2015 and April 10, 2016. Respondent missed opportunities to visit during Fall break in 2015, Thanksgiving 2015, and Christmas 2015. During telephone calls with AMS, Respondent promised to take her to the Georgia Aquarium, Zoo Atlanta, and to Disney World. None of these visits materialized. The applicable statute, OCGA 19-8-10(b)(1), provides that the communication or attempts to communicate with the child should be in a "meaningful, supportive, parental manner". The Court finds that Respondent's communications with AMS were far from supportive or parental in manner. In fact, the testimony was that Respondent's communication with AMS and her visitations with AMS were actually disruptive and caused anxiety attacks and emotional disturbances with AMS, as corroborated by Respondent's own sister. AMS eventually told Respondent in a telephone call on Mother's Day 2016 that she did not desire to speak with or visit further with Respondent. Finally, even though Respondent complained in her testimony that natural Father hindered her contact with AMS, she never took any steps to alleviate the hinderance by filing for contempt or for a modification of custody or visitation. The applicable Code section states that the

failure to communicate with the child should be without justifiable cause. The Court finds that Respondent was without justifiable cause in failing to use all resources available to her to enable her to communicate with AMS and that natural Father was justified in his attempts to protect AMS from the vagaries and disappointments of Respondent's repeated occasions of scheduling visitation with AMS and then failing to show up without any apparent reason.

After considering all of the above testimony, the Court finds that Petitioner has proved with clear and convincing evidence that Respondent has failed to communicate with the child in a meaningful, supportive, parental manner for a period of one year or longer immediately prior to the filing of the Petition for Adoption, and thus the requirements of OCGA 19-8-10(b)(1) are satisfied.

Having found that Petitioner has proven the requirements of OCGA 19-8-10(b)(1) with clear and convincing evidence, this Court is of the opinion that the adoption is in the best interest of AMS after considering the physical, mental, emotional, and moral condition and needs of AMS, including the need for a secure and stable home. Petitioner testified that she is a homemaker to her family, which includes AMS and a new baby in the household. She is there daily with AMS, getting her off to school in the mornings, helping her with her homework, playing games with her and taking her to fun places, all of which AMS enjoys. This contrasts starkly with the unrebutted testimony that Respondent would pickup AMS for visitation, drop her off at her grandparents, and then leave. Even now, there was scarce testimony from Respondent regarding her ability to provide a "secure and stable home" for AMS to visit pursuant to the 19-8-10(b). It contrasts starkly with testimony that Respondent would promise enjoyable and exciting trips during planned visitation periods, then simply not show to pick up AMS, leaving a very disappointed child on numerous occasions. Finally, Petitioner testified of her deep love for AMS and how she already considers her to be her daughter. This contrasts starkly with Respondent, who, even after hearing Petitioner testify about how much she loved AMS, never once pronounced her own love for AMS or that she even missed AMS. When asked what her plans were if the Court disallowed the adoption, Respondent did not state that she hoped to rebuild a relationship with AMS; instead she testified only that she would now seek a contempt citation against natural Father. This contrast is not lost on the court. The Court finds that the adoption of AMS by Petitioner is in the best interests of AMS.

IT IS THE ORDER OF THE COURT that the Petition for Step-Parent Adoption is **GRANTED.**

SO ORDERED, this 25th day of January, 2019.

s/ Hon. William A Fears
Hon. William A. Fears
Judge, Superior Court of Butts County

Order Prepared By:
EMMETT J. ARNOLD
Attorney for Petitioner

APPENDIX E

IN THE SUPERIOR COURT OF BUTTS COUNTY
STATE OF GEORGIA

CIVIL ACTION FILE NO.: 2022V-0027(F)

MEGAN KATHRYN SEATON	FILED on June 3, 2022
Petitioner,	
v.	CIVIL ACTION FILE
AMANDA MARIE SEATON	NO. 2022V-0027(F)
Respondent.	UNDERLYING CIVIL ACTION NO. 2018A-4(F)

FINAL ORDER ON DISMISSAL

The Petitioner having filed a Motion to Set Aside Final Order of Step Parent Adoption on January 28, 2022, and the Respondent having been served on February 14, 2022 and having filed her Answer and Motion to Dismiss on February 25, 2022, citing O.C.G.A. § 19-8-18(h) and *Rimmer v. Tinch*, 749 S.E. 2d 236 (2013) and *Oni v. Oni*, 280 S.E. 2d 775 (2013) as grounds for finding that the Motion had been filed untimely and moving that the Motion be dismissed. Petitioner filed a lengthy response in opposition to Respondent's Motion to Dismiss.

The Court finds that it is well established that the time period for judicial challenge of an adoption is within six (6) months of the entry of the Order and any challenge outside that period is specifically barred by O.C.G.A. 19-8-18(h).

Further, Petitioner argues in her Response to the Motion to Dismiss that the Court failed to follow O.C.G.A. 19-8-10(b), hence O.C.G.A. 19-8-18(h) does not apply. On the contrary O.C.G.A. 19-8-10-(b)(I) was followed by the Court in finding that "After considering all of the above testimony, the Court finds that Petitioner has proved with clear and convincing evidence that Respondent has failed to communicate with the child in a meaningful, supportive, parental manner for a period of one year or longer immediately prior to the filing of the Petition for Adoption, and thus the requirements of O.C.G.A. 19-8-10(b)(1) are satisfied. Alluding to the requirements of 19-8-10(b)(2), the Court further found that Petitioner "has never paid anything or provided anything for the care and support of AMS for a period of fifteen months at the time of the hearing, not even after the Petition for Adoption was filed".

Petitioner makes several other claims as to why the adoption should be set aside, however, those claims should have been made within six (6) months of the granting of the adoption, as contemplated by O.C.G.A. 19-8-18(h) and *Rimmer v. Tinch*, 749 SE2d 236 (2013).

Therefore, the Court finds now that O.C.G.A. 19-8-18(h) does apply in this case, and **IT IS THE ORDER OF THE COURT** that Respondent's Motion is **GRANTED** and Petitioner's Motion to Set Aside Final Order of Step-Parent Adoption is **DISMISSED** with prejudice.

Respondent having requested an award of attorney's fees pursuant to O.C.G.A. §9-15-14, the Court finds the Petitioner's claims to be frivolous, requiring Respondent to go to unnecessary experience, and awards $0 to Respondent to be paid to Respondent's counsel with N/A days.

SO ORDERED this 3rd day of June, 2022.

s/ Hon. William A Fears
Hon. William A. Fears
Judge, Superior Court of Butts County

Order Prepared By:
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