

No.

IN THE

Supreme Court of the United States

IN RE KINLEY MACDONALD

Petition for Rehearing

SUPREME COURT OF THE UNITED STATES

PETITION For REHEARING

REHEARING EN BANC

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

### QUESTION(S) PRESENTED

Before the Court is a matter involving unabused children trafficked into foster care by mere hearsay, creating irreparable harm. The mother suffered emotional distress as result. The defendants weaponized that distress to retroactively justify the removal of the children, refusal to reunify, refusal to intervene on behalf of the children experiencing foster abuse/neglect, and to continue to elaborate imaginary and extrajudicial accusations to terminate a family in absence of all jurisdiction for which abstention sanctions such a cruel deprivation of human rights and departure of settled state, federal, and international law such that this petition is a Mother's desperate plea for this Court to exercise it's supervisory power. Start to finish, this case - THESE CHILDREN deserve your time. Thank you.

- 1.) When the Supreme Court of the United States has decided, reproductive rights of women is fundamentally important to litigate across the nation, can that same Court then, refuse to hear cases of a state Unconstitutionally make decisions of the literal fruits of labor?
- 2.) Can the Supreme Court of the United States disregard a Mother's petition concerning legal issues in front of the court regularly - simply because she made errors in certain parts of her petition?

3) Even though a Mother petitions with clean hands, can her case, involving a matter of importance to The Supreme Court of the United States, be denied simply because she is a non-skilled pro se litigant, indigent & incarcerated white States and non-indigent parties' petitions on Reproductive/Family rights are welcomed in the most high American Court?

### 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

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

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

W [REDACTED] 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

### 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

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

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

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

#### Respondents

Daniel Johnson, "father" of AJ, Pro Se  
908 Pierre 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)

Chand a J. Beita, Assistant Clerk

John or Jane Doe 1, 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 1, 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 Jr., 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 Kennebunk 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  
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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  
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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

Shalene 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  
Centre 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 Heavey, Assistant AG, Maine

Justina A. McGetigan, 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 04333-006

York County Sheriff's Department  
John Doe, Sheriff  
Steven D Boyd, Deputy  
John/ Jane Doe(s) 1-15, Deputies

Indiana Attorneys  
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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  
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Osceola, IN 46561

Maine Attorneys  
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Respondents Continued

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Saco, ME 04070

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677 Route 202, Box 689  
Greene, ME 04236

Roger Champagne

13 Crescent St

Biddeford, ME 04005

Richard Chipman

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Bath, ME 04530

Sheila Cook, Guardian ad Litem

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Portland, ME 04104

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P.O. Box 68

Ellsworth, ME 04605

Matthew Crocket, Law Office of Matthew Crocket, LLC

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Portland, ME 04103

Respondents Continued

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P.O. Box 18190  
Portland, ME 04112

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51 Presidential Way  
Westbrook, ME 04092

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

Vickie Matthews  
26 Mill Brook Rd  
Scarborough, ME 04074

David P. Mooney  
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Portsmouth, NH 03801

Amanda E. Ramirez, Law Office of Amanda E.  
Ramirez, former counsel of Daniel Johnson  
P.O. Box 78  
Scarborough, ME 04074

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

Respondents Continued

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

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

Andrew Wright  
16 Union St.  
Brunswick, ME 04011

Foster Care Contractors

John + Sera Doe(s) 1-10  
Edwin + Amanda Santana

Megan Valente  
1156 North Rd  
Parsonsfield, ME

Sheriff John Doe I  
John + Jane Doe 1-5, Deputies  
John Doe I Chick 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 DHHS

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 Johnson), Probate Court, Marion County, IN transferred to St. Joseph County, IN
- II. In Re Brodie MacDonald, Probate Court, St. Joseph County, IN
- III. In Re Wlady MacDonald, Probate Court, St. Joseph County, IN

### State of Maine

- IV. In Re Alana Johnson, PC 21-01, District Court, Judgement Oct. 3, 2022
- V. In Re Brodie and Wlady MacDonald, District Court, PC 31-02, Judgement Oct. 3, 2022
- VI. Petition for Declarative Judgement, Supreme Judicial Court, Cum 22-327, Judgement Aug. 6, 2022
  - 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

### United State District Court

- IX. Maine, MacDonald v. Duddy, et al, 2:22-cv-00293-JAW
- X. Maine, In Re Kinley MacDonald, 2:22-cv-00336-JAW
- XI. Indiana, MacDonald v. Duddy, et al, 3:22-cv-01002-PRL-MGG
- XII. Maine, MacDonald v. State of Maine, 2:22-cv-00329-JAW

## **RELATED CASES (RC('s), Continued)**

- XIII. Maine, MacDonald v. York County Sheriff, et al, 2:22-cv-00302-JAW
- XIV. Maine, MacDonald v. Cumberland County Sheriff, et al 2:22-cv-00304-JAW

### United States Court of Appeals

#### For the First Circuit

- XV. In Re Kinley MacDonald, 22-1319, Judgement May 16, 2022

IX.A MacDonald v. Duddy, et al, 22-1921, Judgement May 25, 2023

IX.B MacDonald v. Duddy, et al, 22-1949, Judgement May 25, 2023

X.A In Re Kinley MacDonald, 23-1042

XII.A MacDonald v. State of Maine, 23-1381

### United States Court of Appeals

#### For the Seventh Circuit

XI.A MacDonald v. Duddy, et al, 23-1181

### Supreme Court of the United States

VI.A Kinley MacDonald v. Jeanne Lambrew, et al 23-5186

VIII.A Kinley MacDonald v. Maine, 23-5217

XVI. Kinley MacDonald v. Michael A. Duddy, 23-5216

XVII. Kinley MacDonald v. Lea-Ann Sutton, 23-5184

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Denying Petition for Writ of Mandamus

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lacking mandated abuse/neglect + Unlawfully Coerced  
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Mental illness; no parental concerns identified.

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IN THE  
SUPREME COURT OF THE UNITED STATES  
PETITION FOR REHEARING

Petitioner respectfully prays that a rehearing issue to review the judgment below.

**OPINIONS BELOW**

For cases from **federal courts**:

The opinion of the United States Supreme Court 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 **SUPREME COURT** decided my case was \_\_\_\_\_.

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 \_\_\_\_\_.

X

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).

SUPREME COURT RULE 10, 11, 12.4, 20.1, 20.2, 20.3, 20.4, 44

United States Code 28 U.S.C. § 1292, § 1331, § 1343(a), (1), (2), (3), (4),  
§ 1357, § 1367(a), § 1369(c), (1), (e), § 1443 (1), (2), § 1651(a), (d),  
§ 2101(c), § 2201(a), § 2202, § 2241, § 2243, § 2254,  
§ 2283,

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

**CONSTITUTIONAL AND STATUTORY PROVISIONS INVOLVED**

United States Constitutional Amendments      Appendix E

Maine Constitutional Amendments      Appendix F

## STATEMENT OF THE CASE

Petitioner, Mother (hereafter "Mother") is a single mother from Indiana that originally sought refuge in the State of Maine because of a stalker, but continued to use the services available in Maine for Domestic violence ("DV") when her husband became abusive to her alone - the children were never physically or emotionally abused.

The state of Maine made multiple fraudulent petitions to provoke judges to remove children from Mother's care without any supporting evidence as required by statute except their intentionally fraudulent affidavits despite exculpatory evidence in their possession. Un-notified + unserved, Mother went about her life + tried to recover + rest as a family after filing for divorce from the children's "stepdad" when a secret hearing took place to remove Mother's children on an emergency basis when the family was riding bikes while the eldest attended internet school.

Mother was falsely arrested + her children taken to unknown locations + separated with no required information presented to the mother. The criminal court usurped jurisdiction by restricting contact between Mother + her children.

Mother suffered severe PTSD/depression as any mother would after the kidnapping of her children. The ransom was to cooperate; the Judge threatened more difficult reunification if Mother didn't come to an "agreement" with the state. Ineffective counsel advised there would be "no appeal" if Mother challenged that threat.

A mother will agree to anything for her children. Mother agreed she had exposed the children to someone abusive to Mother - but didn't agree they knew anything of the abuse or that they were abused in anyway. Mother agreed to continue DV involvement, that she would undergo a neuropsychological evaluation + counseling.

This "agreement" was turned into an admission of guilt with no mandated opportunity for the family to reunify.

No fundamentally fair opportunity took place and Mother was denied appeals, counsel, support from the state. By unconstitutional "proportionality of evidence" standards a process commenced to break the bonds between a family while clear evidence of foster abuse was disregarded.

When Mother attempted to investigate on behalf of her children she was maliciously prosecuted again; but in a criminal court where

excessive bail/bond conditions, ineffective counsel, the state creating a false record with a mother denied a Constitutional/fundamentally fair process for relief.

Mother was again, without required "cause shown" accused of mental illness to justify (unlawfully) deprivation of due process rights + prolonged confinement.

Holding a mother in jail - denied contact with her children (non-parties) in criminal court serves to sever bonds + aid in the termination of her parental rights.

While the state prepares to use the CPS case of her children - the unlitigated abusive record - to slander mother in a criminal case.

Beginning in December of 2022, after attempts of mother to seek Pro Se relief in District Court (being denied counsel), mother brought Petition for Certiorari/Mandamus + included all of the cases under one petition.

The amazing clerks at the United States Supreme Court patiently helped mother separate the cases of the single initial petition. Although mother invoked the "All Writs Act" and requested writ of

Certiorari/mandamus on some of the paperwork, Mother clearly failed to make that correction on all of the paperwork as it came pre-printed as a pro se packet stating writ of Certiorari.

Yet, "Mandamus" was denied. Appendix A

Denying this petition misunderstands the harm potential - the reversal of precedent by the Supreme Court of the United States, the Sister Circuits, and Constitutions - allowing war crimes to occur on American soil if this case goes unheard. Children + Families + Freedom should NEVER be marginalized in the American Court system in favor of any other case. None other is worthy of your appointment + responsibility.

## REASONS FOR GRANTING THE PETITION

- 1.) The State of Maine targeted a Mother, removing her children in absence of all jurisdiction + ransomed them in exchange for an agreement when "The Maine Constitution requires the State to meet a higher standard for demonstrating voluntariness [of a confession] than does the federal Constitution." State v. Akers, 259 A.3d 40, 2021 ME 43 (Me 2021) see also Me Const. art 1 §§ 6, 6A; U.S. Const. amends V, XIV, §1. Yet, this agreement was somehow turned into an "admission of guilt" when, even though the agreement language was modified by the State without Mother's knowledge / consent; No child abuse/neglect/rever alleged / discussed. Appendix B
- 2.) With no mandated assistance from the State, and in spite of the State causing delays, Mother completed all of her "agreed" reunification requirements including a full neuro-psychological evaluation ruling out any mental illness except the expected PTSD from the removal of her children. Appendix C
- 3.) The State trial Judge maliciously created a false finding- Made extra-judicial accusations; reversing expert testimony and the State Court of last resort denied any interlocutory appeal for relief. A termination of a family without jurisdiction was impending without intervention.

4.) The children suffered foster abuse/neglect for which the state turned a blind eye. When Mother lawfully investigated- More malicious prosecution followed with the Criminal Court, again, usurping jurisdiction to impose lawless bail/bond conditions preventing a Mother from having contact with her non-party children & the State Court of last resort refusing to provide Constitutionally mandate relief (state + federal).

5.) Seeking relief from all matters, Mother petitioned the U.S. District Courts, where, she was denied any opportunity to be heard unless, until she paid filing fees that she had satisfied the standards that the filing fees were unaffordable to her. The U.S. Court of Appeals demanded the same filing fees- refusing a Mother access to the Courts simply because of filing fees.

6.) Denying this case allows Domestic Terrorism to go unlitigated- affecting generations of innocent people- ripping a Mother from her children because she is financially powerless to stop it.

7.) I beg you. Please reconsider.

## **CONCLUSION**

The petition for a Rehearing should be granted.

Respectfully submitted,

---

Date: \_\_\_\_\_ / \_\_\_\_\_

No. \_\_\_\_\_

IN THE  
SUPREME COURT OF THE UNITED STATES

In Re KINLEY MACDONALD — PETITIONER

— VS. —

— RESPONDENT(S)

Certification of Good Faith

I, Kinley MacDonald, Petitioner Pro Se, Mother of 3 beautiful, amazing, unabused children at the heart + soul of this case, Petition this Court (and lower courts) in the best of faith, with State, Federal, and International law on our side to bring speedy remedy — NOT to delay or waste anyone's time,

I declare under penalty of perjury that the foregoing is true and correct.

Executed on May 1, 2024



Kinley M.A. MacDonald  
York County Jail  
1 Layman Way  
Alfred, ME 04002USA

No.

IN THE

Supreme Court of the United States

In Re KINLEY MACDONALD  
v.

Petitioner(s)

Respondent(s)

Certificate of Grounds for Rehearing

I, Kinley MacDonald, Petitioner Pro Se, Certify the grounds brought in the Petition for Rehearing are limited to the intervening circumstances of substantial or controlling effect with other substantial grounds not previously presented in original petition.

I declare under penalty of perjury that the foregoing is true and correct.

Executed on May 1, 2024

Kinley M.A. MacDonald  
York County Jail  
1 Layman Way  
Alfred, ME 04002

Appendix A

**Supreme Court of the United States  
Office of the Clerk  
Washington, DC 20543-0001**

**Scott S. Harris  
Clerk of the Court  
(202) 479-3011**

April 15, 2024

Ms. Kinley MacDonald  
York County Jail  
1 Layman Way  
Alfred, ME 04002

**Re: In Re Kinley MacDonald  
No. 23-6762**

Dear Ms. MacDonald:

The Court today entered the following order in the above-entitled case:

The motion of petitioner for leave to proceed *in forma pauperis* is denied, and the petition for a writ of mandamus is dismissed. See Rule 39.8.

Sincerely,



**Scott S. Harris, Clerk**

Appendix A

P-1/1

Appendix B

**RR Jeopardy and Permanency Plan Hearing/Reunification  
Agreement**

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## Appendix B

### STATE OF MAINE

### DISTRICT COURT

Location: YORK

Docket No. YOR-PC-21-01

IN RE: ALANA D. JOHNSON

### JEOPARDY ORDER and Judicial Review and Permanency Planning Orders

as to mother

as to father

22 M.R.S. §4035

22 M.R.S. §4038

1. On January 7, 2021, acting pursuant to the terms of the Child and Family Services and Child Protection Act, 22 M.R.S. §§4001-4099-H, the State of Maine Department of Health and Human Services filed a Petition for Child Protection Order with this Court concerning the above-named child.

2. On March 23, 2021, the Department requested and received an Order of Preliminary Child Protection. A summary preliminary hearing was scheduled for April 12, 2021. On that date,

\_\_\_\_\_ appeared and waived hearing on the Preliminary Order pursuant to 22 M.R.S.

§4034(3);

after hearing the Court continued the Preliminary Order in effect;

after hearing, the Court modified the Preliminary Order; or,

after hearing, the Court dissolved the Preliminary Order.

3. The Honorable Michael Duddy presided over these proceedings.

4. By order of this Court, a hearing on the Petition for Child Protection Order was scheduled for May 19, 2021. Other than as noted herein, all parties were duly and seasonably notified of the pendency of the proceeding.

(i) DHHS has filed a copy of notice of this proceeding provided to the resource caregiver (i.e. foster parents, pre-adoptive parents, and/or relative caregivers).

(ii) Age appropriate youth has been notified of this proceeding.  Not applicable.

(iii) The Court has considered the wishes of the child.

(iv)  Insufficient notice was provided to \_\_\_\_\_ . The Court hereby directs that notice be provided to her/him/them as follows: \_\_\_\_\_

5. The following parties were assembled at Cour

Mother Kinley M. Macdonald  
 Father Daniel R. Johnson  
 DHHS Megan Thomas  
 Youth \_\_\_\_\_  
 Resource Caregiver \_\_\_\_\_  
 Other Tara Picard

Mother's Attorney Vicki Mathews  
 Father's Attorney unrepresented  
 AAG Martha Hallisey-Swift  
 GAL Sheila Cook  
 Participant \_\_\_\_\_  
 Intervenor \_\_\_\_\_

6.  Date of GAL's last visit with child: 5-12-21.  GAL's last report dated: 4-11-2021

The report of the GAL  was  was not admitted into evidence and has been circulated to the parties.

## Appendix B

7.  There are ancillary actions pending in \_\_\_\_\_ Court regarding contact between/among parties and others involved in this case.  
 There is a Court Order in effect issued by \_\_\_\_\_ Court prohibiting contact between/among parties and others involved in this case.

8. The parents who appeared were questioned about paternity issues.  
 There are no paternity issues in this matter; or,  
 The following paternity issues exist in this matter: \_\_\_\_\_

9. The parents have been questioned about whether they, or any absent parents, are members of a federally recognized Indian tribe. The Court has also questioned the GAL and DHHS representative about whether they have discovered or know of any information that indicates the child is an Indian child.  
 The Court has determined that the Indian Child Welfare Act does not apply to this matter;  
 No federally recognized tribe has determined the child are eligible for tribal membership; or,  
 The Court has determined that the Indian Child Welfare Act (ICWA) does apply to this matter since the child is a registered member of \_\_\_\_\_ or the parent is a member of \_\_\_\_\_, and the child is eligible for membership in that tribe. The tribe was notified on \_\_\_\_\_.

10.  At the outset, the parties represented to this Court that they were in agreement as to findings and disposition in this matter; or,  
 The court issues this order following a contested hearing.

11. The Court has reviewed the evidence presented, the circumstances surrounding the filing of the Petition, the actions taken to date by the Department and the parent(s) with regard to the child, the recommendation of the Guardian *ad litem*, and the plan presented for the child. With due consideration for the health and safety of the child and by a preponderance of the evidence, this court finds that the above-named minor child is in jeopardy to her health and welfare in the absence of a Child Protection Order.

Jeopardy in this matter is based upon the following factors:

Mother: The Department suspects the mother has an undiagnosed mental health issues. There are reports from service providers and the Department that the mother becomes emotionally dysregulated when advocating for her children. The parties agree that the mother needs to do a neuropsychological/ psychological evaluation.  
The mother exposed the children to an individual, Nickolaus Prikosovich. The mother accused this individual of sexual assault in August of 2020 and sexual and domestic violence in February, 2021. The mother obtained a Protection from Abuse Order against this individual in February of 2021 and has ended the relationship.

12. The Department of Health and Human Services has made reasonable efforts to avoid the need to remove the child from the custody of their parents. Those reasonable efforts, if made, include the following: attempted DHHS social work services; attempted family team meetings; safety assessment.

13. The Department was not required to make reasonable efforts to prevent removal of the child, because the court finds the following aggravating factor with regard to the parent(s): \_\_\_\_\_

### 14. Custody and Placement

Based upon the Court's review of the case and the finding of jeopardy, **IT IS HEREBY ORDERED**, pursuant to 22 M.R.S. §§4035 and 4036, that the parties are subject to the following Order, effective \_\_\_\_\_:

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## Appendix B

A.  The child shall be placed in the custody of  parents  mother  father \_\_\_\_\_ under the following conditions \_\_\_\_\_; or,

B.  The child shall be placed in the custody of other \_\_\_\_\_ based upon the Court's determination that remaining in the home is contrary to the welfare of the child; or

C.  The children shall remain in the custody of the Department based upon the Court's determination that remaining in the home is contrary to the welfare of the child.

If custody has changed, the change has affected the child as follows: \_\_\_\_\_

### **Placement:**

The current placement with foster parents are necessary and appropriate.

The children are safe in their current placement.

Changes in the child's placement were made because \_\_\_\_\_ and the child is placed \_\_\_\_\_.

### **Relatives:**

The children are placed with relatives.

The following steps to identify relative resources shall be taken prior to the next court proceeding: \_\_\_\_\_

The following relative(s) have been identified and the Department is exploring/shall explore whether the relative(s) might be willing and able to serve as a permanent placement for the children: \_\_\_\_\_

There are no relatives with whom the child may be placed at this time.

### **Youth 14 years of age or older**

The child is fourteen years of age or older. To transition from foster care to successful adulthood and independent living, the child shall be provided with the  Department's Independent Living Program and/or  the following services: \_\_\_\_\_.

### **Out-of-State Placement:**

The child is in an out-of-state placement at \_\_\_\_\_.  
 This plan is in the best interest of the child because it is necessary to meet the child's special needs,  
 ICPC study ordered as follows \_\_\_\_\_.

### **Other:**

Other disposition: \_\_\_\_\_

### **15. Reunification**

A. The Department has made reasonable efforts to reunify and rehabilitate the family. Those reasonable efforts, if made, consisted of the following: attempted DHHS social work services; attempted family team meetings; safety assessment.

B.  The Department shall be required to engage in reunification efforts with the  parents  mother  father  other: \_\_\_\_\_.

C. The extent of the mother's compliance with the case plan, including progress towards alleviating the cause of placement and any new issues resulting in jeopardy, has been  unacceptable  fair  good  \_\_\_\_\_.

The services and expectations shall be as specified in the reunification plan dated \_\_\_\_\_.

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A copy of the reunification plan dated \_\_\_\_\_ is in the court file, and shall further include: \_\_\_\_\_.

D. The extent of the father's compliance with the case plan, including progress towards alleviating the cause of placement and any new issues resulting in jeopardy, has been  unacceptable  fair  good  \_\_\_\_\_. The services and expectations shall be as specified in the reunification plan dated \_\_\_\_\_. A copy of the reunification plan dated \_\_\_\_\_ is in the court file, and shall further include:

E.

A reunification plan will be filed with the Court. The road map for the mother's reunification plan will include the following:

- Department shall work with the mother on a rehabilitation and reunification. The mother shall cooperate with the department to develop rehabilitation and reunification plans.
- The mother is responsible for maintaining contact with the Department, Guardian ad litem and her attorney. Mother shall keep the Department informed on an ongoing basis of her current contact information including phone, mailing and physical address and email address, if any.
- The Department will create a visit schedule for the mother and children including ZOOM visits and weekly in person visits.
- The mother will participate in a neuropsychological examination/ psychological evaluation and follow recommendations for treatment.
- The mother will continue to work with domestic violence advocates.
- The mother will participate in mental health counseling with a mutually agreed provider to address issues of jeopardy.
- Mother shall maintain safe, stable housing free from domestic violence, police involvement, and criminal activity, which is suitable for family reunification, and shall report any incidents of the above to the Department. Mother will allow announced and unannounced visits by the Department caseworker and GAL.
- Mother shall sign releases requested by the Department and the Guardian ad litem so they can obtain records and information from service and mental health providers. The mother will require the domestic violence agency to verify participation and education.

### 16. Cease Reunification

- The Department has previously been relieved of its obligations to pursue reunification efforts with  mother  father by Order dated \_\_\_\_\_.
- The Department is relieved of its obligations to pursue reunification efforts with
  - parents  mother  father  other: \_\_\_\_\_
  - for the following reasons:
    - an aggravating factor has been found (permanency planning hearing must be held within 30 days)
    - continuation of reunification efforts is inconsistent with the permanency plan for the child
    - other \_\_\_\_\_

### 17. Permanency Planning

If the child is in the custody of the Department of Health and Human Services, a permanent plan shall be made for the child no later than twelve (12) months from the date the child entered the Department's custody pursuant to 22 M.R.S. §4038-B.

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The Department has made reasonable efforts to finalize a permanency plan for the child. Those reasonable efforts include the following: attempted DHHS social work services; attempted family team meetings; safety assessment.

The permanent plan for the child is:

Reunification with the  parents  mother  father  other individual: \_\_\_\_\_  
The projected likely date by which placement back in the home can be safely made and maintained is \_\_\_\_\_.

Adoption. A Petition for Termination shall be/was filed on \_\_\_\_\_.

Permanent Placement with a fit and willing relative. The projected likely date by which the child may be placed with a relative is \_\_\_\_\_.

Placement with a permanency guardian. The projected likely date by which the child may be placed with a permanency guardian is \_\_\_\_\_.

Referral for legal guardianship. The projected likely date by which the child may be placed with a legal guardian is \_\_\_\_\_.

Another planned permanent living arrangement (APPLA). (Only for youth 16 years or older)  
The Department has documented the following compelling reasons for another planned permanent living arrangement being the plan for this youth (include an outline of efforts to place the child permanently with a parent, relative or in a guardianship or adoptive placement and the outcome): \_\_\_\_\_

Based on those reasons, the Court finds that APPLA  is  not the best permanency plan for this youth and that no other permanency plan is in the child's best interest.

The Department has taken steps to ensure that the caregiver is exercising a reasonable and prudent parent standard of decision making for the youth. Those steps are: \_\_\_\_\_

The Department has taken steps to ensure that the youth has regular and ongoing opportunities to engage in age or developmentally appropriate activities. Those steps include:  
 consulting with and encouraging the child in an age appropriate manner about the opportunities to participate in activities and  
 other: \_\_\_\_\_; and

The Court has considered the wishes of the child in a manner appropriate to the age of the child, including asking the child about his/her desired permanency outcome, if appropriate.

The Department of Health and Human Services shall provide the following services to facilitate the achievement of the Permanency Planning Order: pursuant to court orders and reunification plans.

The  parents  mother  father  other individual \_\_\_\_\_ shall participate in the following services to facilitate the achievement of permanency: pursuant to court orders and reunification plans.

18. Visitation and contact shall be consistent with the best interest ~~or~~ of the child as follows:  
 at the discretion of the Department. mhd

19. Child Support

**IT IS FURTHER ORDERED**, pursuant to 22 M.R.S. §4036(1)(G), that:

Any existing Child Support Order or Administrative Child Support Order remains in full force and effect.

Parent(s) shall pay child support as set forth in the Child Support Order that is attached and hereby incorporated into this Order by reference. The attached Income Withholding Order (if any) is also incorporated by reference.

In addition, \_\_\_\_\_ shall provide health/medical insurance coverage for the child as long as it is available through his/her employment, and shall provide proof of such coverage to the Department of Health and Human Services; **and/or**,

Within 10 days, parents shall file financial affidavits with the court. Failure to file such affidavits may result in the issuance of a support order based upon other information available to the Court.

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## DDDD Augusta O'Reilly



To Whom It May Concern,

I am writing on behalf of my client, Kinley MacDonald, who I have been working with since 8/24/2021. I am pleased to report that Ms. MacDonald has been meeting with myself two times a week addressing her identified personal goals in session, has demonstrated engagement during session, and shows no signs of suicide ideation or homicidal ideation. During our sessions she presents with a normal mental health status observation and is expressing a mindset of change and is action oriented.

Thank you,

Augusta O'Reilly, LCSW-cc

## MMM Neuropsychological Examination Summary

### Neuropsychological Evaluation

#### Summary Report

Name: Kinley MacDonald

Date of Birth: 04/24/1981

Age: 40 years

Gender: Female

Education: Bachelor's degree

Vocation: Disabled

Handedness: Right

Dates of Assessment: 07/17, 07/30, & 09/08/2021

Neuropsychologist: James R. Harrison, PhD



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The contents of this report are based on the clinical interpretations of psychological test results, behavioral observations, and interview information. The examiner will not be held responsible for additional interpretations or uses that are made of any reported test scores, clinical findings, or background information that are not contained within this report.

#### Purpose of Evaluation

Ms. MacDonald was referred for a neuropsychological evaluation by her DHHS case manager, Megan Thomas LSW-C, due to concerns about her reasoning, emotional regulation, impulsivity, anger, paranoia, and emotional dysregulation. Ms. MacDonald requires a neuropsychological evaluation as a part of her reunification plan. Her case manager reports that Ms. MacDonald has demonstrated erratic behaviors, mood dysregulation, anger, and paranoia.

Ms. MacDonald expressed concerns about her involuntary separation from her children. This evaluation was conducted to provide information about Ms. MacDonald's current cognitive, emotional, and personality functioning in order to assist with diagnostic efforts and treatment planning.

#### Relevant Background Information

(Informants: Client & Medical/Educational/Legal Records)

Social/Behavioral: Ms. MacDonald lives alone in York, Maine. She is single and has two daughters (Alana Johnson, age 15 and Lottie MacDonald, age 2) and one son (Brody MacDonald, age 5), all of whom live in the same foster home. She holds a bachelor's degree and is not currently employed, as she is reportedly disabled. Previously, she was employed as a laboratory technician.

Ms. MacDonald receives emotional and social support from her father on occasion. He sometimes listens to her, accepts her, and supports her; she sometimes finds his company

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enjoyable. She reports that he never appreciates her. In her free time, Ms. MacDonald enjoys science and spending time with her children. Current stressors include being away from her children, being accused of "nonsense," and being disregarded as a parent and person.

Ms. MacDonald was born and raised in South Bend, Indiana. She was raised as the younger of two children; she has an older brother. Ms. MacDonald describes her childhood as impoverished (though middle class), abusive, hurtful, depressing, demanding, chaotic, troubled, traumatic, lonely, conflicted, and rebellious. When she spent time with her grandfather and extended family members, life seemed more normal and pleasant. Ms. MacDonald felt that she was in her "mother's way," as "it was her mother's show."

Significant events in Ms. MacDonald childhood and adolescence include the death of a pet (age 11); the death of her grandfather, which caused her to feel alone (age 11); and her parents' divorce, which made her a "pawn" (age 14). When she graduated from high school and went to college (age 18) she "had hope." Her mother "checked out," and Ms. MacDonald feels that she did not love her. Her mother and brother teamed up against her and bullied her. Her mother would say and do anything when she was mad to get her father to beat her. She felt that she was a "prisoner." She was bullied at school because her mother did not care what she wore or what she looked like. Ms. MacDonald was also bullied at home. Her grandfather was her escape and her parent, but her mother stopped letting her see her grandfather before he died.

Ms. MacDonald describes her family during her childhood as cold, hurtful, chaotic, abusive, demanding, neglectful, scary, and conflicted. She had other parent figures, including her grandfather, whom she describes as supportive, warm, loving, attentive, and fun. He was outgoing, friendly, loving, nice, easy-going, playful, organized, involved, spontaneous, religious, and hard-working; he listened well and was always present. He encouraged her interests and enjoyed her company, but he was taken from her. Because of abuse in her family and parents' conflict, Ms. MacDonald relied on her grandfather and found comfort in her dog, both of whom she lost.

Ms. MacDonald's relationship to her brother was distant and hateful; he was also a bad influence. She reports that she was the black sheep and that her brother ignored her and was cruel to her. There was a good deal of arguing and physical fights between them. Growing up, her few childhood friendships were close, supportive, and steady. Her friends were good influences. She had friends in her neighborhood and many cousins. Her best friends were her pets and her grandfather. Ms. MacDonald went to Catholic school and was bullied up until 6<sup>th</sup> grade. Many of her friends were black and not accepted in her home by her parents.

Ms. MacDonald reports three significant relationships and has had three children. She was with Nick Prikosovich until February 2020; the relationship ended due to "abuse." She was with Daniel Johnson from 2006 to 2007; the relationship ended due to "abandonment" and produced her eldest child. She was with Mike Vinson from 2003 to 2006; the relationship ended due to "irreconcilable differences." She reports instances of relationship violence that included being the victim of physical, emotional, sexual, and financial abuse. She reports that she has

# Appendix C

## Kinley MacDonald

## Neuropsychological Evaluation

also been the perpetrator of emotional abuse. She reports that Daniel hurt her once when she was pregnant but was mostly absent. Nick was a "monster"; she is currently in the process of divorcing him.

Ms. MacDonald reports that, during her childhood and adolescence, her family was Catholic "for show." She describes religion and spirituality as not at all important to her; she does not currently attend religious services.

Her legal history involved six arrests, including minor consumption (age 19), identity theft (age 27), animal cruelty (age 32), having a fake ID (age 20), criminal mischief in (ages 20 and 39), and harassment (age 20). After she had the accident involving driving into a pole, she broke a window in order to use a phone to call 911 but did not remember doing so. She has filed lawsuits for false arrest, construction fraud, and protective orders.

**Academic/Vocational:** Ms. MacDonald has an associate's degree in Applied Science as a Veterinarian Technician from Snead State (2003). She studied pre-veterinary sciences at Auburn University (2003-2004), Tarrant County College (2004-2005), and Auburn University (2005-2007). She earned a bachelor's degree from Indiana University-Purdue University Indianapolis (2010). She earned a high school diploma from Riley High School in South Bend.

In high school, Ms. MacDonald reports earning grades from excellent to failing with minimal effort. She enjoyed English and science and found math to be the hardest. She was an honor student at times but also had to repeat classes sometimes. She reportedly exhibited no specific learning problems, as she was a good student. She adds, "you can't do school if you are hiding or go to your grandparents for a few days." She would like to go back to school for a postgraduate degree.

Ms. MacDonald was employed previously as a laboratory technician; she is not currently employed and is disabled. She notes no other vocational history but adds that she had difficulty with manual dexterity due to Cubital Tunnel Syndrome.

**Medical:** Ms. MacDonald is reportedly physically healthy; although she has migraine headaches at least monthly and has previously been diagnosed with Post-Traumatic Stress Disorder (PTSD). Her medical care is provided by her primary care physician, Stacey Gibson, MD. She is not currently prescribed any medical treatments, including psychopharmacological and psychotherapeutic interventions. She was prescribed mirtazapine but went to sleep after taking it once and discontinued its use.

Potential neurological insults reported by Ms. Macdonald including sustaining head injuries due to child abuse, a few car accidents with head impacts, and a head injury from a severe assault in a parking garage. While she cannot recall specific symptoms associated with head impacts in childhood, she is sure she experienced short-term impacts. She reports mild signs of concussion due to motor vehicle accidents; she was briefly unconscious, but reports no subsequent physical, sensory, or cognitive difficulties.

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She was beaten and raped in the parking garage in Indiana (age 30), sustained a severe head injury; she suffers from retrograde amnesia (including no memory of the event or many hours prior), and experienced unspecified cognitive changes. She has a reported history of exposure to environmental neurotoxins, as she was exposed to various chemicals and pesticides when she worked as an animal nurse and laboratory technician, as well as exposure as a homeowner and animal owner.

Her medical history includes periodontal surgeries at age 20; bilateral cubital tunnel release and colorectal surgery at age 29; and several emergency room visits due to domestic violence at age 39. After her first divorce, she took antidepressant medications and they helped, and she has previously had psychotherapy for childhood anxiety and after a severe physical and sexual assault as an adult.

She has no reported history of gestational or birth complications or seizures or any other serious medical illnesses or injuries. She reports no previous brain scans, carotid doppler exam, neurological evaluation, or sleep study.

Family medical history includes high blood pressure (father), heart disease (paternal grandparents), diabetes (maternal grandfather, maternal uncle), attention problems (paternal cousin), learning disabilities (father), and psychiatric illnesses (mother). Ms. MacDonald reports that her mother suffered from Borderline Personality Disorder and "came from a long line of horrible mothers." She reports no family history of strokes, seizure, dementia, or neurological disorders.

**Physical Symptoms:** Ms. MacDonald is 5' 6" tall and weighs 147 pounds, having lost 35 pounds over the past three months. She notes a recent severe decrease in her appetite and incontinence (i.e., difficulty eating so she has loose stool). She reports sleep problems that include difficulty initiating sleep, staying asleep, awakening early, frequent nightmares, and daytime sleepiness, with a sleep duration of six hours. She has problems with fatigue and feels that she has no energy without her children. When she sees them, she "turns around." She has severe weakness in her right arm; moderate numbness in her cubital tunnels and distally; and moderate changes in the use of her hands due to poor coordination and physical injuries.

She has chronic pain in her right shoulder, left elbow, hips, groin, and rectum due to domestic violence. Her average daily pain is 5, with a range of 2-9 on a 10-point scale. In the past, she has experienced pain due to cubital tunnel syndrome. She notes that surgery on her elbows did not relieve her pain and that her hip and shoulder pain are a result of being beaten by her husband.

Ms. MacDonald reports episodes of passing out (e.g., a couple of times during her pregnancy she stood up too quickly). She has sensory sensitivity when having migraine headaches, but also when she was younger, when she was "allergic to soft." Presently, she cannot tolerate loud car stereos. She has had episodes of changes in her vision (e.g., "aging changes"). She has had tingling due to Cubital Tunnel Syndrome and weakness in her arms.

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She reports no hearing problems; her vision is corrected by glasses. She reports no diminished taste or smell, history of seizures, or problems with balance.

**Cognitive/Psychological Symptoms:** Ms. MacDonald reports severe problems with attention and moderate problems with short-term memory loss, which she described as emerging suddenly after her children were removed from her care. She also indicated problems with recalling past or remote memories, which can improve when others give her details; however, she also reports having memories of whole experiences. Severe problems are also reported for math calculation, verbal comprehension, word finding, navigating, and remembering names of both old and new acquaintances.

Ms. MacDonald has no reported problems with handling money, reading comprehension, or her handwriting. She notes that the "abuse and stress of her children being taken away from her" has disrupted her memory and recall, as it has shifted her priority and focus away from less important matters.

In addition, Ms. MacDonald reports experiencing severe problems with depression, stating she is saddened that she was abused in her relationships and now sees herself as receiving punishment for it. She describes severe anxiety, largely due to worry about her children; as well as decreased social interest (except with her children); changes in her moods as she becomes distraught about her children being away; and increased irritability due to her anger about what happened to her and perception that no one cares.

Ms. MacDonald has had episodes of depression since age 13, which she experienced as hiding, crying, staying outside, taking long walks, and being disobedient. She reports having had nine such episodes, which started due to abuse, isolation, injury, arrest, attack, or divorce. They ended when her circumstances changed.

She also describes experiencing anxiety both constantly and on and off. These episodes have ended due to changes in her circumstances but have never truly resolved. She was in counseling previously and always anxious as a child. She tried to stay out of the way in general. She was concerned that she looked funny and that her clothes were not right. When she was anxious, she tried to stay with her pets and babysit to spend time with other families. She knew her family was wrong. She had no anxiety once she left home. She reports two serious episodes of anxiety. When she has been anxious, she felt that there was no way out, that she would lose, and that no one would help her. She cried and reached out for help.

Ms. MacDonald reports experiencing panic attacks since age 26, which she describes as feeling as if she is in a cave and needing to leave. She has had one panic attack, which started due to an antiemetic being pushed too quickly in her IV and ended due to homeostasis. She reports experiencing obsessive thoughts/compulsive behaviors. She compulsively plays with her hair and picks her scabs. She engages in some rumination.

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Ms. MacDonald reports having experienced mood swings that switch between normal, depressed, angry, and scared. She has had manic episodes and notes that her mood swings often related to events in her life. She reports experiencing no hallucinations.

Regarding trauma, Ms. MacDonald reports that she has overcome "a lot." She feels that she had a lot of potential and that it was stolen because no one would help her. As a child, Ms. MacDonald experienced both neglect and physical abuse. She was hit in the head and "knocked silly" sometimes. As a preteen, she reports being hit by her parents and older brother. Things were "really bad, really dark." It was hard to be at home from middle school to her junior year in high school. She was diagnosed with PTSD after a parking garage attack at age 29, and after being raped received a few therapy sessions (age 32).

Ms. MacDonald also has trauma from domestic violence and abuse. When she was married previously (2006 to 2007) and was pregnant, her former husband Daniel picked her up. Ms. MacDonald felt something change in her body. She took a bath, lost the mucus plug, dilated, and had a premature birth. While this incident occurred, she noted he was mostly absent in the relationship. She divorced Daniel and moved to Alabama to work. When she lived in Alabama, she had a stalker and reported him to law enforcement, but "got no help," the stalking continued until her house was burned.

Ms. MacDonald then moved to Maine and was dating a friend from high school. Describing Nick as a "monster," she says that he abused her—sexually at first, then physically. During her marriage to Nicholas, there was "a lot of sex" and physical abuse. She described incidents of marital rape and physical assault. She was pushed hard into furniture, injured her hip, and was bruised for several months. She noted that she attempted to protect her children from exposure to the violence, when she could. After a DHHS investigation began regarding medical neglect, she invited the investigation and provided medical records about her husband's abuse and her children were subsequently removed. Although she is currently in the process of divorcing him, she has been distraught because he did not get in trouble and now she has to deal with the effects with DHHS.

Ms. MacDonald believes that she makes bad choices in relationships because she "keeps a wall up" and it is hard to let it down. She believes that police have never helped her as a child or as an adult. Her children were removed from her care in March 2021. She had no contact for a month before visits started. She currently has two Zoom meetings a week and sees them in person for a visit on Fridays for three hours. Her service plan requires her to complete neuropsychological testing, counseling, and domestic violence training.

Since her children have been gone, she has written a book, "Justice For Dogs – How Animals Get More Civil Rights Than Some People." She notes that she gave up everything to keep her children safe. She evaluated adoption and their quality of life and was a good mother. This was the only thing that she felt that she had going for her until her children were taken away. She feels that this is neither right nor fair.

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Regarding substance abuse, Ms. MacDonald denies current use of tobacco, marijuana, alcohol, and illegal drugs. In the past, she tried marijuana occasional from ages 19-20. She smoked one to two packs of cigarettes a day from ages 18-25. She drank alcohol heavily from age 16-26 and occasionally from 26-34. She stopped drinking at age 35. She denies past use of illegal drugs and does not consider herself either an alcoholic or an addict.

**Activities of Daily Living:** Ms. MacDonald reports that she needs some assistance to track appointments or navigate to unfamiliar places. She adds that she has difficulty collecting her thoughts to communicate as efficiently as she would like, following recent events. Motivation has been a problem and limitations from previous injuries have made things difficult.

She reports that she does not need help with walking, dressing, getting up and down, bathing and maintain hygiene, cleaning house, preparing simple meals, preparing complex meals, going grocery shopping, doing laundry, performing housework, doing home repair, arranging for professional services, writing a check, tracking household bills, managing finances, managing medications, taking medications as prescribed, safely driving a car, navigating to familiar places, using a telephone and basic smartphone features, or using a computer for email, internet browsing, and applications.

## Assessment Techniques

This evaluation covers several different facets of behavioral, cognitive, academic, and emotional functioning. The following specific techniques for gathering appropriate data were used:

Clinical Interview

Patient Questionnaire

Behavioral Observations

Wechsler Adult Intelligence Scale – 4<sup>th</sup> Edition (WAIS-IV)

Wide-Range Achievement Test – 5<sup>th</sup> Edition (WRAT-5)

Test of Adolescent Language – 4<sup>th</sup> Edition (TOAL-4)

Neuropsychological Assessment Battery - Naming Test (NAB)

Modified Token Test (Token)

DKEFS Verbal Fluency Test (DKEFS Verbal)

Hooper Visual Organization Test (HVOT)

Rey-Osterrieth Complex Figure Test (ROCFT)

Grooved Peg Board Test (Grooved)

DKEFS Trailmaking Test (DKEFS Trails)

Ruff 2 & 7 Selective Attention Test (RUFF 2&7)

Conners' Continuous Performance Test – 3<sup>rd</sup> Edition (CPT-III)

Wechsler Memory Scales – 4<sup>th</sup> Edition (WMS-IV) - Selected Subtests

DKEFS Color-Word Interference Test (DKEFS Color-Word)

Advanced Clinical Solutions – Social Cognition (ACS-Social Cognition)

Detailed Assessment of Posttraumatic Stress (DAPS)

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Millon Clinical Multiaxial Inventory – 4<sup>th</sup> Edition (MCMI-IV)

Personality Assessment Inventory (PAI)

Myers-Briggs Type Indicator (MBTI)

## Summary of Results

Ms. MacDonald's current neurocognitive testing finds that her *intelligence* is best estimated in the Superior range overall, when not accounting for relative weaknesses in cognitive proficiency. She demonstrated Superior visual perceptual skills, High Average verbal skills, and Average processing speed and working memory. Specific abilities measured across all domains ranged from Average to Very Superior.

Academic achievement testing revealed Average overall reading skills, with Average word reading and reading comprehension. Her overall math abilities were measured as Average.

Her expressive *language* skills included High Average vocabulary and Average use of word derivations and confrontational naming. Her receptive language included High Average comprehension of complex sentences. She demonstrated Superior phonemic fluency and High Average semantic fluency.

Assessment of *visual spatial* functioning found Very Superior visual synthesis, High Average visuospatial analysis and visuomotor problem solving, and Average visual construction and visual perception. Screening of *motor* skills found Average fine motor dexterity in both her dominant right hand and her left hand.

Various measures of *attention* found Average working memory and processing speed, with Average simple auditory attention and Low Average simple visual attention, with Superior complex attention. A measure of sustained and selective attention found Average sustained attention, with Average attentional accuracy. A measure of long-term visual concentration found mild problems with inattention, impulsivity, and poor concentration or vigilance and no problems with poor sustained attention.

Ms. MacDonald's performance on *memory* measures found her verbal memory to be Average for immediate and delayed free recall, with High Average delayed recognition recall. Her visual memory included Borderline immediate memory, Average delayed free recall, and Above Average delayed recognition recall.

Tests of *executive* functioning found that Ms. MacDonald's reasoning skills included High Average visual spatial analysis, visuomotor problem solving, and abstract verbal reasoning. Executive processing skills included Superior phonemic verbal fluency and High Average cognitive inhibition, semantic verbal fluency, and complex multitasking.

Assessment of Ms. MacDonald's *emotional* and psychological functioning indicated Very Significant symptoms of post-traumatic stress and related dissociation, as well as Significant

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symptoms of depression, with Above Average anxiety, affective instability, and somatic concerns. In addition, she experiences Significant irritability and feelings of persecution, with milder resentment and social detachment.

Measures of **personality** functioning indicated no serious personality pathology, although her coping resources and emotional stability are currently overwhelmed. Ms. MacDonald is typically mournful, tearful, and morose, and frequently feels dejected. Her low spirits rarely remit, and she is characteristically worrisome and brooding. Her thinking is frequently fatalistic, perceiving life events in persistent pessimistic terms. She invariably expects the worst, and makes the gloomiest interpretation of events and believing that things will never improve. Her self-image is poor and she often feels worthless, insignificant or inconsequential. Her normal personality style is characterized as logical, dependable, orderly, practical, realistic, conservative, and loyal.

### Neurological Implications & Diagnostic Impressions

The current neurocognitive testing found that Ms. MacDonald's overall intellectual functioning is best estimated in the Superior range, when not accounting for relative difficulties in cognitive proficiency. She demonstrated intact functioning in abilities measured in all neurocognitive domains- language, visual spatial, motor, sensory, attention, memory, reasoning, executive processing, social cognition, and academic.

Ms. MacDonald's cognitive strengths were in her cognitive processing speed, verbal cognitive flexibility, and visual perceptual synthesis. Relative weaknesses were found in her visual working memory, long-term concentration, and overall memory, with no normative deficits found.

Her cognitive profile showed that she is highly intelligent, with no neurocognitive difficulties. Although she has numerous neurological risk factors, the current findings show no serious signs of damage or dysfunction. She did demonstrate disruptions in her attention, memory, and executive skills, although her skills are still intact. These decrements are currently attributed to the impacts of psychiatric interference, due to the high-level of emotional distress she is experiencing. However, some mild impacts from past brain insults cannot be ruled out. Presently, no formal neurocognitive disorders are evident.

Ms. MacDonald's history is notable for childhood neglect and physical abuse from multiple family members; being assaulted and raped as an adult; being stalked with severe threats and actions requiring her to move across the country; and domestic emotional, physical, and sexual abuse. She has experienced anxiety since childhood, depression since adolescence, and has been diagnosed with PTSD as an adult.

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Currently, she exhibits reported strong anxiety and depression, and is frequently distraught and overwhelmed. The present findings found severe symptoms of post-traumatic stress and related dissociation, as well as notable signs of depression, anxiety, and affective instability, as well social detachment, irritability, and feelings of persecution and resentment. Physical concerns are another preoccupation. The results show no signs of significant personality dysfunction, although her coping resources are currently overwhelmed.

The evaluation found that Ms. MacDonald is primarily suffering from severe Post-traumatic Stress Disorder, including strong signs of dissociation. In addition, she experiences chronic mild depression and episodes of more severe depression in reaction to psychosocial stressors.

Exacerbating her distress are feelings of resentment and persecution, which arise out of her history of maltreatment, rather than representing difficulties with reality testing. Her personality is one that strives to maintain a sense of control and is identified with being responsible and competent. Her current circumstances have led to feelings of helplessness, which exacerbates her distress. Experiences from her past have led her to believe that she is alone and that no help will be offered to her, which leads her to feel more loss of control and resentment as she struggles to have her children returned to her care.

### Diagnoses

DSM-V	ICD-10	Description
309.81	F43.10	Post-traumatic Stress Disorder, complex trauma with dissociative symptoms, Severe
300.40	F34.1	Persistent depressive disorder (dysthymia)

### Recommendations

1. Ms. MacDonald is an appropriate candidate for psychopharmacological intervention, with target symptoms of post-traumatic stress, depression, and mood lability. Patients with her pattern of symptoms often respond to SSRI antidepressant with anxiolytic benefits, more direct anxiolytic medications, agents designed to reduce autonomic nervous system reactivity (e.g., clonidine, guanfacine, Intuniv, and Kapvay), and possibly mood stabilizers. The intensity and nature of anxiety currently present in Ms. MacDonald suggest the possible use of benzodiazepines. If this is to be considered, the current evaluation does not indicate unusual propensity for addiction, and a typical level of monitoring for overuse would be indicated.

Treating anxiety associated with PTSD is best managed in collaboration with the patient and her treating psychotherapist. The active treatment of a patient with PTSD who is undergoing psychotherapy can be quite difficult, and often results in variations of anxiety throughout the treatment process. The goal is to manage only the overwhelming anxiety she experiences, rather than to ameliorate all anxiety pharmacologically. This will allow the treatment to progress, and the opportunity for Ms. MacDonald to develop self-

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Kinley MacDonald

Neuropsychological Evaluation

management skills. Some flexibility in the patient's use of these agents may be required to address expected changes in symptom intensity, or the medications can be managed with more frequent consultations for to change dosage levels.

Consultation with her physician is recommended to assess the benefits and risks of such treatment, and to seek guidance regarding the most effective treatment options. Resources for education regarding medication treatments include:

- Website: National Institutes for Mental Health- NIMH ([www.nimh.nih.gov/health/topics/mental-health-medications/index.shtml](http://www.nimh.nih.gov/health/topics/mental-health-medications/index.shtml)) - a website for mental health information generally- including medications
- Website: Mind ([www.mind.org.uk/information-support/drugs-and-treatments](http://www.mind.org.uk/information-support/drugs-and-treatments)) – a website for mental health information- medication, psychotherapy, and alternative treatments.
- Website: National Institute of Health- MedlinePlus (<https://medlineplus.gov/druginfo/meds/>) – information about specific drug and herbal treatments

2. Ms. MacDonald is also a strong candidate for individual psychotherapy, with a focus of treatment on reducing anxiety and depression; managing her moods and emotional responses; resolving traumatic experiences; reducing guilt or self-blame; improving interpersonal trust; and building coping resources. Some fully dissociated experiences are possible, given the current test results.

In addition, she will benefit from identifying both trauma triggers and underlying schemas or themes in her expectations that she has learned from the dysfunctional aspects of her childhood. This may include a fatalistic and helpless orientation to others, as well as distrust that her needs will be considered and that others will care or offer assistance. Examination of behavior and coping patterns in relation to her parenting is also suggested, with development of strategies to minimize any identified negative impacts that her symptoms have for her children.

An active and aggressive approach to her PTSD symptoms is recommended, and use of Trauma Based Cognitive-Behavioral techniques, psychophysiological training (relaxation training, imagery, nutrition, biofeedback, exercise programs), and exposure based trauma-resolution approaches (EMDR, Cognitive Processing therapy, etc.) are suggested. An intensive outpatient treatment program is recommended, with a minimum of twice weekly sessions, and titration of the intensity of exposure techniques in response to her level of coping resources.

3. She would benefit from identifying her sources of stress and develop strategies to manage it. Ms. MacDonald feels calmest when she has a sense of control and is either maintaining a stable and predictable lifestyle or has a plan to remediate any difficulties that arise. Motivated by being productive and competent, those with her personality characteristics tend to experience stress when they are required to deviate from their routine, or when there isn't enough time to complete their work. It irritates them when information is not

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specific enough, or goals are vague and open-ended. They resist being asked to do a task by inefficient means, or when forced to make irrational, unexplainable, or immediate changes to their work. Uncomfortable having to work with others, they are bothered when others' inadequate work negatively affects them, or their associates disregard common sense. When demands keep them from taking care of personal needs, they can resent the person or situation that kept them from doing so.

Although she may be calm and effective in stressful situations, when overly stressed, Ms. MacDonald will tend to pay even closer attention to detail, potentially becoming overwhelmed with too much data and being unable to master all the details. Initially relying on solutions to problems that worked in past situations, if she can't regain control, she may become impulsive or compulsively worry about the future. With a great amount of stress, she may abandon her typical approach or begin to catastrophize about all the negative future possibilities that might occur. She can best manage her stress by stepping back and trying to look at the big picture, gaining perspective on the problem she faces. Sometimes she may need to consult a respected colleague to help her see the larger picture. Often beginning with the worst case scenario, and planning accordingly can give her a sense of control, as well as realistically assessing whether a compromise or failure will matter in the future. When overwhelmed, she can learn to leave a situation and do something uncharacteristic in order to realign her perspective.

When Ms. MacDonald is affected by stress, she will tend to

- Pay even closer attention to the detail
- Begin to form solutions to problematic situations based on her past experiences
- Become overwhelmed with the amount of data obtained and lose control of all the details
- Become impulsive or compulsively worry about the future
- With great stress, abandon her typical approach and start to imagine all the negative possibilities through 'catastrophizing'

She can reduce stress by...

- Imagining the worst case scenario and planning accordingly
- Looking at the big picture and putting her stress into perspective
- Realistically determine what any problem or consequence will matter in her future
- Leaving the situation and trying something uncharacteristic in order to realign her perspective

4. Specific diet or nutritional changes can play a role in managing anxiety. Eating a balanced diet and limiting or avoiding certain foods can improve mood and a sense of general well-being in anxious children who are often quite sensitive to the state of their bodies.

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Kinley MacDonald

Neuropsychological Evaluation

- Eat frequent small meals. This will help stabilize your child's blood sugar throughout the day.
- Increase intake of carbohydrates (starches). Carbohydrate-rich meals and snacks are thought to increase the amount of serotonin in the brain, which has a calming effect. Your child should eat foods rich in complex carbohydrates (such as whole grains), and eat fewer simple carbohydrates (sugars).
- Drink plenty of water. Even mild dehydration can affect a child's mood.
- Limit or avoid caffeine. Caffeine is a stimulant that can make a child feel jittery and nervous and interfere with sleep.
- Pay attention to food sensitivities. In some children, certain foods or food additives can cause adverse reactions, including moodiness — which can lead to irritability or anxiety. Foods that commonly cause reactions include wheat, corn, soy, dairy, eggs, nuts and shellfish.
- Eat some foods that contain tryptophan. Tryptophan helps the brain produce chemicals that improve mood and have a relaxing effect. Milk, bananas, oats, soy, poultry, cheese, nuts, peanut butter and sesame seeds are good sources of tryptophan.

5. Ms. MacDonald should participate in activities that provide exercise or implement a program of regular exercise. Exercise helps ease anxiety in a number of ways, including releasing endorphins and other "feel-good" brain chemicals into your child's body, reducing toxic immune system chemicals that can worsen mood, increasing body temperature which has a calming effect, distracting the mind from worries, and increasing reassuring social interaction.

Research has also found that exercise reduces overactivity and also improves learning, in that it improves alertness, attention, and motivation. It prepares and encourages nerve cells to bind to one another, which is the cellular basis for learning new information, as well as spurring development of new nerve cells from stem cells in the hippocampus, an area of the brain related to memory and learning.

6. It is not within the scope of this evaluation to assess Ms. MacDonald's capacity to parent her children. However, the court may wish to consider that the current evaluation finds significant post-traumatic stress, which is exacerbated by her strong emotional reaction to the removal of her children. She can be overwhelmed emotionally, and tends to catastrophize about potential negative consequences in the future. Whether her emotional distress has had, or potentially could have a harmful impact on her children will need to be assessed independently. This may include examination of her history of interactions with her children, as well as evaluation of any potential impacts within each child individually.

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Neuropsychological Evaluation

The current evaluation suggests that Ms. MacDonald's psychological distress is largely driven by post-traumatic stress, which is a treatable condition that can be addressed by both psychopharmacological and psychotherapeutic interventions. While her experiences have led to some dysfunctional coping patterns, the evaluation does not find evidence of serious personality pathology, nor any indication that Ms. MacDonald has more intractable or difficult to treat personality characteristics. It is likely that the recommended clinical interventions, as well as involvement with programs for victims of domestic violence, will improve her functioning and mitigate any potential negative impacts her conditions have on her children.

Thank you for allowing me to assist in the care of this most interesting woman.

James R. Harrison, Ph.D.

James R. Harrison, Ph.D.  
Clinical Neuropsychologist

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## United States Statutory Provisions Involved

### 28 U.S.C. § 1251 Original Jurisdiction

- (a) The Supreme Court shall have original + exclusive jurisdiction of all controversies between two or more states
- (3) All actions or proceedings by a state against a citizen of another state...

### 28 U.S.C § 1253 Direct appeals from decisions of 3 judge Courts

### 28 U.S.C § 1254 Cases in the court of appeals may be reviewed by the Supreme Court

- (1) By writ of certiorari... of any party to any civil or criminal case, before or after rendition of judgement or decree.

### 28 U.S.C. §1257 State Courts; Certiorari

- (a) Final judgement or decree rendered by the highest court of a state in which a decision could be had, may be reviewed by the Supreme Court by writ of certiorari where the validity of a State Statute of any state is drawn in question on the ground of its being repugnant to the Constitution, treaties, or laws of the United States, or where any title, right, privilege, or immunitiy is specially set up or claimed under the Constitution or the treaties or statutes of, any commission held or authority exercised under, the United States.

### 28 USC. § 1331 Federal Question - The district courts shall have original jurisdiction of all civil actions arising under the Constitution, laws, or treaties of the United States

### 28 USC. § 1334 Civil rights and elective franchise

- (a) the district courts have original jurisdiction of any civil action authorized by law to be commenced by any person;

(1) To recover damages for injury to his person or private property, or because of the deprivation of any right or privilege of a citizen of the United States, by any act done in furtherance of any conspiracy mentioned in §1985 of Title 42

(2) To recover damages from any person who fails to prevent any wrongs mentioned in §1985 were about to occur to power to prevent

(3) To redress the deprivation under color of any State law, Statute, ordinances, regulation, custom or usage, of any right, privilege or immunity secured by the Constitution of the United States or any Act of Congress providing for equal rights of citizens or of all persons within the jurisdiction of the United States

(4) To recover damages or to secure equitable or other relief under any Act of Congress providing for the protection of Civil Rights including the right to vote.

28 U.S.C. 1337 Injuries under Federal laws - The district

Courts shall have original jurisdiction of any civil action commenced by any person to recover damages for any injury to his person or property or account of an act done to him, under any act of Congress, for the protection or collection of any of the revenues, or to enforce the right of citizens of the United States to vote in any State.

28 U.S.C. § 1337 Supplemental jurisdiction

a) Except as provided in subsections (b) and (c) or as expressly provided otherwise by Federal statute, in any

civil action of which the district courts have original jurisdiction, the district courts have supplemental jurisdiction over all other claims that are so related to claims in the action within such original jurisdiction that they form part of the same cause or controversy under Article III of the United States Constitution. Such supplemental jurisdiction shall include claims that involve the joinder or intervention of additional parties.

#### 28 U.S.C. 1339- Multiparty, multi-form jurisdiction

##### (c) Special rules and definitions

(1) minimal diversity exists between adverse parties - if any party is a citizen of another state, a citizen or subject of a foreign state, or a foreign state as defined in section 1603(c) of this title.

##### (c) NOTIFICATION OF JUDICIAL PANEL ON MULTIDISTRICT LITIGATION

A district court in which an action under this section is pending shall promptly notify the judicial panel on the multidistrict litigation of the pendency of the action.

#### 28 USC § 1443 Civil Rights Cases - Any of the following civil actions or criminal prosecutions, commenced in a state court may be removed by the defendant to the district court and division embracing the place wherein it is pending.

(i) (1) Against any person who is denied or cannot enforce the rights of such state a right under any law providing for the equal civil rights of citizens of the United States, or all persons within the jurisdiction therof;

(2) For any act under color of authority derived from any law providing for equal rights, or for refusing to do any act on the ground that it would be inconsistent with such law.

28 U.S.C § 1651 All Writs Act ..

(a) The Supreme Court and all courts established by Act of Congress may issue all writs necessary or appropriate in aid of their respective jurisdictions and agreeable to the usages and principles of law.

(b) An alternative writ or rule nisi may be issued by a justice or judge of a court which has jurisdiction.

28 U.S.C § 2101 (e) An application to the Supreme Court for a writ of certiorari to review a case before judgement has been rendered in the Court of appeals may be made at any time before judgement.

28 U.S.C § 2201 Creation of Remedy (a) In a case of actual controversy within its jurisdiction, except with respect to: Federal taxes other than actions brought under section 7428 of the Internal Revenue Code of 1986, a proceeding under section 505 or 1146 of title II, or any civil action involving an antidumping or countervailing duty proceeding regarding a class or kind of merchandise of a free trade area country (as defined in section 516A(f)(9) of the Tariff Act of 1930), as determined by the administering authority, any court of the United States, upon the filing of an appropriate pleading, may declare the rights and other legal relations of any interested party seeking such declaration, whether or not further relief is or could be sought. Any such declaration shall have the force and effect of a final judgement or decree and shall be reviewable as such.

28 U.S.C. §2202 Further relief - Further necessary or proper relief, based on a declaratory judgement or decree, may be granted after reasonable notice and hearing, against any adverse party whose rights have been determined by such judgement.

28 U.S.C. §2241 Power to grant Writ

(a) Writs of habeas corpus may be granted by the Supreme Court, any justice thereof, the district courts, and any circuit judge within their respective jurisdictions. The order of a circuit judge shall be entered in the records of jurisdictions. The order of a circuit judge shall be entered in the records of the district court of the district wherein the restraint complained of is had.

(b) The Supreme Court, any justice thereof, and any circuit judge may decline to entertain application for a writ of habeas corpus and may transfer the application for hearing and determination to the district court having jurisdiction to entertain it.

(c) The writ of habeas corpus shall not extend to a prisoner unless -

(1) He is in custody under or by color of authority of the United States or is committed for trial before some court thereof; or

(2) He is in custody for an act done or omitted in pursuance of an Act of Congress, or an order, process, judgement or decree of a court or judge of the United States; or

(3) He is in custody in violation of the Constitution or

laws or treaties of the United States; or

(5) It is necessary to bring him into court to testify at trial

28 U.S.C § 2243. Issuance of writ; return; hearing; decision

A court, justice or judge entertaining an application for a writ of habeas corpus shall forthwith award the writ or issue an order directing the respondent to show cause why the writ should not be granted, unless it appears from the application that the applicant or person detained is not entitled thereto.

The writ, or order to show cause shall be directed to the person having custody of the person detained.

It shall be returned within three days unless for good cause additional time, not exceeding twenty days, is allowed.

The person to whom the writ or order is directed shall make a return certifying the true cause of the detention.

When the writ or order is returned a day shall be set for hearing, not more than five days after the return unless for good cause additional time is allowed.

Unless the application for the writ and the return present only issues of law the person to whom the writ is directed shall be required to produce at the hearing the body of the person detained.

The applicant or the person detained may, under oath, deny any of the facts set forth in the return or allege any other material facts.

The return and all suggestions made against it may be amended, by leave of court, before or after being filed.

The court shall summarily hear and determine the facts, and dispose of the matter as law and justice require.

28 U.S.C. § 2250. Indigent petitioner entitled to documents without cost.

If any application for a writ of habeas corpus or order has been made permitting the petitioner to prosecute the application in forma pauperis, the clerk of any court of the United States shall furnish to the petitioner without cost certified copies of such documents or parts of the record on file in his office as may be required by order of the judge before whom the application is pending.

28 U.S.C. § 2251. Stay of State Court proceedings.

(a) IN GENERAL

(1) PENDING MATTERS - A justice or judge of the United States before whom a habeas corpus proceeding is pending, may, before final judgement or after final judgement of discharge, or pending appeal, stay any proceeding against the person detained in any State Court or by or under the authority of any State for any matter involved in the habeas corpus proceeding.

(2) MATTER NOT PENDING - For purposes of this section, a habeas corpus proceeding is not pending until the application is filed.

28 U.S.C. § 2254 State custody: remedies in Federal Court

(a) The Supreme Court, a justice thereof, a circuit judge, or a district court shall entertain an application for a writ of habeas corpus <sup>[B.C.J]</sup> in behalf of a person in custody pursuant to the judgement of a State Court only on the ground that he is in custody in violation of the Constitution or laws or treaties of the United States

(b)

(1) An application for a writ of habeas corpus on behalf of a person in custody pursuant to the judgement of a State Court shall not be granted unless it appears that -

(A) the applicant has exhausted the remedies available in the courts of the State; or

(B)

(i) there is an absence of available State corrective process; or  
(ii) Circumstances exist that render such process ineffective to protect the rights of the applicant.

(d) An applicant for writ of habeas corpus on behalf of a person in custody pursuant to the judgement of a State Court shall not be granted with respect to any claim that was adjudicated on the merits in State Court proceedings unless the adjudication of the claim -

(1) resulted in a decision that was contrary to, or involved an unreasonable application of, clearly established Federal law, as determined by the Supreme Court of the United States; or

(2) resulted in a decision that was based on an unreasonable determination of the facts in light of the evidence presented in the State court proceeding.

(f) If the applicant challenges the sufficiency of the evidence adduced in such State court proceeding to support the State court's determination of a factual issue made therein, the applicant, if able, shall produce that part of the record pertinent to a determination of the sufficiency of the evidence to support such determination. If the applicant, because of indigency or other reason is unable to produce such part of the record, then the State shall produce such part of the record and the Federal court shall determine under the existing facts and circumstances what weight shall be given to the State court's factual determination.

(h) Except as provided in section 408 of the Controlled Substances Act, in all proceedings brought under this section, and any subsequent proceedings on review, the court may appoint counsel, except as provided by a rule promulgated by the Supreme Court pursuant to statutory authority. Appointment of counsel under this section shall be governed by section 3006A of title 18.

28 U.S.C. § 2283. Stay of State court proceedings.

A court of the United States may not grant an injunction to stay proceedings in a State court except as expressly authorized by Act of Congress, or where necessary in aid of its jurisdiction, or to protect or effectuate its judgments.

42 U.S.C. § 1983. Civil action for deprivation of rights.

Every person who, under color of any statute, ordinance, regulation, custom, or usage, of any State or Territory or the District of Columbia subjects, or causes to be

be subjected, any citizen of the United States or other person within the jurisdiction thereof to the deprivation of any rights, privileges, or immunities secured by the Constitution and laws, shall be liable to the party injured in an action at law, suit in equity, or other proper proceeding for redress, except that in such action brought against a judicial officer for an act or omission taken in such officer's judicial capacity, injunctive relief shall not be granted unless a declaratory decree was violated or declaratory relief was unavailable. For the purposes of this section, any Act of Congress applicable exclusively to the District of Columbia shall be considered to be a statute of the District of Columbia.

42 U.S.C. § 1985 Conspiracy to interfere with civil rights.

(2) Obstructing justice; intimidating party, witness, or juror. If two or more persons in any State or Territory conspire to deter, by force, intimidation, or threat, any party or witness in any court of the United States from attending such court, or from testifying to any matter pending therein, freely, fully, and truthfully, or to injure such party or witness in his person or property on account of his having so attended or testified, or to influence the verdict, presentment, or indictment lawfully assented to by him, or of his being or having been such juror; or if two or more persons conspire for the purpose of impeding, hindering, obstructing, or defacing, in any manner, the due course of justice in any State or Territory, with intent to deny to any citizen the equal protection of the laws, or to

injure him or his property for lawfully enforcing, or attempting to enforce, the right of any person, or class of persons, to the equal protection of the laws; —

(3) Depriving persons of rights or privileges

If two or more persons in any State or Territory conspire or go in disguise on the highway or on the premises of another, for the purpose of depriving, either directly or indirectly, any person or class of persons of the equal protection of the laws, or of equal privileges and immunities under the laws; or for the purpose of preventing, or hindering the constituted authorities of any State or Territory from giving or securing to all persons within such State or Territory the equal protection of the laws; or if two or more persons conspire to prevent by force, intimidation, or threat, any citizen who is lawfully entitled to vote, from giving his support or advocacy in a legal manner, toward or in favor of the election of any lawfully qualified person as an elector for President or Vice President, or as a Member of Congress of the United States; or to injure any citizen in person or property on account of such support or advocacy; in any case of conspiracy set forth in this section, if one or more persons engaged therein do, or cause to be done, any act in furtherance of the object of such conspiracy, whereby another is injured in his person or property, or deprived of having and exercising any right or privilege of a citizen of the United States, the party so injured or deprived may have an action for the recovery of dam-

ages occasioned by such injury or deprivation, against any one or more of the conspirators.

42 U.S.C § 1986. Action for neglect to prevent

Every person who, having knowledge that any of the wrongs conspired to be done, and mentioned in section 1985 of this title, are about to be committed, and having power to prevent or aid in preventing the commission of the same, neglects or refuses so to do, if such wrongful act be committed, shall be liable to the party injured, or his legal representatives for all damages caused by such wrongful act, which such person by reasonable diligence could have prevented; and such damages may be recovered in an action on the case; and any number of persons guilty of such wrongful neglect or refusal may be joined as defendants in the action; and if the death of any party be caused by any such wrongful act and neglect, the legal representatives of the deceased shall have such action therefor, and may recover not exceeding \$5,000.00 damages therein, for the benefit of the widow of the deceased, if there be one, and if there be no widow, then for the benefit of the next of kin of the deceased. But no action under the provisions of this section shall be sustained which is not commenced within one year after the cause of action has accrued.

42 U.S.C § 1988

(a) Applicability of statutory and common law

The jurisdiction in civil and criminal matters conferred on the district courts by the provisions of titles 13, 24 and

20 of the Revised Statutes for the protection of all persons in the United States in their civil rights, and for their vindication, shall be exercised and enforced in conformity with the laws of the United States, so far as such laws are suitable to carry the same into effect; but in all cases where they are not adopted to the object, or are deficient in the provisions necessary to furnish suitable remedies and punish offenses against law, the common law, as modified and changed by the Constitution and Statutes of the State wherein the Court having jurisdiction of such civil or criminal cause held, so far as the same is not inconsistent with the Constitution and laws of the United States, shall be extended to and govern the said Courts in the trial and disposition of the cause, and, if it is criminal in nature, in the infliction and punishment on the party found guilty.

(b) Attorney's fees.

In any action or proceeding to enforce a provision of sections 1981, 1981a, 1982, 1983, 1985, and 1988 of this title, title IX of Public Law 92-318 [20 U.S.C. 1691 et seq.], the Religious Freedom Restoration Act of 1993 [42 U.S.C. 2000- bb et seq.], or section 12361 of title 34, the court, in its discretion, may allow the prevailing party, other than the United States, a reasonable attorney's fee as part of the costs, except that in any action brought against a judicial officer for an act or omission taken in such officer's judicial capacity such off

ful by this chapter or because such individual made a charge, testified, assisted, or participated in any manner in an investigation, proceeding, or hearing under this chapter.

(b) Interference, coercion, or intimidation.

It shall be unlawful to coerce, intimidate, threaten, or interfere with any individual in the exercise or enjoyment of, or on account of his or her having exercised or enjoyed, or on account of his or her having aided or encouraged any other individual in the exercise or enjoyment of, any right granted or protected by this chapter.

(c) Remedies and procedures.

The remedies and procedures available under sections 12117, 12133, and 12188 of this title (below) shall be available to aggrieved persons for violations of subsections (a) and (b), with respect to subchapter I, subchapter II, and subchapter III, respectively.

• 42 U.S.C §§ 12117 Enforcement

(a) Powers, remedies, and procedures

The powers, remedies, and procedures set forth in sections 2000e-4, 2000e-5, 2000e-6, 2000e-8, and 2000e-9 of this title shall be the powers, remedies, and procedures this subchapter provides to the Commission, to the Attorney General, or to any person alleging discrimination on the basis of disability in violation of any provision of this chapter, or regulations promulgated under section 12116 of this title, concerning employment.

• 42 U.S.C §§ 12133 Enforcement

The remedies, procedures, and rights set forth in section 794a

of title 29 shall be the remedies, procedures, and rights this subchapter provides to any person alleging discrimination on the basis of disability in violation of section 12132 of this title.

• 42 U.S.C §§ 12188 Enforcement

(a) In general

(1) Availability of remedies and procedures.

The remedies and procedures set forth in section 2000a-3(a) of this title are the remedies and procedures this subchapter provides to any person who is being subjected to discrimination on the basis of disability in violation of this subchapter or who has reasonable grounds for believing that such person is about to be subjected to discrimination on the basis of disability in violation of this subchapter or who has reasonable grounds for believing that such person is about to be subjected to discrimination in violation of section 12183 of this title. Nothing in this section shall require a person with a disability to engage in a futile gesture if such person has actual notice that a person or organization covered by this subchapter does not intend to comply with its provisions.

(2) Injunctive Relief

In the case of violations of sections 12182(b)(2)(A)(iv) and section 12183(a) of this title, injunctive relief shall include an order to alter facilities readily accessible to and usable by individuals with disabilities to the extent required by this subchapter. Where appropriate, injunctive relief shall also include requiring the provision of an aux

illary aid or service, modification of a policy, or provision of alternative methods, to the extent required by this subchapter

(b) Enforcement by Attorney General

(1) Denial of rights

(A) Duty to investigate

(a) In general

The Attorney General shall investigate alleged violations of this subchapter, and shall undertake periodic reviews of compliance of covered entities under this subchapter.

42 USC §§ 12205 Attorney's fees

In any action or administrative proceeding commenced pursuant to this chapter, the court or agency, in its discretion, may allow the prevailing party, other than the United States, a reasonable attorney's fee, including litigation expenses, and costs, and the United States shall be liable for the foregoing the same as a private individual.

U.S. Constitutional Provisions

## Amendments:

- 1.) 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 to peaceably assemble, and to petition the government for a redress of grievances.
- 2.) A well regulated Militia, being necessary to the security of a free State, the right of the people to keep and bear arms, shall not be infringed.
- 3.) The right of people to be secure in their persons, houses, papers, and effects, against unreasonable searches and seizures, shall not be violated, and no warrants shall issue, but upon probable cause, supported by Oath or affirmation, and particularly describing the place to be searched, and the persons or things to be seized.
- 4.) No person shall be held to answer for a capital, or otherwise infamous crime, unless on a presentment or indictment of a Grand Jury, except in cases arising in the land or naval forces, or in the Militia, when in actual service in time of war or public danger; nor shall any person be subjected for the same offense to be twice put in jeopardy of life or limb; nor shall be compelled in any criminal case to be a witness against himself, nor shall be deprived of life, liberty, or property without due process of law; nor shall private property

be taken for public use, without just compensation.

6) In all criminal prosecutions, the accused shall enjoy the right to a speedy and public trial, by an impartial jury of the State and district wherein the crime shall have been committed, which district shall have been previously ascertained by law, and to be informed of the nature and cause of the accusation; to be confronted with the witnesses against him, to have compulsory process for obtaining witnesses in his favor, and to have the assistance of counsel for his defense.

8.) Excessive bail shall not be required, nor excessive fines imposed, nor cruel and unusual punishments inflicted.

14§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 person within its jurisdiction the equal protection of the laws.

## Appendix F

### Maine Constitution

#### Article

181 Natural rights. All people are born equally free and independent, and have certain natural, inherent and unalienable rights, among these which are those enjoying and defending life and liberty, acquiring, possessing and protecting property, and of pursuing and obtaining safety and happiness.

182 Power inherent in people. All power is inherent in the people; all free governments are founded in their authority and instituted for their benefit; they have therefore an unalienable and indefensible right to institute government, and to alter, reform or totally change the same when their safety and happiness require it.

183 Religious freedom, sects equal; religious tests prohibited; religious teachers. All individuals have a natural and unalienable right to worship Almighty God (耶和華) according to the dictates of their own consciences, and no person shall be hurt, molested or restrained in that person's liberty or estate for worshipping God (祂) in the manner and season most agreeable to the dictates of that person's own conscience, nor for that person's religious professions or sentiments provided that that person does not disturb the public peace, nor obstruct others in their religious worship; and all persons demeaning themselves peaceably, as good members of the State, shall be equal under the protection of the laws, and no subordination nor preference of any one sect or denomination to another shall ever be established by law, nor shall any religious test be required as qualification for any office or trust, under this State, and all religious societies in this State, whether incorporated or unincorporated, shall at all times have the exclusive

## Appendix F

right of electing their public teachers and contracting with them for their support and maintenance

1§4 Freedom of speech and publication; libel; truth given in evidence; jury determines law and fact. Every citizen may freely speak, write and publish sentiments on any subject, being responsible for the abuse of this liberty; no laws shall be passed regulating or restraining the freedom of the press; and in prosecutions for any publication respecting the official conduct of people in public capacity, or the qualifications of those who are candidates for the suffrage of the people, or where the matter published is proper for public information, the truth thereof may be given in evidence, and in all indictments for libels, the jury, after having received the direction of the Court, shall have a right to determine, at their discretion, the law and the fact.

1§5 Unreasonable searches prohibited. The people shall be secure in their persons, houses, papers, and possessions from all unreasonable searches and seizures; and no warrant to search any place, or seize any person or thing, shall issue without a special designation of the place to be searched, and the person or thing to be seized, nor without probable cause supported by oath or affirmation.

1§6 Rights of persons accused. In all criminal prosecutions, the accused shall have the right to be heard by the accused and Counsel to the accused, or either, at the election of the accused; to demand the nature and cause of the accusation, and have a copy thereof; to be confronted by the witnesses against the accused, to have compulsory process for obtaining witnesses in favor of the accused, to have a speedy

public trial, and, except for trials by martial law or impeachment, by a jury of the vicinity. The accused shall not be compelled to furnish or give evidence against himself or herself nor be deprived of life, liberty, property or privileges, but by judgement of that person's peers or the law of the land.

186-A. Discrimination against persons prohibited. No person shall be deprived of life, liberty or property without due process of law, nor be denied equal protection of the laws, nor be denied the enjoyment of that person's civil rights or be discriminated against in the exercise thereof.

189 Sanguinary Laws, excessive bail, cruel or unusual punishments prohibited. Sanguinary laws shall not be passed; all penalties and punishments shall be proportioned to the offense, excessive bail shall not be required, nor excessive fines imposed, nor cruel and unusual punishment inflicted.

190 Bailable offenses; habeas corpus. No person before conviction shall be bailable for any of the crimes which are now, or have been denominated capital offenses since the adoption of the Constitution, when the proof is evident or the presumption great, whatever the punishment of the crimes may be. And the privilege of the writ of habeas corpus shall not be suspended unless when in cases of rebellion or invasion of the public safety may require it.

1915 Right of petition. The people have a right at all times in an orderly and peaceable manner to assemble to consult upon the common good, to give instructions to their representatives, and to request of either department of the government by petition or remonstrance, redress of their wrongs and grievances.

1916 To keep and bear arms. Every citizen has a right to

Appendix F

Keep and bear arms and this right shall never be  
questioned.

No. \_\_\_\_\_

IN THE  
SUPREME COURT OF THE UNITED STATES

In Re KINLEY MACDONALD — PETITIONER

VS.

— RESPONDENT(S)

MOTION FOR LEAVE TO PROCEED *IN FORMA PAUPERIS*

The petitioner asks leave to file the attached petition for a Rehearing without prepayment of costs and to proceed *in forma pauperis*.

Please check the appropriate boxes:

Petitioner has previously been granted leave to proceed *in forma pauperis* in the following court(s):

Superior Court of Maine, District Court of  
Maine, Supreme Judicial Court of Maine

Petitioner has **not** previously been granted leave to proceed *in forma pauperis* in any other court.

Petitioner's affidavit or declaration in support of this motion is attached hereto.

Petitioner's affidavit or declaration is **not** attached because the court below appointed counsel in the current proceeding, and:

The appointment was made under the following provision of law: \_\_\_\_\_

22 MRS § 4005(2); In re Child of Nicholas G; 20019, or  
ME 13,16, 200 A. 3d 783

a copy of the order of appointment is appended.

RECEIVED

MAY 28 2024

OFFICE OF THE CLERK  
SUPREME COURT, U.S.

**AFFIDAVIT OR DECLARATION  
IN SUPPORT OF MOTION FOR LEAVE TO PROCEED *IN FORMA PAUPERIS***

I, Kintey MacDonald, am the petitioner in the above-entitled case. In support of my motion to proceed *in forma pauperis*, I state that because of my poverty I am unable to pay the costs of this case or to give security therefor; and I believe I am entitled to redress.

1. For both you and your spouse estimate the average amount of money received from each of the following sources during the past 12 months. Adjust any amount that was received weekly, biweekly, quarterly, semiannually, or annually to show the monthly rate. Use gross amounts, that is, amounts before any deductions for taxes or otherwise.

<b>Income source</b>	<b>Average monthly amount during the past 12 months</b>		<b>Amount expected next month</b>	
	<b>You</b>	<b>Spouse</b>	<b>You</b>	<b>Spouse</b>
Employment	\$ <u>0</u>	\$ _____	\$ <u>0</u>	\$ _____
Self-employment	\$ <u>0</u>	\$ _____	\$ <u>0</u>	\$ _____
Income from real property (such as rental income)	\$ <u>0</u>	\$ _____	\$ <u>0</u>	\$ _____
Interest and dividends	\$ <u>0</u>	\$ _____	\$ <u>0</u>	\$ _____
Gifts	\$ <u>0</u>	\$ _____	\$ <u>0</u>	\$ _____
Alimony	\$ <u>0</u>	\$ _____	\$ <u>0</u>	\$ _____
Child Support	\$ <u>0</u>	\$ _____	\$ <u>0</u>	\$ _____
Retirement (such as social security, pensions, annuities, insurance)	\$ <u>0</u>	\$ _____	\$ <u>0</u>	\$ _____
Disability (such as social security, insurance payments)	\$ <u>0</u>	\$ _____	\$ <u>0</u>	\$ _____
Unemployment payments	\$ <u>0</u>	\$ _____	\$ <u>0</u>	\$ _____
Public-assistance (such as welfare)	\$ <u>0</u>	\$ _____	\$ <u>0</u>	\$ _____
Other (specify): _____	\$ <u>0</u>	\$ _____	\$ <u>0</u>	\$ _____
<b>Total monthly income:</b>	\$ <u>0</u>	\$ _____	\$ <u>0</u>	\$ _____

2. List your employment history for the past two years, most recent first. (Gross monthly pay is before taxes or other deductions.)

Employer	Address	Dates of Employment	Gross monthly pay
<u>Have not worked since 2014</u>	_____	_____	\$_____
	_____	_____	\$_____
	_____	_____	\$_____

3. List your spouse's employment history for the past two years, most recent employer first. (Gross monthly pay is before taxes or other deductions.)

Employer	Address	Dates of Employment	Gross monthly pay
_____	_____	_____	\$_____
_____	_____	_____	\$_____
_____	_____	_____	\$_____

4. How much cash do you and your spouse have? \$ 50.00

Below, state any money you or your spouse have in bank accounts or in any other financial institution.

Type of account (e.g., checking or savings)	Amount you have	Amount your spouse has
_____	\$_____	\$_____
_____	\$_____	\$_____
_____	\$_____	\$_____

5. List the assets, and their values, which you own or your spouse owns. Do not list clothing and ordinary household furnishings.

Home

Value 14,000

*Not liveable, taxes overdue - not sure if I still own it*

Other real estate

Value \_\_\_\_\_

Motor Vehicle #1

Year, make & model 2003 Chevy Silverado

Value \$500

*Been in impound - not sure if I still own it*

Motor Vehicle #2

Year, make & model \_\_\_\_\_

Value \_\_\_\_\_

Other assets

Description \_\_\_\_\_

Value \_\_\_\_\_

6. State every person, business, or organization owing you or your spouse money, and the amount owed.

<b>Person owing you or your spouse money</b>	<b>Amount owed to you</b>	<b>Amount owed to your spouse</b>
_____	\$ _____	\$ _____
_____	\$ _____	\$ _____
_____	\$ _____	\$ _____

7. State the persons who rely on you or your spouse for support. For minor children, list initials instead of names (e.g. "J.S." instead of "John Smith").

<b>Name</b>	<b>Relationship</b>	<b>Age</b>
_____	_____	_____
_____	_____	_____
_____	_____	_____

8. Estimate the average monthly expenses of you and your family. Show separately the amounts paid by your spouse. Adjust any payments that are made weekly, biweekly, quarterly, or annually to show the monthly rate.

	<b>You</b>	<b>Your spouse</b>
Rent or home-mortgage payment (include lot rented for mobile home)	\$ <u>0</u>	\$ _____
Are real estate taxes included? <input type="checkbox"/> Yes <input checked="" type="checkbox"/> No		
Is property insurance included? <input type="checkbox"/> Yes <input checked="" type="checkbox"/> No		
Utilities (electricity, heating fuel, water, sewer, and telephone)	\$ <u>0</u>	\$ _____
Home maintenance (repairs and upkeep)	\$ <u>0</u>	\$ _____
Food	\$ <u>0</u>	\$ _____
Clothing	\$ <u>0</u>	\$ _____
Laundry and dry-cleaning	\$ <u>0</u>	\$ _____
Medical and dental expenses	\$ <u>0</u>	\$ _____

	<b>You</b>	<b>Your spouse</b>
Transportation (not including motor vehicle payments)	\$ <u>0</u>	\$ _____
Recreation, entertainment, newspapers, magazines, etc.	\$ <u>0</u>	\$ _____
Insurance (not deducted from wages or included in mortgage payments)		
Homeowner's or renter's	\$ <u>0</u>	\$ _____
Life	\$ <u>6</u>	\$ _____
Health	\$ <u>0</u>	\$ _____
Motor Vehicle	\$ <u>0</u>	\$ _____
Other: _____	\$ <u>0</u>	\$ _____
Taxes (not deducted from wages or included in mortgage payments)		
(specify): <u>Home taxes</u>	\$ <u>200</u>	\$ _____
Installment payments		
Motor Vehicle	\$ <u>0</u>	\$ _____
Credit card(s)	\$ <u>0</u>	\$ _____
Department store(s)	\$ <u>0</u>	\$ _____
Other: _____	\$ <u>0</u>	\$ _____
Alimony, maintenance, and support paid to others	\$ <u>0</u>	\$ _____
Regular expenses for operation of business, profession, or farm (attach detailed statement)	\$ <u>0</u>	\$ _____
Other (specify): _____	\$ <u>0</u>	\$ _____
<b>Total monthly expenses:</b>	<b>\$ <u>200</u></b>	\$ _____

9. Do you expect any major changes to your monthly income or expenses or in your assets or liabilities during the next 12 months?

Yes  No If yes, describe on an attached sheet.

10. Have you paid – or will you be paying – an attorney any money for services in connection with this case, including the completion of this form?  Yes  No

If yes, how much? \_\_\_\_\_

If yes, state the attorney's name, address, and telephone number:

11. Have you paid—or will you be paying—anyone other than an attorney (such as a paralegal or a typist) any money for services in connection with this case, including the completion of this form?

Yes  No

If yes, how much? \_\_\_\_\_

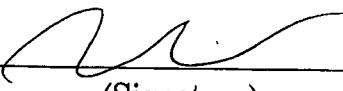
If yes, state the person's name, address, and telephone number:

12. Provide any other information that will help explain why you cannot pay the costs of this case.

Unconstitutionally incarcerated over 1 year - unsafe  
when I will get relief

I declare under penalty of perjury that the foregoing is true and correct.

Executed on: Nov. 2, 2023

  
(Signature)

KELLY BURNHAM  
NOTARY PUBLIC  
State of Maine  
My Commission Expires  
FEBRUARY 21, 2028



Appendix

Motion to Proceed in *Forma Pauperis*

STATE OF MAINE

SUPREME JUDICIAL COURT  
Sitting as the Law Court  
Docket No. Cum-23-32

Kinley MacDonald

v.

**ORDER**

State of Maine

Kinley MacDonald has appealed from an order of a single justice of the Supreme Judicial Court dismissing her petition for writs of mandamus and habeas corpus. The petition was related to pending criminal charges against her.

The Clerk of the Law Court docketed the matter under the caption "Kinley MacDonald v. State of Maine" and assigned it docket number Cum-23-32. Although the State did not participate in the matter before the single justice, the Clerk of the Law Court docketed the State as the appellee so that there would be an opposing party should the Court need any briefing in response to MacDonald's brief.

MacDonald did not pay the appeal fee or file a motion to waive the appeal fee. The Court is aware from other proceedings, however, that MacDonald is indigent.

The appeal appears to be frivolous. In order to expedite the decision on this matter and provide MacDonald with an opportunity to be heard without

## Appendix

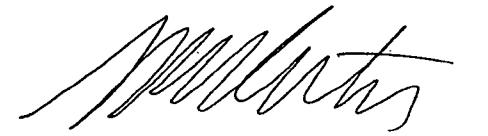
Motion to Proceed in forma pauperis  
causing an undue burden on the State or the Court, the Court will set an  
abbreviated process for this appeal.

It is therefore ORDERED as follows:

1. The appeal fee is WAIVED.
2. The Clerk of the Law Court need not issue a notice of docketing in the Law Court or a schedule for the briefs and appendix.
3. MacDonald need not file an appendix.
4. MacDonald must file her appellant's brief on or before **March 3, 2023**.
5. MacDonald may file only one copy of her brief and need not serve the brief on the State. The brief need not comply with the Maine Rules of Appellate Procedure but may consist of a handwritten document not to exceed 20 pages.
6. The Clerk of the Law Court is directed to provide a copy of MacDonald's brief to the State when it is filed.
7. The State need not file an appellee's brief unless the Court requests one. MacDonald's appeal will be in order for consideration on the briefs without oral argument when MacDonald's brief is filed.

Dated: Feb 6, 2023

For the Court,



Associate Justice

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FEB 06 2023

Clerk's Office  
Maine Supreme Judicial Court

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Appendix

# Appendix

## Motion to Proceed in Forma Pauperis



Law Office of  
Matthew Crockett, LLC

92 Auburn Street  
Suite J #1214  
Portland, ME 04103

207-200-5958

860-967-3412

matthew@mcrockettlaw.com

---

9 February 2023

Kinley M MacDonald  
c/o Cumberland County Jail  
50 County Way  
Portland, ME 04102

**RE: State v. Kinley M MacDonald**

Docket Number(s): YRKCD-CR-2022-00522

Dear Kinley M MacDonald:

I have been appointed to represent you in the criminal charges now pending against you. It is very important that you contact me as soon as possible. A failure to contact me may result in a procedural default, the loss of a right, and a finding of guilty.

The court system has many deadlines. I will try to give you as much warning as possible although sometimes I have very little warning myself. It is very important that I be able to contact you. If you move, change jobs, get a new phone number, or just leave town for more than a weekend you must call my office and leave a message or let me know directly.

It is also very important that you call or write back promptly when I do try to contact you and you must keep your appointments and come to all court proceedings. If you do not I will not be able to do a good job on your behalf. Even worse, the court may find against you in your absence if you fail to appear or help me meet the deadlines in your case. If a scheduling problem occurs, you must let me know as soon as possible so the chances of rescheduling will be better.

At the same time, I will do my best to keep you as informed and as up-to-date as possible. I will send you copies of most letters and pleadings connected with your case. Some of them will be sent just for your information, but others may require some action on your part. I will let you know if and when you need to do something. If you ever

Appendix

Motion to Proceed in forma Paupers

have any questions, concerns, or problems with something I have sent you, please call me and let me know. I am happy to answer any question you have or meet with you if necessary.

The same is true for any other question or concern you may have. An important part of my job as your legal counsel is to help you understand what is happening and why it is happening. If you ever have a problem with something I have done or am not doing, we should discuss it. I will return phone calls or letters as soon as I can.

Finally, I want to explain to you the Attorney client privilege. The law understands that it is very important that the client be able to speak freely and honestly with his or her lawyer. What I do not know can, and usually does, hurt my client. Understanding this, the law provides that whatever a client tells his or her lawyer is privileged with very few exceptions. No one can make either you or me say anything about anything that has been said or heard in connection with your case.

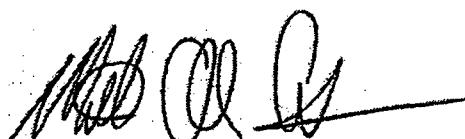
The privilege belongs to you and you must protect it. If I disclose any information or breach the privilege by revealing something without the client's consent, I can be disciplined or disbarred by the Board of Bar Overseers. However, you can waive or give up the right by talking about your case or conversations with me by discussing it with others.

I cannot prevent you from talking about your case with others and waiving the privilege, but I strongly urge you not to talk about anything connected to your case with anyone. Should you want to discuss your case with someone other than myself, please check with me so I can explain the direct consequences to you and your choice can be informed.

If anyone contacts you or asks you any questions about your case, **please do not discuss it with them**. Simply **tell them you have a lawyer** who would be happy to talk with them and I have advised you not to discuss the matter with anyone. If you are contacted by someone from the other side of your case, or anyone who may be working for them, you must let me know immediately.

Please let me know if you have any questions about the things, I have discussed with you in this letter. I am looking forward to working with you.

Sincerely,



Matthew A. Crockett, Esq.

## CERTIFICATE OF COMPLIANCE

No.

In Re Kinley MacDonald

Petitioner(s)

v.

Respondent(s)

As required by Supreme Court Rule 33.1(h), I certify that the petition for a rehearing contains >3,000 words, excluding the parts of the petition that are exempted by Supreme Court Rule 33.1(d).

I declare under penalty of perjury that the foregoing is true and correct.

Executed on May 1, 2024

