

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

23-6887

**ORIGINAL**

IN THE

SUPREME COURT OF THE UNITED STATES

Supreme Court, U.S.  
FILED

FEB 22 2024

OFFICE OF THE CLERK

Brenda Behunin

(Your Name)

— PETITIONER

vs.

Dept of Children Services

RESPONDENT(S)

ON PETITION FOR A WRIT OF CERTIORARI TO

Supreme Court - Eastern Division

(NAME OF COURT THAT LAST RULED ON MERITS OF YOUR CASE)

PETITION FOR WRIT OF CERTIORARI

Brenda Behunin

(Your Name)

137 Commerce Street

(Address)

Sevierville Tn 37862

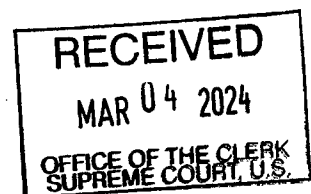
(City, State, Zip Code)

865 429 6541

(Phone Number)

### QUESTION(S) PRESENTED

- Do I not have a right to confront all alleged witness?
- Do I not have a right to see all alleged evidence?
- Don't I have a right to a full and fair hearing?
- Don't I have a right to effective Counsel?
- Don't I have a right to have a hearing in front of a unbiased judge?
- New evidence has been "found" that could change the outcome of this case.
- The state failed to prove "Knowing"
- There are various rules against hearsay.
- Prior inconsistent statements are to be able to impeach the witness credibility.
- False statements made by witnesses before and during hearing.
- Perjured testimony.



### LIST OF PARTIES

- ☒ All parties appear in the caption of the case on the cover page.
- ☐ 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 judgment is the subject of this petition is as follows:

### RELATED CASES

- In Re Austin S. No. E2022-01277-COA-R3-PT - Court of appeals of ~~the~~ Tennessee at Knoxville - Judgment entered Sept. 14<sup>th</sup> 2023.
- In Re Austin S. No E2022-01277-SC-R11-PT - Supreme Court of Tennessee at Knoxville - Judgment entered Dec. 8<sup>th</sup>, 2023

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## TABLE OF AUTHORITIES CITED

### CASES

### PAGE NUMBER

- Brady v Maryland.
- In re Hailey C. No M2020-01487-COA-R3-JV
- Napue Villinois 360 U.S. 264
- Kinard v. Kinard 986 S.W. 2d 220, 228.
- In re Markus E 671 S.W. 3d 437.
- State v. Vasques 221 S.W. 3d 514.

### STATUTES AND RULES

- 40-30-106 - Full and fair hearing.
- Tenn R Evid 801(c)
- Tenn R Evid 613
- Rule 60.02 (2)

### OTHER

- Sixth Amendment of the United States Constitution.
- Article I, Section 9 of the Tennessee Constitution.

IN THE  
SUPREME COURT OF THE UNITED STATES  
  
PETITION FOR WRIT OF CERTIORARI

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

**OPINIONS BELOW**

☐ For cases from **federal courts**:

The opinion of the United States court of appeals appears at Appendix \_\_\_\_\_ 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 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 B 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 Supreme Court of Tennessee at Knoxville court appears at Appendix B to the petition and is

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

## JURISDICTION

☐ For cases from **federal courts**:

The date on which the United States Court of Appeals decided my case was \_\_\_\_\_.

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

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

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

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

☒ For cases from **state courts**:

The date on which the highest state court decided my case was 12/08/2023.  
A copy of that decision appears at Appendix B.

☒ A timely petition for rehearing was thereafter denied on the following date: 12/08/2023, and a copy of the order denying rehearing appears at Appendix B.

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

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

## CONSTITUTIONAL AND STATUTORY PROVISIONS INVOLVED

- Sixth Amendment of the United States Constitution
- Article I, Section 9 of the Tennessee Constitution.
- Brady v Maryland.
- In re Hailey C
- Napue v Illinois
- Kinard v Kinard
- In Markus E
- State v Vasques
- 40-30-106
- Tenn R Evid 801(c)
- Tenn R Evid 613
- Rule 60.02(z)



## STATEMENT OF THE CASE

- The Statement made during the case are all "hearsay". The State withheld evidence that they used against me during the hearing.
- The State failed to prove knowing in this situation.
- The alleged witness did not testify at the hearing.
- My Counsel was ineffective.
- New evidence has been "found" that could change the situation.


## REASONS FOR GRANTING THE PETITION

• Why the United States Supreme Court should grant my petition. I was not able to confront all the alleged witnesses. I have a right to physically face the witnesses and the right to cross-examine them. A.S. and B.S. were not present for the hearing, which is against my rights. They withheld evidence such as the Children A.S. and B.S. Forensic interviews. All the testimony was all hearsay at the hearing. Withholding evidence and the knowing use of perjured testimony are prime examples of the type of misconduct warrant a reversal. I was not given a full and fair hearing as I had ineffective counsel. I reported my attorney to the Board of professional responsibility. He admitted to doodling during my hearing. Plus much more. Also new evidence may result in a different judgment. New evidence attacks the credibility of the medical examiner/medical staff. With the statement being hearsay many made false statements they were made before and during the hearing. Prior inconsistent statements are used to impeach the credibility of a witness. With the withholding of evidence I was unable to impeach witnesses. The state also ~~did~~ failed to prove "knowing". These are just a few reasons the United States Supreme Court should grant my petition.

## CONCLUSION

The petition for a writ of certiorari should be granted.

Respectfully submitted,



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Date: Feb 18<sup>th</sup> 2023