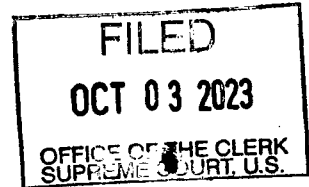


23-6035
No. _____

ORIGINAL

IN THE
SUPREME COURT OF THE UNITED STATES



(In Re) Kinley Mac Donald — PETITIONER
(Your Name)

vs.

State of Maine — RESPONDENT(S)

ON PETITION FOR A WRIT OF Mandamus

United States Court of Appeals; First Circuit
(NAME OF COURT THAT LAST RULED ON MERITS OF YOUR CASE)

PETITION FOR WRIT OF Mandamus

KINLEY MACDONALD
YORK COUNTY JAIL
1 LAYMAN WAY
ALFRED, ME 04002

(Phone Number)

QUESTION(S) PRESENTED

Before the Court is a matter involving unabused children trafficked into foster care by mere hearsay, causing irreparable harm. The mother suffered expected distress as result. The Defendants have weaponized that distress to retroactively justify initial removal, refusal to reunify, abstain from protecting the children suffering foster abuse/neglect, and create more elaborate accusations to terminate a family in absence of all jurisdiction for which Higher Court abstention sanctions such a deprivation of human rights and a departure of settled State, Federal, and International Law that it calls for a desperate plea of a mother to this Court's exercise of supervisory power. Start to Finish, this case - THESE CHILDREN deserve your time. Thank you.

- 1.) Can a judge of two trial courts open a child protective custody case based solely on hearsay accusations prohibited by state statute, then set bail/bond conditions intervening in the protective custody case to refuse the family visitation and reunification?
- 2) Can a judge uninvolved in a protective custody case set bail/bond conditions in an amount higher than a defendant's restitution if found guilty and include no contact with various non-parties including Defendant's own children?

- 3.) Can Defendants create systemic barriers to effective assistance of counsel, deny a Family opportunity of mandated colloquy, reviews, and appeal on issues of abuse of process, jurisdiction, fraud upon the court, abuse of discretion, and judicial misconduct to force a termination of parental rights on a family deprived of the fundamentally fair opportunity to litigate the facts on Court record?
- 4.) Can a state Court of last resort declare a new standard of review of evidence against a class of people with PTSD/depression to "preponderance of evidence" that the diagnosis is, in and of itself, "jeopardy to children when the Supreme Court has demanded a State refrain from a presumption that a class of people are unfit parents (Stanley v. Illinois, 405 U.S. 645, 656-58 (1972)) and requires "clear and convincing evidence of abuse/neglect (Stankis v. Kramer, 455 U.S. 745, 768-7) (1982))?
- 5.) Can a state court of last resort deny appeals/attempts of a mother's redress of the trial court abuses, then echo those abuses to limit and inhibit a Family's right to effective counsel on final appeal; ordering an assumption that ineffective counsel will somehow provide Mother an opportunity to raise Constitutional Questions when counsel has refused/failed for over 1 year?

6.) Can a United States District Court abstain when the State Court is causing irreparable harm to fundamental human rights?

7.) Can a United States District Court and/or United States Court of Appeals objectively deny counsel to a petitioner seeking redress on a matter which requires appointment of counsel prior to appeal?

8.) Can a United States District Court and/or United States Court of Appeals invoke Prison Litigation Reform Act requirements of a petitioner simply because she is being detained in jail?

9.) Can a United States District Court and/or United States Court of Appeals require an indigent Plaintiff to pay filing fees under the Prison Litigation Reform Act when she is NOT pursuing action against the jail?

10.) Can a U.S. District Court refuse counsel, opportunity to be heard by a pro se litigant, then refuse certificate of appealability to prevent a pro se defendant an opportunity to correct error?

List of Parties

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

Petitioner

Kinley MacDonald

c/o York County Jail

1 Layman Way

Alfred, ME 04002

Alana J [REDACTED] ("Alana" or "AJ"), minor child of Petitioner

Brodie M [REDACTED] ("Brodie" or "BM"), minor child of Petitioner

Wlady M [REDACTED] ("Wlady" or "WM"), minor child of Petitioner

Respondents

Daniel Johnson, "father" of AJ, Pro Se
908 Pierce Rd
Phenix City, AL 36870

Bruce Kile, "father" of WM, Represented
by: Roger Champagne
13 Crescent St
Biddeford, ME 04005

by: Mark James
131 S. Taylor St
South Bend, IN 46601

Respondents Continued

David J. Barron, Chief Judge

William J. Kayatta Jr., Circuit Judge

Gustava A. Gelpi Jr., Circuit Judge

Maria R. Hamilton, Clerk

United States Court of Appeals

For the First Circuit

John Joseph Moakley United States Courthouse

1 Courthouse Way, Suite 2500

Boston, MA 02210

Judge John/Jane Doe(s) 1-4 Circuit Justice(s)

Chanda J. Beita, Assistant Clerk

John or Jane Doe I, Clerk of the Court

United States Court of Appeals

For the Seventh Circuit

219 S. Dearborn St

Chicago, ILL 60604-1874

Damon R. Leichty, District Judge

Michael G. Gotsch, Sr., Magistrate Judge

N. Corle, Clerk or Deputy Clerk

John or Jane Doe I, Clerk of the Court

United States District Court

Northern District of Indiana

South Bend Division

1300 S. Harrison St

Suite 1108

204 Main St

South Bend, IN 46601

Respondents Continued

John C. Nivison, Magistrate Judge

John A. Woodcock Sr., District Judge

Christa K. Berry, Clerk

United States District Court

District of Maine

156 Federal St.

Portland, ME 04101

John or Jane Doe(s) 1-5, Maine Supreme Court Justices

J.S. Connors, Supreme Court Justice, Maine

Wayne R. Douglas, Supreme Court Justice, Maine

Horton, Supreme Court Justice, Maine

Jabar, Supreme Court Justice, Maine

Rick E. Lawrence, Supreme Court Justice, Maine

C. J. Stanfill, Supreme Court Justice, Maine

John + Jane Doe(s) 1-3, Clerk

State of Maine

Supreme Judicial Court

205 Newbury St, RM 139

Portland, ME 04101-4125

John + Jane Doe(s) 1-3, Magistrate/Judges

St. Joseph County Probate Court, South Bend

100 S. Michigan St

South Bend, IN 46601

John + Jane Doe(s) 1-5, Magistrate / Judge

Michael Duddy, Judge, Maine

Robert Mulhern, Maine

Respondents Continued

Lce Ann Sutton, Judge, Maine
John + Jane Doe(s) 1-10, Clerk
Alfred Superior Court
45 Hennebunk Rd
Alfred, ME 04002

Biddeford District Court
28 Adams St
Biddeford, ME 04005

Springvale District Court
44 Main St
Springvale, ME 04083

Maine Committee for Judicial Responsibility + Disability,
John + Jane Doe(s) 1-10
P.O. Box 127
Augusta, ME 04332

Maine Counsel on Indigent Legal Services ("MCILS")
John + Jane Doe(s) 1-5, Counsel Members
Justin Andrus, Counsel Member
Christopher Billings, Executive Director
154 State House Station
Augusta, ME 04333

Janet Mills, Governor, Maine
210 State St.
Augusta, ME 04333

Respondents Continued

Board of Overseers of the Bar, Maine

John + Jane Doe(s) 1-15, Bar Counsel Members

John + Jane Doe(s) 1-5, Lay person Members

Maine Department of Health + Human Services (DHHS)

Seane Lambrew, Commissioner

Jesse Cummings, CPS social worker

Kelly Jo Anne Deardorff, CPS social worker

Laura Fisher, Riverview Psychiatric Center Legal Liaison

Robin Grant, Riverview Psychiatric Center Provider

Shelene M. Kirkley, PhD Forensic Examiner

Tara Lynn Picard, CPS Social Worker, Supervisor, Notary

Dr. Rondon, Riverview Psychiatric Center Provider

Megan Thomas, CPS Social Worker

John + Jane Doe(s) 1-15, CPS Social Workers

John + Jane Doe(s) 1-25, Riverview Psychiatric

Center Employees

John + Jane Doe(s) 1-15 Community Care,

Contractors of Maine Department of Health + Human

Services CPS, Employees, Staff, + Directors

by Office of Attorney General, Maine

Aaron Fry, Attorney General

6 State House Station

Augusta, ME 04333-0006

Aron Fry, Attorney General ("AG"), Maine

Martha Hallisey - Swift, Assistant AG, Maine

Maura Keaveney, Assistant AG, Maine

Justina A. McGeHigan, Assistant AG, Maine

Respondents Continued

John + Jane Doe(s) 1-15, Assistant AG(s)

State of Maine

Office of Attorney General

6 State House Station

Augusta, ME 04333-0006

York County Sheriff's Department

John Doe, Sheriff

Steven D Boyd, Deputy

John/ Jane Doe(s) 1-15, Deputies

Indiana Attorneys

Vincent Campiti, Nemeth, Ferry, Masters, and Campiti

350 Columbia St, South Bend, IN 46601

South Bend, IN

Mark James

131 S. Taylor St

South Bend, IN 46601

Christine A. Majewski, for Daniel Johnson

11596 McKinley HWY

Osceola, IN 46561

Maine Attorneys

Seth Berner

169 Clinton St

Portland, ME 04103

Respondents Continued

Randa Caponi
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Saco, ME 04070

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Greene, ME 04236

Roger Champagne
13 Crescent St
Biddeford, ME 04005

Richard Chipman
1 Lincoln St, Suite 2
Bath, ME 04530

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Portland, ME 04104

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P.O. Box 68
Ellsworth, ME 04605

Matthew Crockett, Law Office of Matthew Crockett, LLC
92 Auburn St, Suite 3, #1214
Portland, ME 04103

Respondents Continued

Andrew S. Edwards, Northard Legal Solutions, LLC, P.A.
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Portland, ME 04112

Tamara Gallagher
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Westbrook, ME 04092

Farva Jafri, Jafri Law Firm
50 Evergreen Row
Armonk, NY 10504

Vickie Matthews
26 Millbrook Rd
Scarborough, ME 04074

David P. Mooney
One New Hampshire Ave, Suite 125
Portsmouth, NH 03801

Amanda E. Ramirez, Low Office of Amanda E.
Romirez, former counsel of Daniel Johnson
P.O. Box 78
Scarborough, ME 04674

Brittany Sawyer, Holmes Legal Group
2145 Post Rd
Wells, ME 04090

Respondents Continued

Victorine Silver, Boothby Silver, LLC
22 School House Hill Rd, Suite 105
P.O. Box 216
Turner, ME 04282

Stephen Swett
1250 Forest Ave, Suite 3A
Portland, ME 04103

Andrew Wright
16 Union St
Brunswick, ME 04011

Foster Care Contractors
John + Jane Doe(s) 1-10
Edwin + Amanda Santana

Megan Valente
1156 North Rd
Parsonsfield, ME

Sheriff John Doe 1
John + Jane Doe 1-5, Deputies
John Doe 1 Chd of Police, Old Orchard Beach P.D., ME
John + Jane Doe(s) 1-5, Town of Old Orchard Beach P.D., ME

Lily Stopnicki, social worker/counselor contractor with DHS

Jane + John Doe(s) 1-5, Counselors for minors

Jane + John Doe(s) 1-10, counselors, providers

John Doe 1, Former appointed standby counsel for
Mother

RELATED CASES (RC('s))

State of Indiana

- I. Mary Angela Johnson (now Kinley Mary Angela MacDonald) v. Daniel Johnson, (involving Alana J [REDACTED]), Probate Court, Marion County, IN transferred to St. Joseph County, IN
- II. In Re Brodie M [REDACTED], Probate Court, St. Joseph County, IN
- III. In Re Wlady M [REDACTED], Probate Court, St. Joseph County, IN

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 - In Re Children of Kinley M., Supreme Judicial Court, Judgement May 30, 2023
- VII. State v. Kinley MacDonald, Superior Court, YRKCD-CR-20-00522
- VIII. MacDonald v. State of Maine, Supreme Judicial Court, 23-32

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- IX. Maine, MacDonald v. Duddy, et al, 2:22-cv-00293-JAW
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requested. The Dropbox link is <https://www.dropbox.com/scl/fi/6gqa5qxl3znq418os7ao7/writ-of-mandamus-and-writ-of-advisory-1.pdf?rlkey=wrdf5947t232qlraie4jad2s&dl=0>.

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- APPENDIX C, New Commitment order; \$100,000.00 bail, No contact w/ many non-parties including All 3 of Mother's minor children.
- APPENDIX D Pro Se Petition for De Novo Redetermination of bail/bond provided by York County Jail for hearing in 48 hrs. (example).
- APPENDIX E TPR "standby counsel's" letter referencing Order from trial court denying motions in violation of UCCSEA
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IN THE
SUPREME COURT OF THE UNITED STATES
PETITION FOR WRIT OF CERTIORARI

Petitioner respectfully prays that a writ of certiorari issue to review the judgment below.

OPINIONS BELOW

☒ For cases from **federal courts**:

The opinion of the United States court of appeals appears at Appendix A to the petition and is

☒ reported at Unknown; or,
☐ has been designated for publication but is not yet reported; or,
☐ is unpublished.

The opinion of the United States district court appears at Appendix _____ to the petition and is

☐ reported at _____; or,
☐ has been designated for publication but is not yet reported; or,
☐ is unpublished.

☐ For cases from **state courts**:

The opinion of the highest state court to review the merits appears at Appendix _____ to the petition and is

☐ reported at _____; or,
☐ has been designated for publication but is not yet reported; or,
☐ is unpublished.

The opinion of the _____ court appears at Appendix _____ to the petition and is

☐ reported at _____; or,
☐ has been designated for publication but is not yet reported; or,
☐ is unpublished.

JURISDICTION

☒ For cases from **federal courts**:

The date on which the United States Court of Appeals decided my case was Aug 17, 2023.

☐ No petition for rehearing was timely filed in my case.

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

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

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

U.S. Supreme Court Rules 11, 12.4, 20, 33, 34

28 U.S.C. § 1292, § 1331, § 1343(a), (1), (2), (3), (4), § 1357, § 1367(a), § 1369(c), (1), (c),

§ 1443(1), (2), § 1651(a), (b), § 2101(c), § 2201(a), § 2202, § 2241, § 2243, § 2254(a)

§ 2283, 42 U.S.C. § 1983, § 1985(2), (3), § 1986, § 1988, §§ 12101-12213

☐ For cases from **state courts**:

The date on which the highest state court decided my case was _____.
A copy of that decision appears at Appendix _____.

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

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

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

CONSTITUTIONAL AND STATUTORY PROVISIONS INVOLVED

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<u>Statutes</u>	<u>Location in Petition or Statement</u>
28 U.S.C. § 1251 (a), (3)	RC('s)
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28 U.S.C. § 1254, (1)	RC('s)
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28 U.S.C. § 1292	Jurisdiction, p. 2
28 U.S.C. § 1331	Jurisdiction, p. 2
28 U.S.C. § 1343 (a), (1), (2), (3), (4)	Jurisdiction, p. 2
28 U.S.C. § 1357	Jurisdiction, p. 2
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CONSTITUTIONAL AND STATUTORY PROVISIONS INVOLVED

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STATEMENT OF THE CASE

- 1.) Petitioner/Appellant/Mother (hereafter "Mother") restates + recollects facts presented in related cases filed with the aid of Court records and other evidence prior to pretrial inmate status, but summarizes from memory below:
- 2.) At all relevant times, Mother and her 3 children; Alana J. [REDACTED] (hereafter "Alana"), Brodie M. [REDACTED] (hereafter "Brodie"), and Wlady M. [REDACTED] (hereafter "Wlady"), maintained residency in the state of Indiana (hereafter "IN") with active custody cases within St. Joseph County Probate Court. See Related Cases (hereafter "RC(s)") I, II, III.
- 3.) Mother and children received temporary domestic violence (hereafter "DV") resources in the state of Maine (hereafter "ME").
- 4.) Mother remarried in South Bend, IN, Aug. 2000.
- 5.) Mother suffered DV in her new marriage. IN hospital notified IN child protective Services (hereafter "CPS") because the children were home, but unaware of D.V. Mother and children had separated back to ME, but Mother reconciled with her husband while cooperating with IN police + CPS.
- 6.) With Mother's consent, IN CPS requested a "Courtesy interview" from ME CPS. ME CPS, however, refused; opening their own investigation against Mother without informing her. See RC's VI, ~~XV~~ for documents.
- 7.) IN CPS closed their investigation as "unsubstantiated". Mother was not informed. See RC's VI, ~~XV~~ for documents (hereafter "docs").

- 8.) ME CPS called Mother accusing her of "Medically neglecting" her children in Oct. 2020. Mother brought her children + their medical records to York Beach, ME Police Department (hereafter "ME PD"). CPS never showed. See RC's VI, XV for docs + photos.
- 9.) Mother and children returned to husband in IN
- 10.) Jan. 2021, Mother, children, and husband returned to ME. ME CPS filed a fraudulent petition with only hearsay to remove the children for "medical neglect" and without prior notice to Mother. See RC's VI, XV for docs.
- 11.) Judge Mulhern erroneously accepted the deficient petition based solely on a hearsay affidavit (prohibited by 22 MRS § 4034-A) as a "sworn statement is mandated to support other evidence within the petition, violating 22 MRS § 4034(1). See RC's VI, XV for docs
- 12.) Counsel was appointed to Mother whom Mother directed to move to dismiss the case. Counsel refused all of Mother's requests. Eventually, Mother directed her to withdraw. Without hearing, Judge Daddy granted the withdrawal, but denied replacement counsel, violating 22 MRS § 4005(2). See RC's VI, XV for docs.
- 13.) Mother, children, + husband returned to IN. Mother obtained Protection from abuse orders against her husband for herself + her children, filed for divorce, moved out of the marital home, and cooperated with IN police and IN CPS. Alana and Brodie were interviewed on video. All allegations of child abuse/neglect (called in from ME CPS) were closed as "unsubstantiated." See RC's VI, XV for video links + docs.
- 14.) Mother and children temporarily returned to ME. The family was under

Surveillance while Alana attended internet school and Mother rode bikes with Brodie and Wlady. A secret hearing took place to remove the children; violating 22 MRS § 4003, in absence of all jurisdiction required within UCC 3EA (19-A MRS § 1745, § 1747). See RC's VI, XV for docs.

15.) Mother was pulled over by ME police. They threw the Court Orders to take the children in Mother's car, violating 22 MRS § 4033. See RC's VI, XV for video.

16.) Mother returned home. ME PD refused to allow her inside. Mother demanded a warrant for entry + was falsely arrested. See RC's VI, XV for docs + video.

17.) ME PD stormed the home in full riot gear without warrants required by 22 MRS § 4039; terrifying the children who were taken to the ER, received a "wellness exam," re-vaccinated, and separated into foster care. CPS refused to disclose the locations to Mother mandated under 22 MRS § 4033(3-A). See RC's VII, XV for docs.

18.) Mother attended a bail/bond hearing with the same judge that originated the malicious CPS case; Mulhern. Mother was muted on the Zoom hearing while the state alleged abuse/neglect. Judge Mulhern released Mother on personal recognizance, but supervised with NO contact with her non-party children without CPS approval; violating 22 MRS § 4034(6), § 4034-A. See RC's VI, XV for docs.

19.) Opportunity for immediate return of the children was through Summary Preliminary Hearing (hereafter "SPH"), but Mother's newly appointed counsel postpored to resolve Judge Mulhern's bail/bond restrictions; further depriving the family of mandated visitation (22 MRS § 4034(4)) See RC's VI, XV

20.) SPH commenced with CPS worker Deardorff as State's only witness, stating

Mother was "emotionally disregulated" in IN and with the children's medical providers. This worker was/is restricted by license + law from making mental health assessments - particularly without having witnessed alleged "behaviors". CPS alleged DV exposure to the children when Mother had resolved the DV 2 months prior. Although "hearsay" is allowed for SPH (only) per 22 MRS § 4034-A(1), no admissible hearsay took place. Still, Judge Sutton refused return of the children nor did she invoke visitation mandated by 22 MRS § 4034(4), § 4034(6). See RC's VI, XV for docs.

- 21) Mother immediately requested appeal, but was counseled: "There is no appeal unless your rights are terminated," incorrect interpretation of 22 MRS § 4006. See RC's VI, XV for docs.
- 22) After 31 days, Mother saw her children for 3 hours, and twice in 2 months; violations of 22 MRS § 4034(6), § 4041(1-A)(A). See RC's VI, XV.
- 23) Mother's counsel attended a pre-hearing conference + sent Mother a text stating Judge Duddy threatened Mother to think about an "agreement" with CPS or his findings would be "similar" or "more harsh" than that of the SPH Order. Mother's counsel (incorrectly) re-advised there would be "no appeal" if Judge Duddy made good on his threats. By 22 MRS § 4034-A, SPH evidence and Orders are restricted from all other proceedings. See RC's VI, XV for texts + docs.
- 24) May 2021; Judge Duddy (Judge of removal Order), held a hearing mandated by 22 MRS § 4035, but after the required 120 days of 22 MRS § 4035(4) where he repeated his threats; get into an "agreement" with CPS or trial will result in more difficult reunification with the children. Duressed; Mother agreed to reunification (Order 22 MRS § 4004-A); she agreed to continued DV involvement because she had exposed the children to a man that abused (only) Mother,

and left him 3 months ago, and Mother would undergo a neuropsychological evaluation (hereafter "neuropsych eval"), and undergo counseling-

25.) Mother immediately engaged with providers per "agreement" without State supports mandated by 22 MRS § 4041. Unbeknownst to Mother, the "agreement" was converted into a "Jeopardy" Finding + Order without the required hearing (22 MRS § 4035), jurisdiction (UCCSEA; 19-A MRS § 1745, § 1746, § 1747, § 1748, § 1749), or evidence of "Jeopardy" defined by 22 MRS § 4002. The standard was "preponderance of evidence" where the only "evidence" was the SPH order restricted by 22 MRS § 4034. The "Jeopardy" order was void required reunification (22 MRS § 4041(1-A)(A)). Instead, the "Reunification plan" stated, "adoption," a plan Mother wouldn't have agreed to with a gun to her head. See RC's VI, XV for docs.

26.) After the "agreement," CPS cancelled the family's next visit. Mother demanded counsel resolve the matter with the Judge, but Counsel was reluctant. Mother gave the ultimatum; resolve visitation or withdraw. Counsel filed Motion to Withdraw + Replace Counsel + was set for hearing. (RC's VI, XV)

27.) At the hearing, Mother explained she would not allow any more time lost with her children. Judge Duddy disparaged Mother, refused to address visitation, and ordered Mother to have only "standby counsel" in violation of 22 MRS § 4005(2).

28.) Without counsel, Mother remained unaware the "agreement" turned into a "Jeopardy Finding/Order," and time for appeal was expiring. Judge Duddy also created 2 orders on removing Mother's counsel citing forfeiture from State v. Nisbet, 134 A. 3d 840 (ME 2016), which actually described the removal of Mother's Counsel an error. The orders were not distributed to Mother. See RC's VI, XV for docs.

- 29.) In haste, Mother hired Counsel to appeal Judge Duddy's actions, who negligently failed to acquire the court record or appeal as agreed. When Mother fired him, he retaliated by stating Mother was "hostile" in his Motion to withdraw (Statement recanted under oath; See bar complaint against Stephen Sweatt).
- 30.) Mother filed "Motion to Strike" Counsel's Stander + Motion for appointed Counsel. Judge Duddy denied both, but stated Motion for Counsel was "premature;" providing the "Standby Counsel's" information from his undistributed Orders proscribing Mother to earn back her right to counsel from his undistributed orders See RC's VI, XV
- 31.) "Judicial Review" (22 MRS § 4038(2)) was scheduled the same day as Mother's "agreement" neuro-psych eval. "Standby" Counsel could not commit to representing Mother prior to the hearing. Mother filed "Emergency Motions" to Continue the hearing + replace Counsel See RC's VI, XV
- 32.) "Judicial Review" commenced without Mother; Judge Duddy refused to read Mother's Motions prior to the hearing; accusing her of misconduct. Matters unrelated to Judicial Review (22 MRS § 4038(2)) were heard; custody matters with Daniel Johnson when Judge was informed Mother was not served. Afterward, hired Counsel was granted withdrawal, but "standby counsel" was ordered to submit motion to withdraw in writing. See Transcripts of Jul 30, 2021 in RC's VI, XV
- 33.) Mother was notified "Judicial Review" took place in spite of her motions by an email from the state with a "proposed jeopardy order." Mother denied abuse/neglect or statements CPS was providing "adequate effort." Mother objected requesting oral arguments. See RC's VI, XV
- 34.) Judge Duddy granted Mother's motion + rescheduled Judicial Review for Sep. 2021, See RC's VI, XV.
- 35.) Unbeknownst to Mother, "standby" counsel filed the written motion to withdraw. Judge Duddy scheduled another hearing on the matter for Oct, 2021; leaving Mother without

counsel for "Judicial Review" and appealable matters; violating 22 MRS § 4005, see RC VI, XIV.

36.) The children suffered physical + emotional abuse/neglect in foster care. Mother took photos of Wladys black eye (2 yrs) and Brodie's injured and infected foot (5 yrs). CPS refused to intervene. Mother called police. CPS discredited Mother's report by stating Mother suffers "undiagnosed mental illness." Police then, refused to take the children to the hospital. Desperate, Mother hired the next lawyer to pick up the phone whom accepted a retainer, then went on vacation + remained unreachable + ineffective. Mother fired her + filed a Pro Se Motion for sanctions against CPS including evidence of foster abuse, and Mother's neuropsych eval stating, although Mother has PTSD/depression, no issues with reality/personality pathology. Mother's "agreement" requirements were complete for the children to come home. See RC VI, XIV for all documents/photos + evidence.

37.) At "Judicial Review," Judge Duddy refused to hear of foster abuse; demanding Mother's neuropsych eval. Mother explained it was in her motion he hadn't read. Review was continued violating 22 MRS § 4038(1). See RC VI, XIV for documents.

38.) Sept. 2021, "Judicial Review" commenced with matters Mother hadn't been served for including a case of neglect/abuse against Daniel Johnson for "failure to protect" Alana from "Mother's jeopardy." Mother objected on jurisdiction + lack of Notice, Judge Duddy disregarded. Judge Duddy refused to hold Judicial Review (22 MRS § 4038), humiliated Mother publicly as "irrational" and "mentally ill" before threatening Mother to accept the State's proposed jeopardy Order or "reunification" would "slow way down" and Judge Duddy would hold a "Contested Judicial Review" to allow the State to probe for new evidence of jeopardy + warning he would find Mother's disability to be "Jeopardy" because she "could not provide" for her children (basically a Jeopardy hearing (22 MRS § 4035). Mother refused to admit to jeopardy. Judge Duddy concluded violating UCCSEA (19-A MRS § 1245, § 1246, § 1247, § 1248, § 1249, 22 MRS § 4005),

See RC's VI, XV for ("spliced") transcripts of Sept. 30, 2021 hearing + documents.

- 39.) Mother made repeated requests for all prior transcripts, but Judge Puddy allowed 2; July 30, 2021 ("Judicial Review") and Sept. 30, 2021 ("Judicial Review"). The Sept transcripts were suspiciously missing important statements, but Mother submitted to the Committee on Judicial Responsibility + Disability for investigation. They declined.
- 40.) Maine Council of Indigent Legal Services (hereafter "MCILS") provided Mother with Counsel whom identified + clarified the issue; Mother's "agreement" was converted to a "jeopardy order/finding." New Counsel planned to resolve in next "Judicial Review."
- 41.) As threatened, Mother saw her children less and less as they saw each other less + less. Foster abuse/neglect continued; causing Mother to suffer a panic attack at home. Although Mother recovered, CPS ceased family visitation in opposition to requests of Mother's counselor + children's GAL. The state demanded a "family team meeting" prior to re-engaging family visits; taking weeks to schedule. See RC's VI, XV for documents.
- 42.) "Family Team Meeting" commenced with no intended purpose; the state refused to define or describe "jeopardy" mother posed to the children or why the state was refusing reunification efforts/supports/adequate visitation. Visitation resumed but remained limited. See RC VI, XV for video of Family Team Meeting + docs.
- 43.) CPS attempted to serve Mother with a petition to terminate her parental rights; notarized by a CPS worker that "Mother agrees." Mother never received this document from CPS + Moved to Massachusetts (hereafter "MA") to transfer the case while still visiting the children. See RC VII, XV.
- 44.) Judicial Review is mandated every 6 months (Sept. 2021) per 22 MRS § 4031 (1), but continued until Dec. 2021. "Contested Judicial Review" does not exist.

in Statute; Mother proceeded with Counsel as if "Judicial Review." Mother's experts/providers testified to their documents + findings which were submitted into evidence. After cross examination, Mother's providers were asked if they stood by their findings. They affirmed. Mother testified/clarified she never "agreed" to "jeopardy;" she agreed under Judge's threats to "reunification" and never has/would neglect abuse her children. Mother explained the move to MA + requested transfer of the case. On cross examination, over objection, the State questioned Mother to see if she is a "good person." Mother was questioned to determine paternity of Brodie + Wlady. Mother declined to recall + Judge Duddy refused to continue until Mother produced paternity info + rescheduled "Review" in violation of 22 MRS § 4038. See RC VI, XV for documents.

- 45.) Alana testified on behalf of herself and her siblings stating she had a "great childhood," gave examples, stated the children were not abused/neglected in Mother's care, but were in foster care. Alana stated the children should not have been removed. Alana requested appointed counsel so she could help the children to "get home." She also requested more visitation. Judge Duddy gave only Alana 30 more minutes/week with Mother on zoom + denied her request for counsel in violation of 22 MRS § 4005(1)(F).
- 46.) "Contested Judicial Review" reconvened with the demand Mother disclose paternity for Brodie + Wlady. Mother declined to recall. As sanctions, Judge Duddy denied Mother the Mandated "Judicial Review" and all associated obligations under 22 MRS § 4038(5), § 4041.
- 47.) Judge Duddy produced a malicious order; refusing to transfer the case mandated under UCCSEA (19-A MRS § 1745, § 1746, § 1748). The order makes false + extrajudicial findings re-accuses mother of undiagnosed mental illness, falsely stated Mother's providers made comments about

"parenting safety" (outside of their "scope"). Judge Duddy makes bizarre demands on Mother's MA providers + all prospective providers on how to diagnose + treat Mother + to make his order part of Mother's permanent medical record for which was legally unenforceable and no way Mother could enforce compliance. Judge Duddy refused to Order mandated reunification (22 MRS § 4038, 4038-B(4)), threatened Mother's counsel (forcing Mother's counsel to Motion to Withdraw), but does not define/describe child abuse/neglect for authority of the case to continue. See docs in RC ~~VI, XV~~

48.) Mother's Counsel filed Notice of Appeal, Motion for transcripts + Withdrawal per Bar Counsel. See docs in RV VI, XV.

49.) Judge Duddy refused transcripts of "Contested Judicial Review", accusing Mother of filing a "frivolous" appeal but allowed Counsel to stay. See docs RC's VI, XV.

50.) Mother's Appeals were denied by the Supreme Judicial Court of ME (hereafter "SJCME"); calling "Contested Judicial Review" an "interlocutory" appeal prohibited by 22 MRS § 4006. However, the trial was anything but "Review" (22 MRS § 4038), + was, in fact, a "Jeopardy hearing" (22 MRS § 4035) + appealable. See RC's VI, XV for docs.

51.) To reunify, Mother needed injunction from higher court where counsel was not admitted and MCILS refused to assist Mother + children. Mother + Counsel cordially parted ways for Mother to make petitions Pro Se for Declarative Judgement/Writ of Mandamus, which was a deprivation of adequate Counsel under 22 MRS § 4005.

52.) Mother petitioned for Declarative Judgement to SJCME, RC VI, requested a stay + served the trial court + all parties also requesting a stay. See RC VI for docs.

- 53.) Mother electronically submitted a petition for Writ of Mandamus to the U.S. Court of Appeals for the First Circuit (hereafter "USCAFC"), Creating RC XV, requested a stay + served all parties + trial court. See RC ~~XV~~.
- 54.) Next "Judicial Review" was not stayed as Mother monitored. In haste, Mother hired counsel who phoned in, but Judge Duddy threatened + refused his participation/request for continuance. At the hearing, Judge Duddy notified Mother he had quashed her pro se witness subpoenas. "Review" did not commence as required (22 MRS § 4038). Instead, Judge Duddy heard whether or not Mother was served with a Termination of Parental Rights (Hereafter "TPR") petition 6 months prior. Judge Duddy found, since Mother had access to the court record, she had been served 6 months prior; prohibiting any objections to the Order retroactively. GAL requested more visitation on behalf of the children, but Judge Duddy refused based on more prohibited hearsay accusations under 22 MRS § ⁴⁰³⁴~~4043~~_{km}-A and, because Judge Duddy didn't like the language in Mother's Pro Se Motions, re-accuses her of being mentally ill + denied reunification obligations under 22 MRS § 4041.
- 55.) After "Review", Mother's "standby counsel" moved to fully represent Mother, but Judge Duddy ordered him NOT to file matters on Mother's behalf, violating 22 MRS § 4005. Mother's strategy with counsel included immediate appeal. Counsel filed "Notice of Appeal" and requested transcripts. Judge Duddy disparaged the effort as "frivolous". Without informing Mother, counsel abandoned the appeal; causing breakdown of communication.
- 56.) Counsel filed Motion to withdraw. At the hearing, Judge Duddy pledged to appoint counsel for the TPR hearing.
- 57.) Former counsel emailed Mother transcripts from the initial "Agree-

ment / "Scopardy" hearing, May 2021. They were, again, suspiciously missing important dialogue + contained a lengthy speech from Judge Duddy at the end; different than the hearing Mother attended. Mother contacted the Court Reporter who sent Mother the audio files of the Sept 30, 2021 and May 2021 hearings. Mother sent the audio files to a forensic audio specialist that determined the audio files were both "spliced."

58.) The children continued to report foster abuse/neglect, stated they were being cared for in strange homes, left alone, and foster mom was going on dates. The home was squalor; attracting bears. Alana was reporting new mental health issues + CPS remained indifferent; limiting Mother's contact with her children for making reports.

59.) Mother legally investigated foster care conditions, but Marne maliciously accused Mother of "burglary" and "threatening" when the (inconsistent) witness statements and video surveillance are exculpatory. Creating RC VII. Appendix B

60.) REVI; Prior to initial appearance, Mother's bail was \$100,000.00 with the conditions she have no contact with alleged "victim" or Alana. Initial appearance was held via zoom with Justice Douglas at Biddeford District Court (where TRR pends) instead of Marne Superior Court (criminal Court). Justice Douglas maintained \$100,000.00 bail, but added along list of non-parties Mother could not contact including Brodie + Wlady, violating 15 MRS § 1002 (Appendix C). Justice Douglas did not inform Mother of her right to de novo bail/bond review (violating 15 MRS § 1028-A(1)), and hand picked appointed counsel whom had a conflict with Mother, was unavailable + disrespectful, refused to show Mother discovery. Mother asked him to withdraw + ~~filed~~^{pro} out + filed a pro se Petition for De Novo Determination of bail (Appendix D), allow-

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ing review within 48 hrs of inmate's filing (MRUCP_46(d)), but refused by clerk.

- 61.) For TPR; Mother motioned for; appointment of Counsel, Continuances for medical issues + Because Petition for Declarative Judgement was pending (RC VI), Dismissal of the case for lack of jurisdiction + removal of Judge Duddy.
- 62.) For TPR, Judge Duddy informed Mother he had appointed "Standby Counsel" (violating 22 MRS § 4005(2)), Denied Motions to Continue, Dismiss the case, and remove Judge Duddy. He also provided a copy of the Order from SSCME, RC VI Dismissing the petition for Declarative Judgement, + creating a new standard for deciding "jeopardy;" that refusing to allow CPS in mother's home, and her diagnosis of PTSD/Depression were "jeopardy" to her children by "preponderance of evidence" and also stating mother did not have rights to her children even before the termination hearing; guaranteeing an appeal to the SSCME would be dismissed. The Order heavily relied on the "spliced" transcript of the "Agreement/Jeopardy" hearing of May 2021. Apparently Judge Duddy sent it in; Mother didn't have it at the time of petition filing. Mother immediately appealed (as referenced in Appendix N). See RC VI, IX, X, XI for documents.
- 63.) After many failed attempts, Mother contacted "Standby Counsel." Mother requested "Full representation," but counsel stated she did not "have time." Mother focused efforts on finding counsel for inevitable TPR in all courts, but the jail made this nearly impossible. See RC XIII.
- 64.) In TPR, "Standby" Counsel mailed Mother a letter containing a partial document from prior counsel; An Order from Judge Duddy denying an objection to a UCCSBA hearing between Judge Duddy and the IN Court in RC III. Mother's prior counsel received the decision after the time to object had lapsed. Prior Counsel objected + motioned for enlargement of time to file objection;

also denied. (referenced in Appendix E). See RC III, IX, X, XI for docs. The matter deciding jurisdiction without notice, Mother's input, emergency, word of a timeline to return the case to IN, no jurisdiction for ME to intrude (no neglect/abuse) violates UCCJEA in both courts (19-A MRS §1745, §1746, §1747, §1748, in ME).

- 67.) Mother sent "Emergency Motion to Reconsider" UCCJEA Order to the IN Court. Mother notarized a document granting temp. guardianship of her children to their relatives in IN; the correct jurisdiction + submitted it to both IN + ME trial courts. See RC I, II, III. ME Court disregarded.
- 68.) RC VII: Criminal, Judge Mulhern held a hearing on Mother's Motion for counsel to withdraw. Mother first invoked her rights to a speedy trial, informed the court she had not had contact with counsel; he was disrespectful, and asked the court to continue all other matters until she could consult with Counsel. Mother's motions + requests denied. The state's motions for DNA + to evaluate Mother for competency were granted without objection from counsel or required "Cause shown," violating MRUCP 12(b)(2), 15 MRS §101-D(A). After the hearing, Counsel filed Motion for re-determination of bail; one month after aggravated bail/bond conditions when her right was to be heard in 48 hrs (MRUCP 46(a)). Appendix F: Mother filed Pro Se objections; again unfilled by the Clerk.

- 69.) Mother petitioned the United States District Court, District of ME (hereafter "USDCME") for an injunction/restrainer to stay the TPR proceedings scheduled for Sept. 23, 2022. The Court docketed the case (creating RC IX) on Sep. 23, 2022, but erroneously classified the action as "Prisoner's Rights" and applied Prison litigation reform act requirements (hereafter "PLRA"); delaying relief for Mother + children (Appendix G). See RC IX.

- 70.) In TPR, without the requested stay from RC IX, TPR took place in spite of

her lack of ability (medically) to attend + without ever abusing/neglecting her children. "Standby counsel" was appointed as "full representation" in Mother's absence even though Mother had never spoken to counsel in any meaningful/significant way as counsel "didn't have time." (see Appendix K).

- 11.) In TPR, after hospitalization + recovery, Mother blindly filed Motions to Reconsider any findings or orders + Notice of Appeal + sent her hospital bracelet as an Exhibit.
- 12.) Mother filed a complaint against the jail to resolve confinement issues, creating RCXIII.
- 13.) Oct. 1, 2022, Mother was transported to a new jail; never received forwarded mail from TPR. New jail had similar confinement issues. Mother file complaint, creating RCXIV.
- 14.) In TPR, Judge Dubby ordered Mother's rights terminated (referenced in Appendix K), but no orders were mailed to Mother.
- 15.) In RCXVI, The state of ME acquired an indictment of all charges; the burglary charge statute states: "[Mother]...entered with the intent to commit a crime therein." However, the charge in the indictment was modified to allow mens rea of "reckless," stating: "[Mother]...did enter...with the intent to recklessly conduct..." Appendix H. Mother's counsel refused to object on her behalf; required by MRUCP 12(b)(2).
- 16.) Mother files Habeas Corpus (Hereafter "HC") in USDCME, creating RCXVII. Mother's IFP application was accepted; The USDCME required a \$5 filing fee.
Appendix I.
- 17.) For TPR, Mother requested appeal to SSCME + requested info on how to appeal, Counsel appointment + requested specific appellate lawyers (reference in App. K).

- 77.) For TPR, Mother, concerned she was being denied appeal, filed writ of Mandamus in USDCME, Creating ~~RC X~~. Mother sent a copy to SSCME as her appeal should she be denied counsel + enlargement of time to file appeal (referenced in App. K).
- 78.) Mother petitioned for HC in SSCME creating RC VIII. The court classified the matter as "Civil" and denied Counsel (in violation of MR UCP 44(a)(2), 15 MRS § 1028-A (1), ~~referend~~^{km} referenced in App. Z). The case was dismissed. Mother appealed.
- 79.) Nov. 4-7, 2022, RC VII; arraignment. Mother informed the Court she had no meaningful contact with Counsel + asked for replacement + continuance. Judge Mulhern denied Mother's requests; violating 15 MRS § 810(2), (3). Mother left the zoom hearing. Arraignment + bail re-determination were continued, but the State was heard + granted access to Mother's TPR case without prior notice to Mother. Appendix J.
- 80.) RC VI, Mother's appeal of Dismissal of Declarative Judgement was denied as untimely filed. Mother motioned for reconsideration (referenced in App. N).
- 81.) RC VII, a forensic evaluator arrived to evaluate Mother's Competency 56 days after the evaluation was ordered, when statute requires evaluation of incarcerated person to be completed in 21 days (15 MRS § 101-DC(1)(B)). Mother declined participation without consult w/ competent/ effective Counsel (referenced in App. II).
- 82.) TPR; Court restates trial court's abusive/extrajudicial remarks (that Mother was denied opportunity to correct) + similarly limited her appellate counsel, requiring Pro Se briefs without legal resources. in violation of 22 MRS § 4006.
Appendix K
- 83.) TPR; Mother requested copy of petition in RCXV for exhibits for pro se briefs,
20.

but the costs were prohibitive. Appendix L

- 84.) TPR; Mother renews Motion for Unrestricted appointed Counsel + legal resources to proceed; Denied. App. M. Mother motioned for Reconsideration,
- 85.) RC VI; Motion to Reconsider denial of appeal Denied (App. N). Mother gave Notice of Appeal.
- 86.) RC VII, Counsel granted withdrawal + replaced. New counsel fails to make objections (MRDCP 12(b)(2)), or Motion to Redetermine Bail/Bond (5MRSS 1028-A) App. O
- 87.) TPR; SSCME denies Mother's requests to Modify Procedural Order requiring ProSe briefs stating "The [previous Order (App. K)] does not prevent [counsel from] filing motions on Mother's behalf," when the Order states otherwise App. P
- 88.) RC VI, Order Denying Mother's Motion to Correct Error + Notice of Appeal (App. Q). Mother gave notice of Appeal of Single Justice Opinion.
- 89.) TPR; Mother enjoined U.S. DC, Northern District of IN (hereafter "USDC IN") to intervene of TPR jurisdiction + proceedings creating RC XI, which was misclassified as "Prisoner's Rights" + refused under PLRA. Appendix R
- 90.) RC XI, USDCME refused to intervene + dismissed case. Mother appealed creating RC X.A
- 91.) Mother Petitioned the Supreme Court of the United States (hereafter "SCOTUS") for intervention on all matters. See RC VI.A, VIII.A, XVI, XVII
- 92.) TPR; counsel zoom visited with Mother days prior to her brief due date. Mother demanded to know how counsel expected to get a brief done without ever having spoken to her. Counsel refused to answer; Communication broke down. Mother motioned for replacement of counsel,

expansion of time to file briefs/Notice of Appeal of prior Order. Counsel submitted her brief; unreflective of trial Court error or jurisdiction. Mother submitted her own brief in case SSCME denied expansion of time / replacement of Counsel even though Mother had never received any Court documents. Counsel's brief: Appendix S

- 93.) ~~RC XI~~; Mother filed motion to proceed IFP + to proceed without delay. IFP was "granted", but Mother still ordered to pay full amount with PLRA standards. The Court dismisses the case stating "Child custody cases" are "beyond the scope of the federal court." Appendix T Mother Appealed.
- 94.) TPR; SSCME accepted Counsel's brief over Mother's in spite of breakdown of communication, Counsel's Motion to withdraw was granted. Mother required to submit arguments + briefs without Court documents or instruction. Appendix U Mother objected + renewed request for Counsel.
- 95.) ~~RC VI~~, Order Dismissing Mother's Notice of Appeal. Appendix V
- 96.) ~~RC VII~~, Unbeknownst to Mother, Judge Mulhern provides prosecution full release of Mother's TPR records + without objection from Counsel (MRUCP Rule 12(b)(2); (3)(A)). Appendix W
- 97.) ~~RC XI.A~~ created; Order demanding Filing Fee on IFP Motion with PLRA requirements, suspending all other proceedings until IFP status resolved. Appendix X
- 98.) TPR; SSCME Converts Mother's objection to limited Counsel into a challenge to procedural order (App K) and denies it. Appendix Y
- 99.) ~~RC VIII~~, On appeal from Dismissal, SSCME orders Mother to brief Pro Se. App Z

- 100.) ~~RC XII~~; Recommended Decision; Mother's bail/bond against contact was not irreparable harm; Mother, after 7 months without opportunity to address Constitutional issues, has the opportunity to address Constitutional issues in State Court. Certificate of Appealability Denied. App AA
- 101.) ~~RC XII~~, Mother filed objections to Recommended Decision and Motion to appoint counsel. USDCME Affirmed Recommended Decision, classified Mother's H.C. petition as a "civil matter" + denied appointed Counsel. Appendix BB. Mother Appealed, Creating ~~RC XII~~. A.
- 102.) TPR; Mother requests copy of petition in ~~RC VI~~ for document for brief; Unaffordable App. CC
- 103.) TPR; SSCME realleges unchallenged abusive/extrajudicial trial court remarks to allow Counsel to withdraw + demands Pro Se briefs from Mother. App. DD
Mother objects + Motions for Counsel + more time for filing briefs.
- 104.) ~~RC XIIA~~ Order Demanding Memorandum for Certificate of Appealability, (Mother did not receive this until June, 2023 - See #108) App. EE
- 105.) TPR; SSCME Denies Mother's Motion for Counsel, but enlarges time for Mother to brief Pro Se. Appendix FF. Without documents or instructions, Mother's brief is similar to ~~RC VI, XV, IX, X, XI~~.
- 106.) TPR; SSCME denies Mother's Motion for Counsel, accepts her brief, but Orders arguments beyond appellee's brief (unreceived by Mother) "stricken." App. GG. Mother Objects/Notice of Appeal.
- 107.) TPR; SSCME Denies Mother's Objection + Dismisses her Notice of Appeal; assuming she received appellee's brief. App. HH Mother objects/Appeals.

108.) ~~RC VII~~; Mother unexpectedly transferred to a Psychiatric Center for an evaluation 189 days after required by 15 MRS §101-D(1)(B), without her property. Mail was returned or held in her property App II

~~RC VIII~~
109.) TPR; Notice of decision on brief's App JJ Mother didn't receive until June 2023.

110.) ~~RC IX~~; Appeals dismissed. USDCME finds Mother can represent herself, denying Counsel. App KK

111.) ~~RC XII.A~~ ^{USCA 1st Cir} ~~USDCME~~ ^{RM} Refuses to decide Certificate of Appealability unless filing fee is paid or IFP application is made in USDCME with PLRA requirements despite DC's acceptance of IFP application previously in Nov of 2022 (see App I) Appendix LL. Mother objects.

112.) TPR; Order Affirming Termination; Converting Mother's requests for Counsel as a request for a guardian & denying it. SSCME finds failures of the state allow for a termination in conflict with 22 MRS § 4052 (2-A)(1); Mother's incarceration "but one factor", but fails to define Unfitness required under 22 MRS § 4002, ignores jurisdiction preclusion to terminate under 22 MRS § 4031(2), UCCSEA, (19-A MRS § 1745, § 1746, § 1247, § 1748, § 1749). Appendix MM

113.) ~~RC XII.A~~ USCA, 1st Cir demands another IFP application with PLRA requirements in DC where ~~RM~~ ^{RM} Mother was already granted IFP application (See App I) Appendix A

114.) ~~RC XII.A~~, Mother served USCA, 1st Cir with Writ of Certiorari to SCOTUS, Motioned for a stay. The Court Denied. Appendix NN

REASONS FOR GRANTING THE PETITION

- 1.) While the Family's Constitutional Rights have been violated¹ and remain at stake, the most emergent and compelling reason to immediately intervene is to prevent these amazing children and others similarly situated from the abuses of foster care² as well as the Defendants' false narratives that these children are unloved, unwanted, neglected and abused by their own mother, and that their mother didn't protect them, fight for them and do everything in her power to see to their prompt return.³
- 2.) Abstention following final appeal to State Court of last resort where children have been denied counsel, and Mother's counsel is ordered to be limited, only serves to ratify a State's Unconstitutional "preponderance of evidence" statutes and standards of review⁴ as well as the systemic barriers of effective counsel.⁵ The result is a termination of a family prior to their first opportunity at addressing the error of separation and denied reunification.
- 3.) Abstention allows hearsay to disembody all jurisdiction against a family, presume a class of people to be unfit parents? denial of any rebuttal, allowing even a criminal court to assert bail/bond conditions with nonparties such as a Mother's own children to prevent "mere possibility" of harm to a child while guaranteeing harm to the family as a whole & forever more.

Footnotes

1. a.) "First, a parent, a mother has rights to uninterrupted custody of her child and her child has rights to remain with parents: within wide limits, adults and children in a household are immune from state prying and intrusion. Second, domestic abuse - particularly if physical - of a mother or a child [including foster care] will not be tolerated. Third, the state has an obligation to protect children from abuse including, where clearly necessary to protect a child, the power to separate mother and child. It is the third element that the defendants are misusing in unjustified reliance on the second and in violation of the first." Nicholson v. Williams 203 F. Supp 2d 153, 164 (E.D.N.Y. 2002).
- b.) "The welfare of children is an important state interest. See Moore v. Sims, 442 U.S. 415 (1979), Newstein v. Orbach, 732 F. Supp, 333 (E.D. N.Y.). It cannot be vindicated by violating the Federal Constitution. Local issues do not predominate." Nicholson, 203 F. Supp 2d at 231.
- c.) "Choices about marriage, family life, and upbringing of children are among... 'basic importance in our society', sheltered by the [14th] Amendment against the State's unwarranted usurpation, disregard, or disrespect." MLB v. S.L.J., 519 U.S. 102, 116 (1996)
- d.) "This [family] interest is protected by International law instruments of which the [U.S.] is a party and signatory provide that a state must use extreme care when making decisions which could threaten family integrity. One of these instruments is the Universal Declaration of Human Rights (UDHR) (Appendix SS)... (see Filartiga v. Pena Irala,

630 F. 2d 876, 883 (2d Cir. 1980), Beharry v. Reno, 183 F. Supp 2d 585 (E.D.N.Y. 2002)). Similar provisions are found in the International Covenant on Civil and Political Rights (ICCPR) which has been signed and ratified by the [U.S.]... and in the Convention on the rights of the child (CRC) which the [U.S.] has signed and which... courts have found to be evidence of customary international law binding on [U.S.] courts...; Beharry, *Supra* (these provisions of CRC have the force of customary international law); The Nereide, 13 U.S. (9 Cranch) 388 (1815) (Customary international law is enforceable in [U.S.] courts)... The right under the Constitution... that families retain against state interference... is buttressed by a number of factors... See, e.g. Loving v. Virginia, 388 U.S. 1, 12 (1967); Griswold v. Connecticut, 381 U.S. 479, 485 (1965) parents have a constitutionally protected interest in the care and control and raising their children without state interference. See, e.g., Parham v. S.R., 442 U.S. 584 (1979)...; Pierce v. Society of Sisters, 268 U.S. 510 (1925)... Meyer v. Nebraska, 266 U.S. 390 (1923)... Quillon v. Walcott, 434 U.S. 246, 255 (1978)... (quoting Smith v. Organization of Foster Families, 431 U.S. 816, 862-63 (1977))... Puchner v. Sugarman, 566 F.2d 817, 825 (2d Cir 1977)... Even a [temp] separation... triggers Constitutional protections. See Tenenbaum v. Williams, 193 F.3d 581, 584 (2d Cir 1999)...; Strail v. Dep't of Children Youth and Families of Rhode Island, 62 F.Supp 2d 519, 526 (D.R.I. 1999) ("[T]he Supreme Court has afforded protection against [temp] deprivations in the parent-child relationship as part of the right to family integrity.")... See e.g. Wisconsin v. Yoder, 406 U.S. 205, 232 (1972)... Parham, 442 U.S. at 602... "the Due Process Clause of the [14th] Amendment protects the fundamental rights of parents to make decisions concerning the care, custody, and control of their children."

Troxel v. Granville, 530 U.S. 57 (2000)... "Substantive due process comes into play where, regardless of the procedures followed, a [gov't] decision or action is so contrary to a fundamental right that it cannot be countenanced... see Daniels v. Williams, 474 U.S. 317, 331 (1976)... "[I]f an agency removed or unnecessarily delays the return of a child to a Mother against whom it has no evidence of abuse or neglect - the mother's rights have been infringed." Nicholson 203 F. Supp at 234-238, e)... "Without any reasonable justification in the service of a legitimate [gov't] objective," [conduct] violated substantive due process. See Tenenbaum 193 F. 3d at 600." Nicholson, 203 F. Supp at 241.

f) "the [4th] Amendment forbids the [gov't] to infringe... [on] fundamental liberty interests at all... unless the infringement is narrowly tailored to serve a compelling state interest." Washington v. Glucksberg, 521 U.S. 702, 721 (1997)...; see also Littlefield v. Forney Independent School District, 268 F. 3d 275, 288 n.18 (5th Cir 2001)...; Seal v. Morgan, 229 F. 3d 567, 575 (6th Cir. 2000)... " Nicholson 203 F. Supp at 244.

g) "[T]he removal of a child by [CRS] constituted a seizure, [Tenenbaum, 193 F. 3d at 602], and therefore... 'analyzed under... the [4th] Amendment' Id at 600 (quoting United States v. Lanier, 520 U.S. 259, 272 n.7, (1997))." Nicholson, 203 F. Supp at 247

h) "[T]he Supreme Court recognized... [t]he integrity of the family unit has found protection in the [9th] Amendment." Wilkinson v. Russell, 182 F. 3d 89, 104 (2d Cir 1999)... The [13th] Amendment... attempts to protect the right mothers and children not to be forcefully separated without being 'Convicted' could be construed to cover children forcibly and unnecessarily removed without due process and then consigned

to the control of foster caretakers... disciplined by those not their parents. This is a form of enthrallment that bears due process rights under the [14th] Amendment... the pervasive practice of [LPS] has been to treat mothers unfairly... Mothers are entitled to a particularly scrupulous protection of their rights to custody of their children in constraining the [14th] Amendment in light of the [4th, 9th, 13th, and 19th].¹
Nicolson, 203 F. Supp. at 247-48.

- i.) "One of [a parent's] rights as a mother was the right to choose a proxy custodian... following her arrest. See In Re Dep't of Pub Welfare, 383 Mass 513, 421 N.E. 2d 28, 34 (1981) (noting, in case of incarcerated mother, that mother's presumptive right to custody of the child includ[es] the right to choose a caretaker proxy.)" Suboh v. District Attorney's Office of Suffolk, 298 F. 3d 81, 92 (1st Cir. 2002).
- j.) "In the spring of 2000, an objectionably reasonable caseworker would have believed that taking [temp] custody of a child... would violate a parent's interest in the child's care, custody, and control if he acted without reasonable suspicion of child abuse (actual or imminent)." Hatch Jr. v. R.I. Dep't for Children and Families, 294 F. 3d 12, 24 (1st Cir 2001).
- k.) "When the state moves to destroy weakened familial bonds, it must provide the parents with fundamentally fair procedure." Santosky v. Kramer, 455 U.S. 745, 754 (1982).
- l.) "Evidence of even a single instance of abuse [lacking here] may... warrant immediate State action on child's behalf... if there existed reasonable suspicion that abuse occurred or that a threat of abuse was imminent at the time of removal... Once a state takes [temp]

custody it must follow procedures adequate to justify that detention." Hatch, 274 F.3d at 24

m.) "... parents are constitutionally entitled to a hearing on their fitness before their children are removed from their custody. It follows that denying such a hearing... while granting it to other... parents is inescapably contrary to the equal protection clause." Stanley v. Illinois, 405 U.S. 645, 658 (1972).

2. a) "The evidence demonstrated that the [State's] policies in this field harm children much more than protect against harm. The children suffer the trauma of being separated from both parents, blame themselves for the abuse of their mother, confront unfamiliar and often dangerous foster care system, while all the time their mother could likely be giving them care and comfort if only [CPS]... would carry the [Gov't]'s own burden of protecting [the family] from violence." Nicholson, 203 F. Supp at 253
- b) "Children and parent-child relationships are particularly vulnerable to delays in repairing custodial rifts; even relatively short separations may hinder parent-child bonding, interfere with a child's ability to relate to others, and deprive the child of essential love and affection critical to emotional maturity." In Re Nicholson, 181 F. Supp 2d, 185 (E.D.N.Y. 2002).
- c) "... Even relatively short separations may hinder parent-child bonding, interfere substantially with schooling and necessary friendships." Nicholson, 203 F. Supp at 252.
- d) "[Mothers'] interest in family integrity and care of the children is strong. It is especially potent because most mothers are justifiably extremely concerned about the

well being of their children, who are at increased risk psychologically and physically while in foster care. Relationships between Mothers and children from homes with [DVI] may already be adversely affected. Abused mothers have a strong interest in avoiding further trauma to the familial bonds that would result from months of separation. The [Gov't]'s interests are particularly weak; its actions are motivated by bureaucratic pusillanimity and ignorance that harm rather than help the interests of the child."

Nicholson, 203 F. Supp at 255

- e) "'The total length of separation of Mothers and children [CPS] has caused is measured in years. The suffering and trauma it has inflicted is so great it cannot be measured. 'The evidence proves that the challenged policies of [CPS] work against State interests in protecting the safety of children, not for it. Whatever the level of scrutiny, substantive due process rights are being violated, since the policy harms the children of Tenenbaum, 193 F.3d at 595. "Society's interest in the protection of children is, indeed, multifaceted, composed not only of concerns about the safety and welfare of children from the community's point of view, but also with the child's psychological well-being, autonomy and relationships to the family." (quoting Franz v. Lytle, 997 F.2d 984, 992-93 (10th Cir 1993)) (quotations omitted). 'All experts agree that unnecessary removals harm children, and the children from homes with [DVI] are particularly sensitive to being separated from the non abusive parent. Unnecessary removals work against the State interest in protecting children. The adverse effect has been widely recognized

by child welfare advocates and [Cv] experts and informs the best policies in the field of child protection (see supra Part III c. 2.b.); [CPS] policies result in routine removals that are unnecessary and ignore alternatives that would be far better for children involved. These policies and state interest in the child's welfare."

Nicholson, 203 F. Supp at 249-251.

f.) "Separation of Mother and child may place the child in dangerous conditions - or at least give justifiable rise to such fear in a Mother." Nicholson, 203 F. Supp at 228.

g.) "Even a [tump] separation can be destructive; it triggers constitutional protections." Nicholson, 203 F. Supp at 235

3. a.) See Court record, XV

b.) See Related cases; XV

4. a.) "Preponderance of evidence statutes of ME (ratified by Supreme Judicial Court of ME's decision to Dismiss Mother's Petition for Declarative Judgment): 22 MRS § 4034(2), § 4034(4).

b.) "In Troxel, the Court struck down a... Statute which allowed state courts to rule... 'best interests of the child' without necessarily considering the parents' position. Troxel v. Granville, 530 U.S. 57, 67 (2000)... 'the Due Process Clause does not permit a State to infringe on the fundamental right of the parents to make child rearing decisions simply because a better decision could be made.' Id at 72-73 See Tenenbaum, 193 F. 3d at 594; Kia P. v. McIntyre, 2 F. Supp 2d 281, 290 (E.D.N.Y. 1998) aff'd 235 F. 3d 749 (2d Cir 2000), Id at 759, Matthews v. Eldridge, 424 U.S. 319, 344 (1976).

c.) "[CPS] occupies the role of prosecutor when it initiates

- [a] ... petition for neglect ... the decision to prosecute is 'subject to constitutional constraints.' U.S. v. Armstrong, 512 U.S. 456, 467 (1996) (quoting U.S. v. Batchelder, 442 U.S. 114, 125 (1978), "Discretion extends only so far as 'the prosecution has probable cause to believe that the accused committed an offense defined by statute [here 22 MRS § 4002]" U.S. v. Bonnet & Grullan, 212 F. 3d 692, 701 (2d Cir 2000) (quoting Armstrong, 517 U.S. at 464)."
- d.) "[S]ister circuits... share a common denominator: at an irreducible minimum... [State] must have no less than a reasonable suspicion of child abuse (or imminent danger of abuse) before taking a child into custody ... See Brakow v. Mercer County, 235 F. 3d 1000, 1019 (7th Cir 2000); Craft v. Westmoreland County Children and Youth Servs, 103 F. 3d 1123, 1126 (3rd Cir 1997); Thomason v. SCAN Vol-unteer Servs. Inc., 85 F. 3d 1368, 1373 (8th Cir, 1996); See also Mabe v. San Bernadino County, 237 F. 3d 1101, 1106-09 (9th Cir 2001) (elevating suspicion needed to a level, akin to probable cause), Wells v. Spencer, F. 3d 1126, 1138 (9th Cir 2000)... Reasonable [suspicion] basis for suspecting child abuse... two responsible faculty members (principal and the school nurse) took John's claim of abuse seriously; that John had repeated claims to police; that he bore marks consistent with his claim; that the boy expressed fear for his safety...; that he complained of headaches and dizziness; and that a neutral physician, after examining John, had repeated that his injuries were consistent with abuse." Hatch 274 F. 3d at 23-24
- e.) "The 'for preponderance of evidence standard... violates the Due Process Clause of the [14th] Amendment. Stanton v. Sky

f) "Before a state may sever completely and irrevocably the rights of parents in their natural child, due process requires that the state support its allegations by at least clear and convincing evidence." Santosky,

455 U.S. at 747-48

g) "... a reasonable suspicion that abuse occurred or was imminent at the time of removal. Hatch, 274 F. 3d at 22

5. a) "... '[t]he State's ability to assemble its case dwarfs the parent's ability to mount a defense.' Santosky, 455 U.S. at 763 n.13. See also Id at 763 n.13 (disparity greater where no appointed counsel). '[Mother]'s assertions implicate fundamental constitutional rights and allege serious substantive and procedural due process violations. It would be inappropriate to abstain... The child removal process is long, potentially taking months before the family court will determine whether a child should be returned to her Mother. A parent's desire to have her child returned quickly often leads to the Mother being forced to follow instructions of [CPS] workers in order to avoid arduous proceedings. Even assuming that a state... would eventually... interpret the statutes, the likely harm to the [family] from the delays and lack of effective representation is so serious as to tip the balance in favor of speedy resolution in the [higher] court 'Dempsey v. McQueeney', 387 F. Supp 339 (D.R.I. 1975)." Nicholson, 203 F. Supp at 229-30.

b) "The right to appointed counsel for due process is a right to effective counsel." See Herring v. Estelle, 491 F. 2d 125, 127 (5th Cir 1974) (quoting McKenna v. Ellis, 280 F.

592, 599 (5th Cir 1960), See Cuyler v. Sullivan, 446 U.S. 335 (1980) (States may not conduct trials in a way that unconstitutionally impairs a defendant's right to effective counsel). But where the state imposes systemic barriers to effective representation, prospective injunctive relief without individualized proof of injury is necessary and appropriate. See Menjamins v. Frasier, 264 F.3d 175 (2d Cir 2000), Strickland v. Washington, 466 U.S. 668, 692 (1984) ("In...[6th] Amendment contexts, prejudice is presumed, actual or constructive denial of assistance of counsel... is presumed to prejudice. So are various kinds of state interference with counsel's assistance."); U.S. v. Cronk, 466 U.S. 648, 659-60 (1984) (Circumstances... such that the likelihood that any lawyer, even fully competent... could provide effective assistance is so small that a presumption of prejudice is appropriate without inquiry into the actual conduct of the trial.") "... the State itself undermines that procedural due process; requires counsel for the indigent - as... does in... neglect and abuse proceedings - then ad hoc trial judge denials of counsel cannot be permitted under the constitution." Nicholson, 203 F. Supp at 239-41

- c) "Even where courts approve separation, the cases brought by [CPS] are so procedurally skewed against the mother to prevent the courts from effectively protecting due process and substantive rights including in-court and out-of-court decisions to remove are unconstitutionally denigrated by provisions of inadequate - counsel for most mothers." Nicholson, 203 F. Supp at 251
- d) "...the state... has chosen to grant a state right to counsel... shutting off any case by case analysis of federal right anticipated by Lessiter v. Dep't of Soc. Servs, 452 U.S. 18, 32-38 (1981) ... individuals who have a federal right to counsel have a right to effective counsel, See infra U.C. 1." Nicholson, 203 F. Supp at 257.
- e) "Where the state chooses to intervene in an area with constitutional dimension, it may not do so in a way that undermines Const.

stitutional rights... Offering counsel to a mother [and children]... and then hamstringing that counsel... to... inadequate representation... Creating a system... that the entire court system becomes plagued with... delays, so that urgent claims of violations of Constitutional rights go unaddressed for months, impairs Mother's [and child's] due process as guaranteed by the [14th] Amendment." Nicholson, 203 F. Supp at 257.

6.a) "... the state scheme governing child removals is not sufficiently complex to require abstention; People United for Children Inc., 108 F. Supp. 2d 298. The 'rules and procedures' governing various stages of proceedings to remove a child... 'contain no broad terms requiring interpretations by state agency or experts in the field' Id. at 284 (quoting Planned Parenthood of Dutchess-Ulster, Inc. v. Sternhouse, 60 F.3d 122, 127 (2d Cir 1995))." Nicholson, 203 F. Supp at 231

b.) Granting a stay... permits time for expedited appeal, avoiding the need for changes in procedures that may need further revision should the court of appeals have a view different from... trial court. Most importantly, the court assumes the bonafides of [CPS]'s leadership in seeking promptly to eliminate its unconstitutional practices and policies." Nicholson, 203 F. Supp 258.

c) " 'A violation of [the family's] right[s] have... been established... the [higher court] has a duty to fashion appropriate injunctive relief, using its broad equitable powers.' (Barnet v. Bowen, 749 F.2d 17, 23 (2nd Cir 1986), See Suen v. Charlotte-Mecklenburg Bd. of Ed., 402 U.S. 1, 15 (1971))." Nicholson, 203 F. Supp 258.

d.) The denial of Constitutional rights of [the family] cannot go unchecked." Nicholson, 203 F. Supp at 164

e.) "Any [CPS] policy or practice that violates a Mother's [and child's] right is unlikely to be the focus of a Family Court - See also LeShawn A. v. Kelley, 990 F.2d 1319 (D.C. Cir 1993)... The ordinary avenue of appeal... is not a viable method of protecting these [family] rights. See

McTeague v. Scarnowski, 617 F. 2d 1016, 1021 (3d Cir 1980) ("if deference to the state proceedings means that she will be unable to raise her concerns, abstention may be inappropriate.")' Nicholson 203 F. Supp at 232.

- f.) "A permanent termination of the parent-child relationship represents the nadir in destruction of the family integrity interest. See Santosky, 455 U.S. at 746... See Tenenbaum 193 F. 3d at 584, Southland v. Giuliani, 4 Fed Appy 33, 36 (2d Cir 2001) (... "We have never required - as the district Court apparently did [and the SJCE absolutely did] - that parental rights be completely or permanently terminated in order for Constitutional protections to apply" (unpublished opinion). Cf Santosky, 455 U.S. at 759 n.15; Strail v. Dep't of Youth and Families of Rhode Island, 62 F. Supp 2d 519 (D.R.I. 1999) " Nicholson 203 F. Supp at 235-236.
- g.) "Whatever the standard..., it is apparent that when potentially unconstitutional policies of [gov't] entity impinge on ... family integrity, courts have a duty to review... closely, See Moore v. City of East Cleveland, 431 U.S. at 499 (1977), Griswold, 381 U.S. at 802 ("[T]here is a 'realm of family life which the State cannot enter' without substantial justification.") (White, J. Concurring in Judgment) (Citation omitted)." Nicholson, 203 F. Supp. at 246.
- h.) "A Plaintiff's Constitutional rights are violated ... if the inaccuracies in the transcript adversely affected the outcome of the proceeding." Loubser v. Thacker, 440 F. 3d 439 (7th Cir 2006), (quoting Tedford v. Heptry, 990 F. 2d 745, 747 (3d Cir 1993) See also Coyler v. Ryles, 827 F. 2d 315, 316 (8th Cir 1987)).
- i.) "The judge relies... upon the order of court made by him. The Plaintiff in reply alleges the judge himself fabricated the statement of facts... in that order - made it falsely and fraudulently - and by such fabrication, and out of a false and fraudulent state-

ment that certain things which never took place at all, did take place, corruptly sought to give himself jurisdiction in the case where he has acted. Now, the evidence which the Plaintiff has offered and which the court refused, tended directly to prove that the whole statement ordered by the judge to be put on record was false and fabricated; and that it was made to give color to a usurped jurisdiction; in other words, that the statement was fraudulently made. Certainly the Plaintiff had a right to show such facts, for the judge had no power or jurisdiction to make the order complained of, if the matters recited never occurred. Under such circumstances, a judge knowing the facts is liable, even though he had not acted corruptly, and a fortiori is liable in a case where he did so act." Bradley v. Fisher, 80 U.S. 355 (1871).

2.a) See (Supra) 4.b.

b) "[E]mergency circumstances mean circumstances in which a child is immediately threatened with harm. The mere possibility of danger is not enough. Tenenbaum, 193 F.3d at 594. "Nicholson, 203 F. Supp at 237

c) "Whether a presumption be deemed procedural or substantive, in Stanley, the Supreme Court rejected the notion that a State can rely on a presumption that a class of people are unfit. Id at 656-58." Nicholson, 203 F. Supp at 241.

d) See (Supra) 4.c.)

e) "To punish a person because he had done something the law plainly allows him to do is a due process violation of the most basic sort." Bordenkircher v. Hayes, 434 U.S. 357, 363 (1978.)

f) "Prosecutors... have an ethical duty to ensure that the innocent do not suffer." F.S. Harshaw Enterprises Inc v. Emerald River Development, Inc, 244 F. 3d 1128, 1140 (9th Cir 2001) (quotations & citations omitted)

g.) "Often [CPS]'s vague allegations ... mask the fact that [Mother] has only done what the law plainly allows [her] to do. Bordenkircher, 434 U.S. at 363 [CPS] routinely fails to specify ... "failure to cooperate" allegations that would permit adequate review of whether any probable cause justifies them ... [J]udges have ... complained that the lack of specificity ... makes it difficult ... to exercise meaningful review over [CPS] ... weeks or months have passed before it becomes clear that [CPS] never had a case in the first place. The delay ... irreparably harms mothers ... adds to the ... patterns of routine violations of Mother's procedural due process rights ... defendants attempts to justify its policies are constitutionally wanting." Nicholson, 203 F. Supp at 253

8.a.) "Since [these] parent-child relationships are constantly being harmed by unnecessary removals, there is special urgency that weighs against abstention. See Stanley, 405 U.S. at 645 (quotations omitted)." Nicholson, 203 F. Supp at 231-32

b.) See (Supra) 6.i.)

c.) See (Supra) 7.b.)

d.) See (Supra) 7.c.)

In conclusion:

The State of Maine deprives (at least) the indigent of effective assistance of counsel (Robbins, et al v. Maine Council on Indigent Legal Services, et al KENSC-CV-22-54). With other tools such as 22 MRS §4006, unsubstantiated accusations allowed the Courts of ME to ^{usurp} ~~assume~~ jurisdiction over an Indiana family simply because they are poor on it's soil. Calling Mother "mentally ill" resolved to substantiate all and any allegations, justifying the deprivation of all and any fundamental rights of the family, the disregard of foster care abuse/neglect.

Mame falsely accuses Mother of abuse/neglect + made her represent herself in impossible circumstances while the criminal court incarcerates Mother on false crimes + denying access to her non-party children. By calling Mother "incompetent," she is further deprived of effective assistance for speedy resolution, while the State Court of last resort found unfit-ness because of this unconstitutional commitment and the unilateral, extra judicial trial record, while the criminal court endeavors to use that record for further abuse.

This family is forever affected for crossing a State line. Mother will never give up on her children; classifying that response as crazy or lucid is irrelevant side war-fare. Mother has NEVER, would NEVER wrong her children and is innocent of all allegations. What happened to this family is anything but law. Abstention from the higher courts is in contradiction to antiquarian, fund-amental/foundational laws of the United States of America for which PLRA does not competently justify. Thus, the petition for a writ of Mandamus should be granted.

Respectfully submitted,



Kinley MacDonald, Mother
8/17/23