

25-5072  
No.

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**In the Supreme Court of the United States**

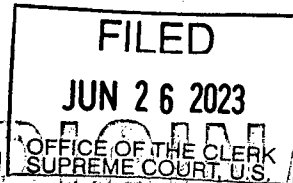
CINQUE ROBINSON,

Petitioner

v.

JANEEN D. GUAJARDO,

Respondent.



ON PETITION FOR WRIT OF CERTIORARI  
TO THE ILLINOIS SUPREME COURT

PETITION FOR WRIT OF CERTIORARI

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## QUESTIONS PRESENTED FOR REVIEW

1. Did the Appellate Court of Illinois, First District err in not vacating the abatement of my parenting time, in determining that the circuit court had subject-matter jurisdiction, even in light of the circuit court's own admissions that, (a) there were no findings, allegations, pleadings or justiciable matter/cause-of-action before the court for which the deprivation of my rights was based and, (b) I was not the party on trial?
2. Did the appellate court err in completely disregarding my constitutional arguments?
3. Did the Supreme Court of Illinois err in denying my motion for leave to appeal the matter to it?

## **PARTIES TO THE PROCEEDINGS**

### **Petitioner:**

I, Cinque Robinson, *pro se*, am the Petitioner in the circuit court and the appellant upon appeal. I was not represented by counsel at any time in this matter.

### **Respondent:**

Janeen D. Guajardo (formerly known as, Janeen D. Watson) is the Respondent in the circuit court and the appellee on appeal. Ms. Watson had an attorney in the circuit court in this matter, but not on appeal.

### **Guardian Ad Litem:**

At the time of the entry of the order abating my parenting time, there was no guardian ad litem appointed. After the order was entered, Vickie L. Pasley was appointed as guardian ad litem for my daughter.

### **The Child:**

The child in the case is a minor, and for that reason only her initials will be used, which are J.R.

## **COPORATE DISCLOSURE STATEMENT**

Per Rule 29.6, the parties to this proceeding are individuals; there are no publicly held or traded corporations involved.

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## PETITION FOR WRIT OF CERTIORARI

I, the Petitioner, respectfully petition for a writ of certiorari to review the constitutional questions pertaining to jurisdiction and due process presented in this case, which contradicts this Court's rulings and the Illinois courts' own rulings.

### PROCEEDINGS BELOW

The Illinois Supreme Court's refusal to review, *In re Marriage of Cinque Robinson v. Janeen D. Guajardo*, Case No. 129445 entered March 30, 2023. The summary dismissal of the Appellate Court of Illinois entered January 31, 2023. In the Circuit Court of Cook County, First District, case number 2006D630907, original order entered May 26, 2020; progeny orders: June 3, 2020 and June 5, 2020.

### JURISDICTION

My petition for leave to appeal to the Supreme Court of Illinois was denied on March 30, 2023. I, hereby invoke this Court's jurisdiction pursuant to 28 U.S.C. §1257, having filed this petition for writ of certiorari within 90 days of the Supreme Court of Illinois' refusal.

### CONSTITUTIONAL AND STATUTORY PROVISIONS INVOLVED

#### U.S. Const. amend. I

Congress shall make no law respecting an establishment of religion, or prohibiting the free exercise thereof; or abridging the freedom of speech, or of the press; or the right of the people peaceably to assemble, and to petition the Government for a redress of grievances.

#### U.S. Const. amend. IX

The enumeration in the Constitution, of certain rights, shall not be construed to deny or disparage others retained by the people.



### **U.S. Const. amend. XIV, §1**

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.

### **Ill. Const. art. I, § 1**

All men are by nature free and independent and have certain inherent and inalienable rights among which are life, liberty and the pursuit of happiness. To secure these rights and the protection of property, governments are instituted among men, deriving their just powers from the consent of the governed.

### **Ill. Const. art. I, § 2**

No person shall be deprived of life, liberty or property without due process of law nor be denied the equal protection of the laws.

### **Ill. Const. art. I, § 3**

The free exercise and enjoyment of religious profession and worship, without discrimination, shall forever be guaranteed, and no person shall be denied any civil or political right, privilege or capacity, on account of his religious opinions; but the liberty of conscience hereby secured shall not be construed to dispense with oaths or affirmations, excuse acts of licentiousness, or justify practices inconsistent with the peace or safety of the State. No person shall be required to attend or support any ministry or place of worship against his consent, nor shall any preference be given by law to any religious denomination or mode of worship.

### **Ill. Const. art. VI, § 9**

Circuit Courts shall have original jurisdiction of all justiciable matters except when the Supreme Court has original and exclusive jurisdiction relating to redistricting of the General Assembly and to the ability of the Governor to serve or resume office. Circuit Courts shall have such power to review administrative action as provided by law.

### **Illinois Compiled Statutes**

**750 ILCS 5/600(e):**

“Parenting time” means the time during which a parent is responsible for exercising caretaking functions and non-significant decision-making responsibilities with respect to the child.

**750 ILCS 5/602.7(b), in pertinent part:**

...the court shall not place any restrictions on parenting time as defined in Section 600 and described in Section 603.10, unless it finds by a preponderance of the evidence that a parent's exercise of parenting time would seriously endanger the child's physical, mental, moral, or emotional health.

**750 ILCS 5/603.10(a), in pertinent part:**

After a hearing, if the court finds by a preponderance of the evidence that a parent engaged in any conduct that seriously endangered the child's mental, moral, or physical health or that significantly impaired the child's emotional development, the court shall enter orders as necessary to protect the child.

### **STATEMENT OF THE CASE**

This is a very simple matter of whether or not the subject-matter jurisdiction of the circuit court in the underlying case, had been invoked very specifically for entering the injunction abating my parenting time and whether or not the appellate and Supreme courts of Illinois erred by not vacating that injunction.

That portion of the background in this case directly relates to the questions presented in this petition for writ of certiorari, and of the parties to this petition that require service, is as follows: The underlying case in Illinois state court is, at this point, a post-decree dissolution of marriage and custody action. I, the Petitioner, Cinque Robinson and the Respondent, Janeen D. Guajardo were divorced on May 17, 2007. There was one child, a daughter, whose initials are J.R., born to us. J.R. was born on August 14, 2006. As of the filing of this petition for writ

of certiorari, J.R. is sixteen (16) years old. The Respondent and I have joint custody, or joint allocation of parental responsibilities. Under Illinois law, "[p]arental responsibilities" means both parenting time and significant decision-making responsibilities with respect to a child." 750 ILCS 5/600(d).

On May 26, 2020, proceeding *pro se*, I filed an emergency motion in the Circuit Court of Cook County, First District, to modify allocation of parental responsibilities, formerly known as custody under Illinois law, and to modify the residential address of the minor child, J.R. My emergency motion and no other pleadings by any party were heard that day, nor were any other matters previously scheduled to be heard that day by the court. The hearing involved testimony from J.R.'s social worker, maternal grandmother and the Respondent, stating and verifying, *inter alia*, that J.R. had failed every subject in school that year which had just ended four days prior to that hearing; and, that J.R. was expressing suicidal and homicidal ideations, while sleeping with and carrying a knife during the Respondent's parenting time.

At the conclusion of that hearing, the court found, *inter alia*, (1) that the matter was an emergency, (2) that I, the Petitioner had not engaged in any misconduct or wrongdoing that is contrary to J.R.'s well-being, and (3) there were no pending allegations of misconduct against me. Yet, the circuit court entered an order completely abating my parenting time. I objected to the court's abatement of my parenting time but it entered the abatement anyway, among other rulings pertaining to the abatement. The court also entered on that same order that a

guardian ad litem would be appointed. On June 1, 2020 the court entered an order appointing Vickie L. Pasley as the guardian ad litem.

On June 4, 2020, I filed an emergency motion to vacate the order abating my parenting time arguing, *inter alia*, that due process was violated because no petition on file asking the court to abate my parenting time, and therefore the subject-matter jurisdiction of the court had not been invoked. There was, in-effect, no cause-of-action upon which the abatement of my parenting time was predicated. I argued this as a violation of the Fourteenth Amendment of the United States Constitution. I also dedicated an entire section of my emergency motion to vacate the abatement to establishing *prima facie*.

After written threats made against me and against the court itself via email on June 4, 2020 by the attorney for the Respondent, and threatening to not show up for court on my emergency motion, the court on June 5, 2020 entered a *sua sponte* summary dismissal of my emergency motion to vacate the abatement, stating that I failed to establish a *prima facie* case. I appealed that summary judgment to the Appellate Court of Illinois, First District, case no. 1-20-0740. That appeal was dismissed for want of prosecution.

On June 15, 2020 the circuit court judge then recused herself from case so that she could complete her political run for a seat on the appellate court, which she won. From that date until December 31, 2021, four different judges presided over this case, as they recused themselves when I accused them of misconduct. In September 2022, the current judge presiding in the circuit court, upon my motion to

vacate the injunction abating my parenting time with all of its progeny, entered an order refusing to dissolve/vacate that injunction. I appealed to the appellate court, which also refused to dissolve/vacate the injunction. I then appealed to the Illinois Supreme Court which refused to hear the matter. Now I am asking this Court to grant me a writ of certiorari to the Illinois Supreme Court and to vacate as void, the injunction that abated my parenting time with all of its progeny on the grounds that the circuit court did not have subject-matter jurisdiction to enter the original injunction specifically, the abating my parenting time on May 26, 2020.

### **REASONS FOR GRANTING THE WRIT OF CERTIORARI**

- A. The Illinois appellate court's findings in its summary dismissal of my appeal seeking vacatur of a void injunction and its progeny, sets an unconstitutional precedent that citizens may, in contravention of constitutional protections be deprived of life, liberty, property, due process and religious freedoms without a trial or hearing, even an ex-parte hearing, and an opportunity to be heard/defend.**

Quoting in pertinent part, *Kerns v. US*, 585 F. 3d 187 Court of Appeals, 4th Circuit, 585 F.3d 187 (2009), the court of appeals,

“recognize[s] that a defendant may challenge subject matter jurisdiction in one of two ways (*citation*). First, the defendant may contend “that a complaint simply fails to allege facts upon which subject matter jurisdiction can be based.” [T]he facts alleged in the complaint are taken as true, and the motion must be denied if the complaint alleges sufficient facts to invoke subject matter jurisdiction.” *Id.*, at 192.

This is exactly what I am alleging in this petition and have been alleging in the Circuit Court of Cook County, Illinois Appellate Court and the Illinois Supreme Court, since 2020. The circuit court's order admits there are no allegations before it against me, asking for anything as a remedy or relief, let alone the abatement of my

parenting time. Being there no petition asking for any remedy, there are no “allegations sufficient to invoke subject-matter jurisdiction.” *Id.*

Illinois courts themselves, including the Illinois Supreme Court have published a plethora of opinions on the topic of subject-matter jurisdiction which in my limited, non-attorney knowledge, believe to be precedential or at the very least, guiding and instructive. In a 2008 Illinois case that exactly parallels the case at bar, specifically addressing the jurisdiction of the circuit court to *sua sponte* terminate a joint parenting agreement, *In re Marriage of Suriano v. LaFeber*, 386 Ill. App.3d 490 (1st Dist., 2008), the “court determined on appeal that the trial court's order was void because the trial court's jurisdiction to determine custody was not properly invoked (citation),...“that the justiciable matter before the trial court was an alleged violation of the visitation provisions of the judgment of dissolution, not child custody (citation),” and “found that...the petitioner was not notified as required by section 601(c) of the Act that the hearing on the contempt petition would involve custody issues.”

In the case at bar, the “justiciable matter” before the trial court was the Respondent was engaging in conduct that was detrimental to the physical, mental, moral, emotional well-being of J.R., and that the overall environment the Respondent was providing for J.R. perpetuated the same.<sup>1,2</sup>

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<sup>1</sup> The jurisdiction of Illinois circuit courts is invoked only for the “justiciable matters” before it. See Ill. Const. art. VI, § 9.

<sup>2</sup> Part of the statutory prerequisite for restricting parenting time by Illinois courts. See 750 ILCS 5/603.10.

Other Illinois cases are: *In re Custody of Ayala*, 344 Ill. App. 3d 574 (2003), where the appellate court found “that the trial court exceeded its jurisdiction when it modified custody when no pleading had been filed requesting such relief. *Id.* at 585. The Ayala court vacated the circuit court orders for want of jurisdiction. The Illinois Supreme Court in, *In re Luis R.*, 941 NE 2d 136 - Ill: Supreme Court 2010, elaborately defined subject-matter jurisdiction and admits that “[t]o invoke a circuit court's subject matter jurisdiction, a petition or complaint need only “alleg[e] the existence of a justiciable matter.” *In re Luis*, at 140. And, just last year, in 2022, the Second District Appellate Court of Illinois in, *In re Parentage of J.N. and C.N.*, 2022 IL App (2d) 210562-U, admits that the circuit court violates due process and does not have subject-matter jurisdiction to enter orders that are not “appropriate to the nature of the case” or matter being heard. *In re Parentage of J.N. and C.N.*, at ¶ 26.

In the case at bar, we were in court on my petition asking for relief against the Respondent and there was no counterpetition, or any other petition before the court being heard, or purported to be heard at that hearing, neither in advance by petition or court order, nor in the moment as if orally announced by the court in the midst of the hearing.

**B. The appellate court’s summary dismissal also contradicts this Court and federal courts’ perpetual rulings that a parent’s rights to raise their children is protected by the United States Constitution.**

It is well established that prior to citizens being deprived of constitutional guarantees, that due process is required. This Court and the federal courts have always ruled that parental rights are constitutionally protected, such as in: *Meyer v.*

*Nebraska*, 262 U.S. 390 (1923); *Pierce v. Soc’y of Sisters*, 268 U.S. 510 (1925);  
*Wisconsin v. Yoder*, 406 U.S. 205 (1972); *Stanley v. Illinois*, 405 U.S. 645 (1972);  
*Duchesne v. Sugarman*, 566 F.2d 817, 825 (2d Cir. 1977); and *Washington v.*  
*Glucksberg*, 521 U.S. 702 (1997).

It is well established, in both federal and Illinois courts, that parents’ rights to raise and direct their children, as religious expression and in general are protected by the First Amendment and the due process clause of the Fourteenth Amendment of the U.S. Constitution. *Stanley v. Illinois*, 405 US 645 - Supreme Court 1972. And, since these rights have been thoroughly established at common law, they are also protected by the Ninth Amendment. See, U.S. Const. amend. IX. Even the Illinois Constitution of 1970 has all of these same protections as does the amendments of the U.S. Constitution that are cited in this petition.

Clearly, there has been no petition or hearing, nor is there any petition or hearing currently pending requesting any deprivation of my parental rights in whole, or in part. No petition means no cause-of-action/subject-matter for me to defend against, nor for the court to base its abatement of my parenting time.

## CONCLUSION

For all the above reasons, the Court should grant the petition for a writ of certiorari.



Respectfully submitted,

  
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