ORIGINAL

23-7607

No. 23 _____

In The
Supreme Court of the United States

IN RE KURT A. BENSHOOF,
A.R.W. BY AND THROUGH HIS FATHER,
Petitioners,

v.

CITY OF SEATTLE,
DAVID S. KEENAN, JESSICA R. OWEN
Respondents.

To the Honorable Justices
of the United States Supreme Court

PETITION FOR WRIT OF HABEAS CORPUS

Kurt A. Benshoof, *Pro Se*
1716 N 128th Street
Seattle, WA 98133
E-mail: kurtbenshoof@gmail.com
Telephone: (206) 460-4202

QUESTIONS PRESENTED

Beginning in 2020, Respondents retaliated against Petitioner Kurt Benshoof ("Benshoof") because his religious beliefs proscribed coerced face mask wearing, and because Benshoof opposed having his twelve-year-old son subjected to an ongoing Pfizer clinical trial for a gene therapy which was neither "safe" nor "effective." Benshoof's beliefs remained firmly held. When Benshoof sought redress of his grievances, the retaliation increased. Respondents acted in concert to kidnap Benshoof's son, steal his car, conceal their crimes via fraudulent family court proceedings, and indefinitely imprison Petitioners under color of law.

Washington state courts denied Petitioners redress, avoiding habeas jurisdictional inquiry of family court proceedings by falsely claiming Benshoof sought appellate review. The customs and widespread practices of federal courts avoid addressing the violations of Petitioners' rights by claiming "domestic relations exception." Having brought cases before the Ninth Circuit, Benshoof discovered precisely how the federal courts are misapplying case law to falsely claim that federal courts do not have jurisdiction for redress of Petitioners' unlawful imprisonment.

The good news is that these widespread practices can now be addressed. The great news is that this Court can proactively prevent irreparable harm to parents and children who would otherwise be at risk of what has befallen Benshoof and his minor son, A.R.W.

The three questions presented are:

1. Whether the Ninth Circuit Court of Appeals decided an important

federal question regarding domestic relations exception in a way that conflicts with relevant decisions of this Court, and thereby enabled the ongoing unlawful imprisonment of Petitioners, for which there is no plain, speedy, and adequate remedy at law other than a writ of habeas corpus from this Court.

2. Whether the Ninth Circuit Court of Appeals sanctioned departures from the accepted and usual course of judicial proceedings by the U.S. District Court for the Western District of Washington, and thereby enabled the ongoing unlawful imprisonment of Petitioners, for which there is no plain, speedy, and adequate remedy at law other than a writ of habeas corpus from this Court.

3. Whether minors have *pro se* rights under 28 U.S.C. § 1654 that can be asserted by their parents on their behalf.

PARTIES

Petitioner Kurt A. Benshoof ("Benshoof") is reverend of a humble home church. Benshoof was petitioner in the Supreme Court of the United States, is petitioner and was appellant in the Ninth Circuit Court of Appeals, was petitioner and is co-plaintiff in the United States District Court for the Western District of Washington, was petitioner in the Washington State Supreme Court, is appellant in the Washington State Court of Appeals, was plaintiff in King County Superior Court, and is defendant in Seattle Municipal Court.

Petitioner A.R.W. is the fifteen-year-old son of Petitioner Kurt Benshoof and

Respondent Jessica Owen.

Respondent CITY OF SEATTLE ("City") is a municipal corporation, was respondent in the Supreme Court of the United States, was respondent in the Ninth Circuit Court of Appeals, was respondent and is defendant in the United States District Court for the Western District of Washington, is appellee in the Washington State Court of Appeals, was defendant in King County Superior Court, and is plaintiff in Seattle Municipal Court.

Respondent is David S. Keenan ("Keenan"), is a judge for King County Superior Court. Keenan was respondent in the United States Supreme Court, is a real party of interest and was an appellee in the Ninth Circuit Court of Appeals, was a respondent and is defendant in the United States District Court for the Western District of Washington, was a respondent in the Supreme Court of Washington, was a respondent in King County Superior Court, and was the presiding family court judge in King County family court.

Respondent Jessica R. Owen ("Owen") is the mother of Petitioner's minor son, A.R.W. Owen was respondent in the Supreme Court of the United States, is a real party of interest and was respondent in the Ninth Circuit Court of Appeals, was respondent and is co-defendant in the United States District Court for the Western District of Washington, was respondent in the Washington State Supreme Court, is appellee in the Washington State Court of Appeals, and was defendant, petitioner, and respondent in King County Superior Court.

LIST OF PROCEEDINGS

Petitioners' petition for writ of habeas corpus to the United States Supreme Court was denied on January 8, 2024; docket number 23-6090.

Benshoof's petition for writ of mandamus to the Ninth Circuit Court of Appeals, dated May 13, 2024, seeking to compel the United States District Court for the Western District of Washington to adjudicate Benshoof's motion for temporary restraining order, has not been adjudicated; docket number 24-3053.

The order of the Ninth Circuit Court of Appeals, dated October 27, 2023, dismissing Petitioner's appeal from the district court dismissal order of his petition for writ of habeas corpus, is attached hereto (App. 8a); docket number 23-35418.

The order of the United States District Court for the Western District of Washington, dated October 31, 2023, denying Petitioner's second petition for preliminary injunction, is attached hereto (App. 11a); docket number 2:23-cv-1392-JNW.

The order of the United States District Court for the Western District of Washington, dated October 6, 2023, denying Petitioner's first motion for temporary restraining order, is attached hereto (App. 27a); docket number 2:23-cv-1392-JNW.

The order of the United States District Court for the Western District of Washington, dated June 12, 2023, dismissing Petitioner's petition for writ of habeas corpus, is attached hereto (App. 37a); docket number 2:23-cv-00751-RAJ.

The order of the Supreme Court of the State of Washington, dated May 8, 2023, dismissing Petitioner's petition for writ of habeas corpus, is attached hereto (App.

40a); docket number 101964-5.

The order of King County Superior Court, dated March 4, 2024, denying Benshoof's request for leave to file petition for writ of habeas corpus, is attached hereto (App. 44a); docket number 22-2-15958-8 SEA.

The order of King County Superior Court, dated February 5, 2024, denying Petitioner's petition for writ of prohibition, is attached hereto (App. 47a); docket number 23-2-23752-8 SEA.

The order of King County Superior Court, dated February 5, 2024, denying Petitioner's petition for writ of prohibition, is attached hereto (App. 50a); docket number 23-2-23761-7 SEA.

The order of King County Superior Court, dated March 24, 2023, denying Benshoof's motion to vacate, is attached hereto (App. 53a); docket number 21-5-00680-6 SEA.

The order of King County Superior Court, dated July 21, 2022, denying Petitioner's petition for writ of habeas corpus, is attached hereto (App. 57a); docket number 22-2-11112-7 SEA.

JURISDICTION

Pursuant to the Habeas Corpus Act of February 5, 1867, Ch. 28, § 1, 14 Stat. 385, this Court has original jurisdiction to grant a writ of habeas corpus.

Pursuant to 28 U.S.C. § 1331 this Court has jurisdiction and is required to adjudicate federal questions involving constitutional violations of Petitioner's rights.

Pursuant to U.S.C. § 1651 this Court has original jurisdiction.

Pursuant to U.S.C. § 2241(a) this Court has jurisdiction to grant Petitioners' writ of habeas corpus.

Pursuant to U.S.C. § 2283 this Court has jurisdiction to enjoin proceedings in Seattle Municipal Court pursuant to the express authorization of Congress under 42 U.S.C. § 1983.

RELATED CASES

United States Supreme Court

No. 23A933
Kurt Benshoof, *Applicant,* v. Freya Brier, et al., *Respondents.*

No. 23-7523
Kurt Benshoof, *Petitioner,* v. Freya Brier, et al., *Respondents.*

U.S. Court of Appeals for the Ninth Circuit

No. 24-3053
Kurt Benshoof, *Petitioner,* v. U.S. District Court, *Respondent.*

U.S. District Court for the Western District of Washington

WAWD No. 2:23-cv-1392-JNW
Kurt Benshoof, et al., *Plaintiffs,* v. Moshe Admon, et al., *Defendants.*

WAWD No. 2:23-cv-1829-JNW
Seattle School District No. 1, *Plaintiff,* v. Kurt Benshoof, *Defendant.*

Washington Court of Appeals, Division I

No. 86468-8-I
Kurt Benshoof, *Appellant,* v. CITY OF SEATTLE, *Appellee.*

No. 86469-6-I
Kurt Benshoof, *Appellant,* v. CITY OF SEATTLE, *Appellee.*

No. 86466-1-I
Kurt Benshoof, *Appellant,* v. Nathan Cliber, et al., *Appellees.*

No. 86465-8-I
Kurt Benshoof, *Appellant,* v. Jessica Owen, *Appellee.*

No. 85092-0-I
Kurt Benshoof, *Appellant,* v. Nathan Cliber, et al., *Appellees.*

Seattle Municipal Court

No. 669329
CITY OF SEATTLE, *Plaintiff,* v. Kurt Benshoof, *Defendant.*

No. 671384
CITY OF SEATTLE, *Plaintiff,* v. Kurt Benshoof, *Defendant.*

No. 675317
CITY OF SEATTLE, *Plaintiff,* v. Kurt Benshoof, *Defendant.*

No. 675405
CITY OF SEATTLE, *Plaintiff,* v. Kurt Benshoof, *Defendant.*

No. 676175
CITY OF SEATTLE, *Plaintiff,* v. Kurt Benshoof, *Defendant.*

No. 676207
CITY OF SEATTLE, *Plaintiff,* v. Kurt Benshoof, *Defendant.*

No. 676216
CITY OF SEATTLE, *Plaintiff,* v. Kurt Benshoof, *Defendant.*

No. 676463
CITY OF SEATTLE, *Plaintiff,* v. Kurt Benshoof, *Defendant.*

No. 676492
CITY OF SEATTLE, *Plaintiff,* v. Kurt Benshoof, *Defendant.*

Table of Contents

APPENDIX TABLE OF CONTENTS

TABLE OF AUTHORITIES

Cases

Constitutional Provisions

Congressional Laws

Federal Codes and Rules

Washington State Statutes

Other Authorities

TO THE HONORABLE JUSTICES

Pursuant to Rule 20 of this Court, and 28 U.S.C. § 1651, without any plain speedy and adequate remedy at law, under exceptional circumstances involving irreparable harm, Petitioner Kurt Benshoof ("Benshoof") respectfully requests a writ of habeas corpus to stop the unlawful imprisonment of Petitioners: the *de facto* house arrest of Benshoof and the ongoing kidnapping of his minor son, A.R.W.

Pursuant to Rule 20.4(a) this petition hereinafter sets forth: (1) the "reasons for not making application to the district court of the district in which" Petitioners are unlawfully imprisoned; (2) specifically how and where Petitioners have exhausted available remedies in state and federal courts; (3) the exceptional circumstances warranting the exercise of the Court's discretionary powers; and (4) that adequate relief cannot be obtained in any other form, nor from any other court.

Beginning in 2020, Benshoof was accused of being a direct and imminent threat to others because he shopped for organic groceries without a face covering. (*See* U.S. Nos. 23A933; 23-7523). Seattleites supported imprisoning anyone who did not wear a face mask, and nearly a third supported kidnapping children[1] from parents who refused to take the COVID-19 "vaccine."[2]

On September 3, 2021, prostitute Magalie Lerman stole Benshoof's car and kidnapped A.R.W. When Benshoof tried to locate his son, Seattle police threatened Benshoof with arrest for "harassing" the kidnappers—Ms. Lerman and her prostitute

---

[1] Rasmussen Reports Poll: COVID-19: Democratic Voters Support Harsh Measures Against Unvaccinated - Rasmussen Reports®

[2] Pfizer BioNTech 162b2 gene therapy not a "vaccine" pursuant to RCW 72.290.010(10)

girlfriend, Respondent Jessica Owen ("Owen"), mother of A.R.W. Seattle Public Schools denied Benshoof any access to A.R.W., aiding and abetting the kidnapping.

Owen then perjured herself, absurdly claiming that Benshoof hadn't lived with his then twelve-year-old son since birth, hadn't raised his son since birth, and wasn't his biological father. Without domestic relations jurisdiction, King County Family Court judge Respondent David Keenan declared Benshoof to be a "credible threat" to A.R.W. When Benshoof texted his son to keep A.R.W. from committing suicide due to the ongoing alienation from his father, City of Seattle prosecutors filed eighty-nine domestic violence charges and issued a $250,000 arrest warrant.

Case Summary Corollary

What Jessica Owen ("Owen"), her attorney Nathan Cliber ("Cliber"), City officials, and family court judge David Keenan ("Keenan") did to violate Benshoof's right of association with A.R.W., and Benshoof's right to the free exercise of his religious beliefs, was no less ridiculous than if the following had occurred:

(1) Benshoof, who has never operated a tavern or possessed a liquor license, performed the Eucharist at home with his son, consecrating and consuming bread and wine;

(2) Owen called the Liquor Control Board alleging that Benshoof was serving alcohol to minors and that Benshoof had no parental rights;

(3) Cliber and Owen filed a complaint with the Liquor Control Board, alleging that Benshoof was serving alcohol without a liquor license;

(4) Benshoof informed the Liquor Control Board that it did not have

jurisdiction over Benshoof's right of familial association with his son;

(5) a Liquor Control Board commissioner held a hearing without Benshoof present and declared that Benshoof was a "credible threat" to A.R.W., criminalizing all communication between father and son because Benshoof served alcohol without a license to a minor;

(6) City of Seattle filed over one hundred criminal charges and issued eight warrants totaling $310,000 for Benshoof's arrest because Benshoof texted his son funny memes to keep A.R.W. from committing suicide; and

(7) U.S. District Court and the Ninth Circuit Court of Appeals asserted that federal liquor license exception precluded their jurisdiction to adjudicate whether Respondents violated Petitioners' constitutionally protected rights to unlawfully imprison Petitioners.

STATEMENT OF THE CASE

A. Benshoof's Religious Beliefs

Benshoof's firmly held religious beliefs require him to always speak the truth and to confront, expose, and seek redress against liars and their lies, particularly when those liars seek to violate the First Amendment by denying others the free exercise of religion, their petitions for redress, or their familial associations.

Benshoof's firmly held spiritual beliefs constitute a class of one for the purposes of this petition. *Village of Willowbrook v. Olech*, 528 U.S. 562, at 566 (2000)

B. Family Background

Benshoof and Owen discovered she was pregnant with Benshoof's son, A.R.W., in August 2008; thereupon, Benshoof and Owen entered a verbal parenting contract at common law ("Covenant") after notice, consideration, and accord; thereby exercising their unlimited right to contract as private individuals.

Under their Covenant, they would henceforth have full, equal and inalienable rights as parents of their son-to-be, sharing all significant decisions regarding A.R.W.'s care and upbringing, such as education, family scheduling, medical care, and nutrition.

Though Benshoof and Owen never married, they raised A.R.W. amicably for the following twelve years, prioritizing their son's well-being and sharing equally in all significant decisions regarding their son's education, medical care, and living arrangements. Benshoof had good cause to believe that Owen would never violate their Covenant: doing so would harm A.R.W., and Benshoof did not believe Owen would ever be so selfish as to knowingly harm their son.

Benshoof and Owen have never been parties to a marriage, domestic partnership, legal separation, or a declaration of invalidity. Benshoof has never yelled at A.R.W., nor threatened corporal punishment, let alone spanked his son.

In September 2020, Owen moved out of the family home to buy a house with her girlfriend, Magalie E. Lerman ("Lerman"). (WAWD No. 2:23-cv-1392-JNW, Dkt. #13-1 pg. 200)

In August 2021 relations between Benshoof and Owen deteriorated when Benshoof discovered that Owen had violated their Covenant by secretly making unilateral medical decisions. and injecting A.R.W. with a Pfizer gene therapy.

Benshoof showed A.R.W. the Vaccine Adverse Event Reporting System data at cdc.gov and showed A.R.W. that the gene therapy was still in Phase Three of its clinical trial. (*See* https://clinicaltrials.gov/ct2/show/NCT04368728) To date, Pfizer has not completed Phase Three. A.R.W. realized that Owen had lied that the gene therapy was "safe" and "approved." A.R.W. was shocked that Owen *coerced* him with lies by telling A.R.W. that he would not be able to attend school, nor play with any of his friends, unless he received the "safe" and "approved" Pfizer BioNTech injection.

A.R.W. chose not to go back over to Owen's house, stopped returning Owen's texts, and hung up the phone on Owen when she called him. Owen, instead of accepting Benshoof's invitation to sit down for a family discussion with A.R.W., threatened to have Benshoof unlawfully arrested, to kidnap A.R.W., to steal Benshoof's 2011 Toyota FJ Cruiser, and to evict Benshoof from his home. (*Id.*, Dkt. #13-1 pg. 44) When Owen's threats didn't work, Owen attempted to cut off all contact between father and son by seeking an immediate restraining order against Benshoof.

C. KCSC No. 21-2-11149-8 SEA

Owen truthfully declared on August 23, 2021, in her TRO petition that: (1) Owen and Benshoof are the parents of A.R.W. (*Id.*, Dkt. #13-1 pg. 72); (2) A.R.W. is related to Benshoof as his child (*Id.*, pg. 73); and (3) Benshoof had raised A.R.W. his

entire life. (*Id.*, Dkt. #13-1 pg. 62 ¶1) In her TRO petition, Owen also sought to unlawfully seize possession of Benshoof's 2011 Toyota FJ Cruiser.

On September 3, 2021, at 10:32am a full denial order was issued. (*Id.*, Dkt. #13-1 pg. 147-150) Benshoof obtained a copy of the denial order from the King County Superior Court several minutes later. "The Court found [Benshoof's] testimony to be credible..." (*Id.*, Dkt. #13-1 pg. 147). Then the insanity commenced.

1) SPD Incident 2021-003578

Around 12:00pm on September 3, 2021, Lerman stated to SPD officers that: (1) Benshoof had no rights as the father of A.R.W.; (2) Benshoof's 2011 Toyota FJ Cruiser belonged to Owen; (3) Benshoof is mentally unstable; (4) Benshoof is a racist; (5); Benshoof is a misogynist abuser; (6) Benshoof is a criminal and danger to society because Benshoof does not wear a face mask.

At approximately 330pm, SPD Officers Gabriel Ladd #8461 ("Ladd") and Trevor Willenberg #8661 arrested Benshoof for allegedly violating the TRO, yet the TRO stated in bold lettering on the first page, **TERMS OF THIS ORDER EFFECTIVE UNTIL: End of the hearing, date noted above."** (*Id.*, Dkt. No. 13-1 pg. 78)

Benshoof provided Ladd the denial order, explaining that Benshoof had testified that Owen had committed perjury to steal Benshoof's 2011 Toyota FJ Cruiser and seize custody of A.R.W. Benshoof informed Ladd that the denial order stated, "The court found [Benshoof's] testimony to be credible." (*Id.*, Dkt. #13-1 pg. 147)

Benshoof offered to show Ladd text message evidence in Benshoof's cell phone that on August 16, 2021, Owen had attempted to extort Plaintiff of $19,000 by explicitly threatening to: (1) steal Plaintiff's FJ Cruiser; (2) kidnap A.R.W.; (3) evict Benshoof from his home if Benshoof did not give Owen $19,000. (*Id.*, #13-1 pg. 44)

Ladd refused to look at Benshoof's evidence and physically restrained Benshoof while Lerman stole Benshoof's FJ Cruiser and kidnapped A.R.W. by carrying him away in Benshoof's 2011 Toyota FJ Cruiser. Ladd did not have a warrant to arrest Benshoof, nor was there a protection order authorizing Ladd to arrest Benshoof without a warrant, pursuant to RCW 10.31.100.

Owen's and Lerman's conspiracy thereafter employed their friend, Defendant Owen Hermsen ("Hermsen"), in the furtherance of additional attempts to extort Benshoof for $19,000 via text messages, conditional for Benshoof regaining possession of his FJ Cruiser and Benshoof seeing A.R.W. (*Id.*, Dkt. #13-1 pg. 315)

On September 14, 2021, Benshoof tried to speak with A.R.W. on the public street outside Owen's home. Owen called 911 and stated to Seattle Police Department officers that A.R.W. was related to Benshoof as his "child" and falsely claimed that she was the sole "legal guardian" of A.R.W. RCW 26.33.020(11) defines "legal guardian" as "a person *other than a parent.*" (*Id.*, Dkt. #13-1 pg. 225)

D. KCSC No. 21-5-00680-6 SEA

On September 20, 2021, Owen and her family law attorney, Defendant Nathan Cliber ("Cliber"), filed a Petition to Decide Parentage ("parentage petition"), King County Superior Court Case No. 21-5-00680-6 SEA. Owen and Cliber did not provide

family court evidence that Benshoof and Owen had ever been married, divorced, nor in a state domestic partnership pursuant to RCW Title 26 *Domestic Relations.*

Owen's parentage petition averred under penalty of perjury that Benshoof: (1) was ***not*** the biological father of A.R.W.; (2) had ***never*** lived with A.R.W., and (3) had ***never*** held out A.R.W. as his son. All three sworn statements evidenced Owen's inconsistent material statements of fact under penalty of perjury between her TRO and parentage petition in King County Superior Court a month apart. Among Owen's exhibits she included three Seattle Police Department incident reports spanning November 2015 to September 14, 2020, which all affirmed that A.R.W. is Benshoof's son. (WAWD No. 2:23-cv-1392-JNW, Dkt. #13-1, pg. 84, 89, 225)

On September 22, 2021, Owen again reversed course, contradicting herself by declaring under penalty of perjury, "Kurt...acted as [A.R.W.'s] father for [A.R.W.'s] entire life." (*Id.,* pg. 229) Owen also stated, "We moved in together in July of 2008. [A.R.W.] was born nine months later..." (*Id.,* pg. 230) "[Benshoof] always insisted on being treated as A.R.W.'s father and that A.R.W. was his." (*Id.,* pg. 230) "[In September of 2020] I finally moved out of our shared residence..." (*Id.,* pg. 231)

Keenan denied Benshoof's right to enter courtrooms and testify before a jury in violation of Wash. Const. art I §§ 10, 21, 22.

1) SPD Incident 9/24/2021

On the morning of Friday September 24, 2021, Benshoof drove to the street of Owen's house to take A.R.W. to school and speak with his son: Benshoof was unable to reach A.R.W. by phone or text.

Benshoof called 911 for a wellness check on A.R.W. and SPD Officers Kieran Barton #8747 ("Barton") and Adam Beatty #7453 ("Beatty") responded to Owen's home. Owen stated to Seattle Police Department officers that A.R.W. was related to Benshoof as his "child" yet Owen claimed she was sole "legal guardian" of A.R.W. Barton and Beatty claimed that Benshoof had no parental rights as the father of A.R.W. because Owen was the sole "legal guardian" of A.R.W., a legal impossibility under RCW 26.33.020(11), as only a person "other than a parent" may be appointed a "legal guardian" by court order.

Benshoof attempted to provide Barton and Beatty with verified documentation evidencing that: (1) Benshoof had full parental rights; (2) Owen and Lerman were perpetrating felony custodial interference by withholding A.R.W. from Benshoof; and (3) Owen had made false statements to Barton and Beatty. *See* RCW 9A.40.060(1); RCW 9A.76.175)

Barton and Beatty refused to take, or even look at, the evidentiary documents presented by Benshoof. Beatty articulated a practice and widespread custom of the SPD regarding Benshoof's class, "We're not taking anything from you. We know you're trying to set us up." Beatty and Barton threatened Benshoof with arrest if Benshoof returned to the public street bordering Owen's home.

2) Temporary Restraining Order

Owen obtained a restraining order against Benshoof on September 28, 2021, by making inconsistent material statements of fact under oath. (*Id.,* Dkt. #47, pg. 66-67

¶¶403-408) Cliber suborned Owen's perjury in Owen's sworn Declaration and Petition to Decide Parentage. (*Id.,* Dkt. #13-1, pg. 250, 257)

3) Temporary Parenting Plan

Respondent-Defendant Judge David Keenan ("Keenan") issued a temporary parenting plan, despite having no evidence of "dissolution of marriage or domestic partnership, declaration of invalidity, or legal separation." RCW 26.09.004(3)(4) states that temporary and permanent parenting plans are for "an action for dissolution of marriage or domestic partnership, declaration of invalidity, or legal separation." Benshoof objected to family court's absence of jurisdiction, *supra,* pg. 7 ¶5, as Benshoof and Owen have never been party to "domestic relations."

4) Final Restraining Order

On October 21, 2022, Owen and Cliber obtained a Final Restraining Order from Respondent-Defendant Judge David Keenan, issued pursuant to RCW 26.09.060, which threatened Benshoof with arrest under RCW 7.105. (*Id.,* Dkt. #13-2 pg. 2-6)

Keenan did not have evidence of a "dissolution of marriage or domestic partnership, legal separation, or declaration of invalidity" between Benshoof and Owen to issue a restraining order pursuant to RCW 26.09.050(1); 26.09.060(1)(a)(b), *supra*, pg. 10 ¶1

RCW 7.105.310 (5) states an "order ***shall*** specify the date the order expires." The Final Restraining Order stated that it ended on two dates: *either* October 21, 2023, or September 28, 2027. (*Id.,* Dkt. #13-2 pg. 2)

Benshoof was denied his right to enter the courtroom and testify on October 21, 2022, to expose that Cliber suborned Owen's perjury. Keenan denied Benshoof entrance to the courtroom in violation. of Wash. Const. art I §§ 10, 22. Keenan denied Benshoof's right to testify before a jury pursuant to Wash. Const. art I § 21.

Under the terms of the Final Restraining Order, Keenan subjected Benshoof to immediate arrest for effecting Fed.R.Civ.P. 4 service of process upon Owen, ***unless*** Benshoof hired Pegasus Process Servers or ABC Legal Services. Both Pegasus Process Servers and ABC Legal Services then refused to do business with Benshoof.

E. Seattle Municipal Court

1) SMC No. 669329

On July 6, 2022, A.R.W. ran away from Owen's home to return to Benshoof. SPD forced A.R.W. to return to Owen's. In early August 2022, A.R.W. considered suicide because he didn't know if he would be forced to stay at Owen's until he turned eighteen years old. (*Id.,* Dkt. #13-2, pg. 49 ¶40)

On November 15, 2022, Benshoof received a letter from the City in his mailbox alleging he was charged with violating RCW 7.105.450. The letter stated a hearing was scheduled for November 16, 2022. Prior to the hearing on November 16, 2022, Benshoof filed a motion to dismiss for lack of personal jurisdiction, citing the City's violation of RCW 35.20.270(1) and failure to serve legal process. (*Id.,* Dkt. #13-3 pg. 139-144) Benshoof filed a motion for change of venue on the grounds that municipal judges had repeatedly denied Benshoof's right to appear in person for the previous two years. (*Id.,* Dkt. #13-3 pg. 146-149)

On November 16, 2022, at 230pm, Benshoof appeared by Special Appearance via WebEx before Defendant Judge Willie Gregory ("Gregory"). Benshoof challenged personal jurisdiction, citing RCW 35.20.270(1). The City failed to provide evidence that the City had legally served Benshoof pursuant to RCW 35.20.270(1).

The City claimed that Benshoof had violated the Final Restraining Order in King County Superior Court case no. 21-5-00680-6. RCW 7.105.010(1)(a) states that a protection order violation allegation "must be transferred" to superior court when a "superior court has exercised jurisdiction over a proceeding involving the parties."

Gregory stated, "the court has jurisdiction" and set bail at $10,000 and issued a restraining order against Benshoof.

On June 21, 2023, Benshoof appeared by WebEx before Defendant Judge Jerome Roache ("Roache"). City prosecutor, Defendant Katrina Outland ("Outland"), motion to issue a $100,000 warrant for Benshoof's arrest. Roache issued warrant #990437083 in the amount of $50,000 for Benshoof's "failure to appear." The worksheet stated that Benshoof had appeared. (*Id.*, Dkt. #13-3 pg. 161)

2) SMC No. 671384

Between September 2022 and January 23, 2023, Benshoof and A.R.W. used the Discord messaging app to secretly communicate with each other. Benshoof sent his son funny memes to keep A.R.W. from killing himself due to the mental and emotional abuse of being estranged from his father.

On January 23, 2023, A.R.W. again ran away from Owen's house to return to Benshoof. When the police arrived at Benshoof's home, the police refused to look at

Benshoof's evidence of Owen's perjury, fraud, threats, kidnapping, extortion, and theft. Police again forced A.R.W. to return to Owen's.

On March 14, 2023, the City filed eighty-nine (89) charges of "domestic violence" because Benshoof texted with A.R.W. Outland submitted *some* text messages between Benshoof and A.R.W. to obtain an arrest warrant. Outland did *not* submit as evidence texts from A.R.W. to Benshoof which evidenced that A.R.W.: (1) wants to escape Owen's house to return home to Benshoof; (2) believes Owen is suffering from mental illness and is a pathological liar; (3) heard Owen and Lerman state their intent to extort Benshoof for $100,000; (4) wants Benshoof to continue litigation against Owen and Lerman to facilitate A.R.W. returning home to Benshoof; and (5) considered killing Owen to stop Owen's abuse of A.R.W.

On March 14, 2021, Judge Faye Chess issued $250,000 warrant #990435958.

On September 26, 2023, City attorneys were served with further proof of A.R.W.'s statements, all of which confirm Benshoof's sworn statements. The affidavit of A.R.W. was signed before three adult witnesses on February 10, 2023. (App. 1a)

3) SMC No. 675405

On August 27, 2023, Seattle police saw Benshoof's car driving on the 12500 block of Aurora Avenue North. Multiple SPD cruisers pursued Benshoof's car on Interstate 5 nearly twenty (20) miles outside of Seattle city limits. According to Incident Report #2023-246823, police "requested the assistance of King County's Guardian 1 helicopter, Snohomish County's helicopter, Washington State Patrol's

helicopter, and any agency with Star Chase." Benshoof was not served summons in case no. 675405 pursuant to RCW 35.20.270(1).

4) Additional Malicious Prosecutions

The City subsequently filed more "domestic violence" charges against Benshoof in SMC Case Nos. 675317, 675405, 676175, 676207, 676216, 676463, nor 676492, including six additional warrants. Benshoof was not served summons in these foregoing cases for the City to obtain personal jurisdiction over Benshoof, pursuant to the requirement of RCW 35.20.270(1)

5) Legal Challenges Unavailable

Benshoof cannot bring motion before Seattle Municipal Court. Benshoof tried repeatedly, and numerous Catch-22 barriers were erected: (1) Benshoof's public defender, Mr. Pirani, refused to file any motions raising constitutional, statutory, or jurisdictional challenges; (2) Mr. Pirani refused to withdraw as counsel; (3) judges refused to hear Benshoof's *pro se* Marsden motion to dismiss Mr. Pirani so long as Mr. Pirani remained counsel of record; (4) judges refuse to hear Benshoof's motion to dismiss ***unless*** Benshoof first subjects himself to indefinite unlawful imprisonment.

F. State Court Remedy Unavailable

1) King County Superior Court

Benshoof filed a habeas petition in July 2022, King County Superior Court No. 22-2-11112-7 SEA. It was summarily dismissed.

Benshoof motioned to vacate the fraudulent family court case no. 21-5-00680-6. Despite providing the affidavit of A.R.W., Chief Uniform Family Court Judge Sean

O'Donnell ignored the content of the affidavit with a straw man: O'Donnell claimed that Benshoof had either violated the terms of the Final Restraining Order to obtain the affidavit, or the three adult witnesses to the signing had committed perjury.

Benshoof sought Writs of Prohibition to arrest the malicious prosecutions by City of Seattle. Both Writs were denied, and notice of appeal has been filed with the Washington State Court of Appeals under consolidated Case No. 86467-0-I

When Benshoof sought leave to file an amended habeas petition, including text messages from A.R.W. which evidenced the ongoing abuse to A.R.W. by Owen and Lerman, King County Superior Court Judge Marshall Ferguson denied Benshoof's motion, claiming that Benshoof's sworn statements and evidence were "frivolous and without merit." (App. 45a ¶2) Judge Ferguson falsely claimed that Benshoof "clearly intends to use his proposed *habeas* petition as a substitute for appeal of those [family court proceedings]."

2) Washington Supreme Court

Benshoof filed a habeas petition in Washington Supreme Court No. 101964-5. It was summarily dismissed.

G. Federal Court Remedy Unavailable

After Benshoof's state courts habeas petitions were dismissed, Benshoof turned to the federal courts to redress the color of law unlawful restraints imposed upon himself and A.R.W.

1) WAWD No. 2:23-cv-00751-RAJ

District court claimed "domestic relations exception" to deny Benshoof's petition for habeas corpus. This was a blatant error of law. First, Benshoof and Owen were never parties to "domestic relations" by which a "child custody" proceeding could have ever occurred. Second, *Ankenbrandt v. Richards,* 504 U.S. 689 (1992) held "the Court of Appeals erred by affirming the district court's invocation of the domestic relations exception" in an action which "in no way seeks a divorce, alimony, or child custody decree." *Ankenbrandt* at 690. Benshoof's habeas petition "in no way [sought] a divorce, alimony or child custody decree." Rather, Benshoof's habeas petition sought a ***jurisdictional inquiry*** contesting the unlawful imprisonment of both Benshoof and A.R.W., perpetrated under color of law. Third, district court claimed that *Ankenbrandt* precluded federal jurisdiction. *Ankenbrandt* was a *diversity* case: Benshoof and Owen have lived in Seattle their son's entire life.

2) Ninth Circuit No. 23-35418

Parroting the abuse of discretion by district court, the Ninth Circuit cited *Lehman v. Lycoming County Children's Servs. Agency*, 458 U.S. 502, 511-512 (1982), falsely claiming that Benshoof was challenging a "state's child custody determination." The Ninth Circuit held that District Court did not err in dismissing Benshoof's habeas under *Lehman* for "lack of subject matter jurisdiction" despite the evidence before both courts that the principal issue presented by Benshoof was family court's ***complete absence of jurisdiction.*** (App. 9a)

Circuit Justices should know that a habeas petition is a jurisdictional inquiry. If they don't, Benshoof clearly pleaded that the District Court and Ninth Circuit were

promulgating straw man logical fallacies. (9th Cir. No. 23-35418, DktEntry 5 pg. 2 ¶1, pg. 14 ¶¶2-4) The Ninth Circuit upheld District Court's frivolous claim that it lacked subject matter jurisdiction under federal "domestic relations exception" pursuant to the holding of *Ankenbrandt.*

3) WAWD No. 2:23-cv-01392-JNW

On September 27, 2023, Benshoof petitioned for a preliminary injunction (WAWD No. 2:23-cv-1392-JNW, Dkt. #14) to enjoin the City from arresting Benshoof pursuant to the terms of the Final Restraining Order (*Id.,* Dkt. #13-2 pg. 4 ¶4) for effecting service of process under Fed.R.Civ.P. 4 to Owen.

In its denial order, District Court once again cited *Ankenbrant* to falsely claim absence of federal jurisdiction to grant Benshoof injunctive relief. (*Id.,* Dkt. #38 pg. 14 ¶1) District court threatened to bar Benshoof from bringing suit for Benshoof's "unmeritorious litigation." (*Id.,* Dkt. #38 pg. 15 ¶1)

In October 2023, Benshoof filed Motions for TRO to enjoin the City's malicious prosecutions of Benshoof in SMC No. 669329 (*Id.,* Dkt. #20) and No. 671384. (*Id.,* Dkt. #23) In its denial order district court claimed "Benshoof does not allege the municipal court prevented him from raising his constitutional and jurisdictional claims" (App. 35a ¶2) and failed "to establish bad faith, harassment, or extraordinary circumstances that would justify the Court setting aside abstention under *Younger."* (App. 35a ¶3) With these two parlor tricks, district court declared, "Because fails to show likelihood of success on the merits and therefore does not meet the requirements for a temporary restraining order." (*Id.,* Dkt. #29 pg. 9 ¶3)

The City's malicious prosecutions, absent personal and subject matter jurisdiction, *supra,* pg. 12 ¶¶1-2, serve no legitimate purpose; therefore, the City's intent is to threaten and intimidate Benshoof by criminalizing his father-son association.

"[A]bstention doctrine is inappropriate for cases such as the present one, where...statutes are justifiably attacked on their face as abridging free expression, or ***as applied*** for the purpose of discouraging protected activities." *Dombrowski v. Pfister,* 380 U. S. 479, at 490 (1965).

After district court's errors of law and fact in its previous denial orders, Benshoof filed a forty-page TRO on March 25, 2024, exhaustively documenting: (1) the bad faith, harassment, and extraordinary circumstances involving the City's malicious "domestic violence" prosecutions; (2) the municipal court's absence of personal jurisdiction; (3) the municipal court's absence of subject-matter jurisdiction; (4) the municipal court's lack of statutory authority. (D.C. Dkt. #158)

Without any way to refute Benshoof's forty-page exposé, district court simply refused to adjudicate Benshoof's TRO, despite LCR 65(b) requiring a Response within forty-eight (48) hours, and 28 U.S.C. § 1657(a) stating that "the court ***shall*** expedite any consideration of any action...for temporary or preliminary injunctive relief."

Benshoof petitioned for writ of mandamus, Ninth Circuit No. 24-3053.

4) U.S. Supreme Court No. 23-6090

Benshoof petitioned for habeas corpus to the Supreme Court under its original jurisdiction. The petition was dismissed on January 8, 2024.

REASONS FOR GRANTING THE WRIT

Pursuant to the Habeas Corpus Act of February 5, 1867, Ch. 28, § 1, 14 Stat. 385 and 28 U.S.C. § 2254, this Court is authorized to grant a writ of habeas corpus to free Petitioners from the unlawful imprisonment[3] perpetrated by Respondents. Habeas is remedially appropriate: this Court has "an obligation to determine whether subject-matter jurisdiction exists..."[4]

Under 28 U.S.C. § 2243, the Court entertaining Petitioner's 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.

A. Prima Facia Case

The court must treat the complaint's factual matter as true and construe Benshoof's petition in the light most favorable to Benshoof "even if doubtful in fact." See *Erickson vs. Pardus,* 551 U.S. 89 (2007); *Scheuer vs. Rhodes,* 416 U.S. 232, 236 (1974)

B. Legal Right – Supremacy Clause

"This Constitution, and the laws of the United States which shall be made in pursuance thereof," take precedence over the City's and Keenan's fraudulent assertions of jurisdiction, and "the *judges in every state shall be bound thereby.*" United States Constitution, Article VI, Paragraph 2.

---

[3] RCW 9A.40.040; RCW 9A.40.010(6)
[4] *Hertz Corp v. Friend,* 559 U.S. 77, 94 (2010)

Respondents cannot prevail, as they cannot disprove that the family court restraining orders were fraudulent and void *ab initio,* nor can Respondents disprove that the restraining order issued by Gregory was issued without jurisdiction, and similarly void *ab initio.* Therefore, the City's enforcement of the void restraining orders under color of law: (1) violated the First Amendment by denying Benshoof's right to associate with A.R.W.; (2) violated the First Amendment by retaliating against Benshoof for his religious beliefs; and (3) was not justified by "interests of the highest order"—a so called, "compelling" interest—and that the malicious prosecutions of Benshoof were "narrowly tailored" to achieve those interests. *See Fulton v. City of Phila.*, 141 S. Ct. at 1881; *Gonzales v. O Centro Espirita Beneficente Uniao do Vegetal*, 546 U.S. 418, 429-30 (2006) (government bears the burden to satisfy strict scrutiny even at the preliminary injunction phase)

I. Federal Questions – Rule 10(a)(c)

A. Res Judicata Proscribed

The lower federal courts' domestic relations exclusion was improperly cited by the District and Ninth Circuit Courts dismissals for two reasons. While the *Rooker-Feldman* doctrine rightly prevents lower federal courts from hearing direct appeals of state court decisions, this Court inferred a salient distinction between *habeas* and *certiorari* of paramount importance. "All the authorities agree that *res judicata* does not apply to applications for habeas corpus. The courts must be kept open to guard against injustice through judicial error."[5] This distinction cannot be overstated.

[5] *Darr v. Burford*, 339 U.S. 200, 214-215 (1950)

Lower federal courts, by conflating the appellate review of *certiorari* with the direct jurisdictional inquiry of *habeas corpus*, have enervated the Great Writ, weakening our Republic's foundational defense against tyranny, suspending its power of inquiry into modern star chambers: family courts.

Secondly, Petitioner and Owen have never been parties to "domestic relations," a rubric presumptively including all parents and children: *au contraire,* the term includes parents in contractual privity with the state through marriage licensure[6] or domestic partnership.[7] Washington family courts are incorporated under Revised Code of Washington Title 26 *Domestic Relations.*

B. Federal Questions Mandate

Petitioner comes before this Court as the remedy of last resort because the lower courts' over-broad application of domestic relations exception has evidenced not only both prongs of an abuse of discretion test,[8] but derivative disregard for the concurring opinion of J. Gorsuch in *Axon v. FTC,* "Today, §1331 provides that "district courts shall have original jurisdiction of *all* civil actions arising under the Constitution, laws, or treaties of the United States. Not *may* have jurisdiction but *shall.* Not *some* civil actions arising under federal law, but *all.*"[9] Of note, original habeas jurisdiction of district court is not exclusive, but concurrent with this Court

---

[6] RCW 26.04.140 Marriage license. Before any persons can be joined in marriage, they shall procure a license from a county auditor, as provided in RCW 26.04.150 through 26.04.190.

[7] RCW 26.60.020(1) "State registered domestic partners" means two adults...who have been issued a certificate of state registered domestic partnership by the secretary.

[8] *U.S. v. Hinkson,* 585 F. 3d 1247, 1262 (9th Cir. 2009) citing *United States v. U.S. Gypsum Co.,* 333 U.S. at 395, 68 S.Ct. 525 (1948); *Cooter & Gell v. Hartmarx Corp.,* 496 U.S. at 405, 110 S.Ct. 2447 L. Ed. 2d 359 (1990)

[9] *Axon v. FTC,* 143 S. Ct. 890 (2023) (J. Gorsuch concurring, at 34-35)

under the Habeas Corpus Act.

Just as the broad application of *Chevron* deference rendered administrative agency actions opaque to federal court oversight, so too has the doctrine of domestic relations exception. The instant case is unique in that the fundamental threshold issue was, and remains, the glaring absence of family court jurisdiction. It is ethically and legally impossible to grant deference to a *void ab initio* family court proceeding.

Furthermore, if Respondents were to claim in Return that Petitioner simply seeks injunctive relief to stay state court proceedings,[10] the violations of Petitioner's first amendment rights remain an exception pursuant to 28 U.S.C. § 2283.[11]

C. Federal Habeas Authority

Justice Black, speaking for a unanimous Court in *Jones v. Cunningham*, 371 U. S. 236, 243 (1963), observed "The sparse legislative history of the [Habeas Corpus Act] gave "no indication whatever that the bill intended to change the general nature of the classical habeas jurisdiction."[12] ....Nor, since that time, has this Court ever held that the congressional purpose originally underlying the statute barred use of the federal writ to free children from unlawful state custody."[13]

In an early test of the Habeas Corpus Act, a 12-year-old child petitioned for a writ of habeas corpus to free herself from her unlawful imprisonment. Having been unlawfully restrained under indentured servitude by her mother's former slave

---

[10] e.g., Seattle Municipal Court Case Nos. 669329, 671384, *et al.*
[11] *Mitchum v. Foster,* 407 U.S. 225 (1972)
[12] Bator, Finality in Criminal Law and Federal Habeas Corpus for State Prisoners, 76 Harv.L.Rev. 441, 476-477 (1963) [Footnote 2/3]
[13] *Lehman v. Lycoming Cty. Ch. Svcs. Agcy.,* 458 U.S. 502, 518-19 (1982)

owner, the young girl's freedom was restored in only a matter of days under habeas corpus.[14] The similarities with the instant case cannot be overlooked.

"[28 U.S.C.] Section 2243 commands the judge "entertaining" an application to award the writ or issue an order to show cause "unless it appears from the application that the applicant . . . is not entitled thereto."[15] The district court and Ninth Circuit simply turned a blind eye to the irrefutable evidence of Owen's unclean hands, ignoring proof that Keenan proceeded without a justiciable issue and in absence of jurisdiction. By theatrical misdirection, the Houdini courts performed their disappearing act. The foremost issue that ***there had never been a "child custody" proceeding*** vanished behind the tautological curtain of absolute federal deference to state "child custody" proceedings, *ipse dixit ipso facto.*

D. District Court Abuse of Discretion

District Court asserted, "It is well-settled that federal district courts have no jurisdiction over child custody issues, which are exclusively matters of state law. (App. 38a ¶2) *Ankenbrandt* held "the Court of Appeals erred by affirming the District Court's invocation of the domestic relations exception" in an action which "in no way seeks a divorce, alimony, or child custody decree."[16] Similarly, Petitioner's habeas petition "in no way seeks a divorce, alimony, or child custody decree." The first line of *Ankenbrandt* reveals domestic relations exceptions apply to ***diversity*** cases. Petitioner did not bring a diversity case habeas: the expression of one thing implies

[14] *In re Turner*, 24 Fed. Cas. 337 (No. 14247) C.C.D. Md. (1867)
[15] *Brown v. Allen*, 344 U.S. 443, 506 (1953)
[16] *Ankenbrandt v. Richards*, 504 U.S. 689, 690 (1992)

the exclusion of others, e*xpressio unius est exclusio alterius.*[17] Any student of jurisprudence knows that a habeas petition is an inquiry of the trial court's ***jurisdiction***, not a petition for a trial *de* novo, nor an appeal.

A similar straw man stated, "Federal habeas has never been available to challenge parental rights or child custody."[18] *Lehman* cautioned against habeas expanding to include collateral challenges to the custody decision, yet *Lehman* did not proscribe federal habeas inquiry to consider absence of family court jurisdiction. *Lehman* quoted Justice Black, speaking for the unanimous Court in *Jones v. Cunningham, supra,* pg. 22 ¶4, who observed that the federal writ of habeas corpus "is not now and never has been a static narrow, formalistic remedy."[19]

Lehman expressly acknowledged the appropriateness and need for habeas remedy over cases in which the restraints on liberty are severe and immediate, particularly when no valid state "child custody" proceeding was ever initiated, let alone adjudicated.

E. Ninth Circuit Abuse of Discretion

The Ninth Circuit held that District Court did not err in dismissing Petitioners' habeas under *Lehman* for "lack of subject matter jurisdiction" (App. 9a) despite the evidence before both courts that the principal issue presented by Petitioner was family court's ***lack of family court subject matter jurisdiction.*** Petitioner's twenty-page show cause response was deemed "so insubstantial as not to require

---

[17] *Reading Law: The Interpretation of Legal Texts,* Scalia and Garner (published 2012)
[18] App 38a ¶2, citing *Lehman v. Lycoming Cty. Ch. Svcs. Agcy.,* 458 U.S. 502 (1982)
[19] *Lehman v. Lycoming Cty. Ch. Svcs. Agcy.,* 458 U.S. 502, [Footnote 19] (1982)

further argument." (App. 8a)

II. Unlawful Imprisonment

A. Family Court *Ultra Vires* Acts

1) No Domestic Relations - No Jurisdiction

Family courts are delegated limited authority under RCW Title 26 *Domestic Relations*. As "Domestic relations" between Benshoof and Owen never existed, family court was absent jurisdiction to issue either a parenting plan, *supra,* pg. 10 ¶2, nor a restraining order, *supra,* pg. 10 ¶4. A court has an "independent obligation to determine whether subject-matter jurisdiction exists, even when no party challenges it." *Hertz Corp v. Friend,* 559 U.S. 77, 94 (2010)

2) Perjury

Owen's inconsistent material statements of fact constituted perjury in violation of RCW 9A.72.020, a class B felony, *supra,* pg. 8 ¶¶2-3. Owen's perjury was foundational to her obtaining the TRO on September 28, 2021. Cliber suborned Owen's perjury to obtain the TRO and Keenan denied Benshoof's right to confront Owen, *supra,* pg. 11 ¶1. Under the exclusionary rule and the Fruits of the Poisonous Tree doctrine, evidence derived from evidence that is illegally obtained is inadmissible. Owen was not a credible witness, and her perjury was inadmissible evidence. Owen's perjurious statements were presented by Cliber as evidence and considered by Keenan as true.

3) Collateral and Judicial Estoppel

Owen' inconsistent sworn statements set forth that Benshoof: (1) ***is*** the biological father of A.R.W. yet was ***not*** the biological father of A.R.W.; (2) ***lived*** with A.R.W. since birth, yet had ***never*** lived with A.R.W., and (3) "had always insisted that A.R.W. was his" yet had ***never*** held out A.R.W. as his son, *supra,* pg. 8 ¶¶2-3. Owen was collaterally estopped from making the foregoing inconsistent material statements of fact, and the doctrine of judicial estoppel required Keenan to prohibit Owen from taking inconsistent positions. *Davis v. Wakelee,* 156 U.S. 680, 689 (1895)

4) No Justiciable Issue

Under RCW 26.26A.435(2), family court could not overcome Benshoof's presumption of fatherhood after A.R.W. turned four-years-old ***unless*** Benshoof (1) was ***not*** the genetic father of A.R.W.; (2) had ***never*** lived with A.R.W.; and (3) had ***never*** held A.R.W. out as his son.

A.R.W. was twelve years old when Owen filed her petition to decide parentage. Owen's own statements denied family court jurisdiction to overcome Benshoof's presumption of fatherhood. Cliber and Owen brought a fraudulent parentage action: a false suit at law or in equity violates RCW 9.12.

5) Orders Void ab initio

Benshoof and Owen were never party to a dissolution of marriage or domestic partnership, legal separation, or declaration of invalidity, *supra,* pg. 4 ¶4.

"In entering a decree of dissolution of marriage or domestic partnership, legal separation, or declaration of invalidity, the court shall determine the marital or domestic partnership status of the parties, make provision for a parenting plan for

any minor child of the marriage or domestic partnership" and "make provision for any necessary continuing restraining orders." RCW 26.09.050(1)

A restraining order issued under RCW 26.09.060(1)(a) is limited to "a proceeding for: [d]issolution of marriage or domestic partnership, legal separation, or a declaration of invalidity." *Expressio unius est exclusio arlterius.* "Affirmative words are often, in their operation, negative of other objects than those affirmed, and, in this case, a negative or exclusive sense must be given to them or they have no operation at all." *Marbury v. Madison,* 5 U.S. 1 Cranch 137, 174 (1803)

Under the doctrine of *stare decisis* and 28 U.S.C. § 1652, Washington statutes "shall be regarded as rules of decision in the courts of the United States."

Judgments must be dismissed, regardless of timeliness, if jurisdiction is deficient. *Mitchell v. Kitsap County*, 59 Wash.App. 177, 180-81, 797 P2d 516 (1990) (collateral challenge to jurisdiction of pro tem judge granting summary judgment properly raised on appeal) (citing *Allied Fidelity Ins. Co. v. Ruth*, 57 Wash.App. 783, 790, 790 P2d 206 (1990)); *Jaffe and Asher v. Van Brunt*, 158 F.R.D. 278 (S.D.N.Y.1994)

Keenan did not have jurisdiction to issue the Final Restraining Order. By acting without statutory authority, Keenan granted *ultra vires* orders.

> "[I]t is apparent, that the framers of the constitution contemplated that instrument as a rule for the government of *courts*... Why otherwise does it direct the judges to take an oath to support it? This oath certainly applies in an especial manner, to their conduct in their official character. How immoral to impose it on them, if they were to be used as the instruments, and the knowing instruments, for violating what they swear to support!
> *Marbury v. Madison*, 5 U.S. 137, 179-180 (1803)

"[A] law repugnant to the constitution is void; and that courts, as well as other departments, are bound by that instrument." (*Id.*, at 180)

Benshoof had no legal obligation to abide by the terms of Keenan's void orders; therefore, the City has no authority to prosecute Benshoof.

6) Vagueness Doctrine

As a family law specialist, Cliber knew or should have known that RCW 7.105.310(5) states, "the order shall specify ***the date*** the order expires." As a family law specialist, Cliber knew or should have known that by his petitioning for Owen's Final Restraining Order with ***two dates*** for expiration, that the order violated RCW 7.105.310(5).

The King County Superior Court Clerk knew, or should have known, that the Final Restraining Order violated RCW 7.105.310(5) by containing two expiration dates. RCW 7.105.325 required the Clerk enter the Final Restraining Order into a statewide judicial information system and forward a copy to the Seattle Police Department.

RCW 7.105.325(2) required the Seattle Police Department to immediately enter the order into their computer-based criminal intelligence information system. Despite the order stating that it expired on October 21, 2023, ***or*** September 28, 2027, Seattle Police exercised *ultra vires* discretion by choosing to enter September 28, 2027, as the expiration date.

7) Collateral & Extrinsic Fraud

Cliber suborned Owen's perjury to create the fraudulent pretense of family court jurisdiction. "There is no question of the general doctrine that fraud vitiates

the most solemn contracts, documents, and even judgments." *United States v. Throckmorton*, 98 U.S. 61, 64 (1878) Benshoof was prevented, by the fraudulent contrivances of Cliber, Owen, and Keenan from testifying, *supra,* pg. 11 ¶1.

The extrinsic and collateral fraud included Cliber suborning Owen's perjury to falsely assert that family court was statutorily authorized to adjudicate a petition to decide parentage, with Owen, Cliber, and Keenan "purposely keeping [Benshoof] in ignorance of the [invalidity]" of the restraining orders. *Burke v. Bladine,* 99 Wash. 383, 394 (1918) "Adopting the language of *Pico v. Cohn*, 91 Cal. 129, 25 Pac. 970, 27 Pac. 537, 13 L.R.A. 336, 25 Am. St. Rep. 159.***In all such instances, the unsuccessful party is really prevented, by the fraudulent contrivances of his adversary, from having a trial[.]" The fraud perpetrated by Cliber and Owen rendered all orders issued by Keenan in case no. 21-5-00680-6 null and void.

B. Municipal Court *Ultra Vires* Acts

1) No Personal Jurisdiction

City prosecutors and judges ignored the statutory requirement for obtaining personal jurisdiction under RCW 35.20.270(1), refusing to provide evidence of compliance and legal service when Benshoof objected on the record, *supra,* pg. 12 ¶1. "Execution of process and the performance of duty by constituted officers must not be thwarted. But these agents, servants of a government and a society whose existence and strength comes from these constitutional safeguards, are serving law when they respect, not override, these guarantees." *Miller v. United States*, 230 F.2d 486, 490 (5th Cir. 1956) The City never obtained personal jurisdiction.

> "All criminal and civil process issuing out of courts created under this title shall be directed to the chief of police of the City served by the court and/or to the sheriff of the county in which the court is held and/or the warrant officers and be by them executed according to law in any county of this state."
> RCW 35.20.270(1)

A court has an "independent obligation to determine whether subject-matter jurisdiction exists, even when no party challenges it." *Hertz Corp v. Friend,* 559 U.S. 77, 94 (2010) On December 27, 2023, Def. Katrina Outland admitted the City's practice and widespread customs of violating 35.20.270(1). (D.C. Dkt. #58-1, pg. 2 #2)

2) No Subject Matter Jurisdiction

Seattle Municipal Court is a court of limited jurisdiction. An alleged protection order violation "must be transferred" to superior court when a "superior court has exercised jurisdiction over a proceeding involving the parties." RCW 7.105.010(1)(a), *supra,* pg. 12 ¶2. "If any tribunal finds absence of proof of jurisdiction over a person and subject matter, the case must be dismissed." *Louisville R.R. v. Motley,* 211 US 149 (1908)

Under state law, ***only*** King County Superior Court would have been authorized to hear allegations that Benshoof violated the allegedly valid family court restraining order issued in KCSC case no. 21-5-00680-6.

Judge Gregory did not have personal or subject matter jurisdiction to issue a restraining order, nor issue a warrant. A restraining order issued without jurisdiction is a nullity; therefore, Benshoof did not violate a valid restraining order issued by the City by which the City could prosecute Benshoof in SMC Nos. 669329, 671384, 675317, 675405, 676175, 676207, 676216, 676463, nor 676492.

C. Equitable Right – 42 U.S.C. § 1983

An Act of Congress, 42 U.S.C. § 1983, expressly authorizes a "suit in equity" to redress "the deprivation," under color of state law, "of any rights, privileges, or immunities secured by the Constitution..." *Mitchum v. Foster,* 407 U.S. 225, 226 (1972). District Court ignored the exceptions to the anti-injunction act under 28 U.S.C. § 2283, claiming that *Younger* abstention precluded district court from granting Benshoof injunctive relief. (App. 25a ¶3)

This Court addressed the application of *Younger* abstention in *Sprint Commc'ns, Inc. v. Jacobs,* 571 U.S. 69 (2013). "Abstention was in order, we explained, under "the basic doctrine of equity jurisprudence that courts of equity should not act ... to restrain a criminal prosecution, when the moving party has an adequate remedy at law and will not suffer irreparably injury if denied equitable relief." Id., 77. "Circumstances fitting within the Younger doctrine, we have stressed, are "exceptional"; they include, as catalogued in *NOPSI,* "state criminal prosecutions," "civil enforcement proceedings," and "civil proceedings involving certain orders that are uniquely in furtherance of the state courts' ability to perform their judicial functions."" *Id.,* at 73.

Applying *Ex parte Young* requires a "straightforward inquiry into whether the complaint alleges an ongoing violation of federal law and seeks relief properly characterized as prospective." *Puerto Rico Aqueduct Sewer Auth. v. Metcalf Eddy,* 506 U.S. 139 (1993)

> "The various authorities we have referred to furnish ample justification for the assertion that individuals who, as officers of the State, are clothed with some

> duty in regard to the enforcement of the laws of the State, and who threaten and are about to commence proceedings, either of a civil or criminal nature, to enforce against parties affected an unconstitutional act, violating the Federal Constitution, may be enjoined by a Federal court of equity from such action." *Ex parte Young,* 209 U.S. at 156

The City insists that Benshoof must submit himself to unlawful imprisonment pursuant to $310,000 in fraudulent warrants, yet knows that Benshoof is indigent.

> "Here, the appellants claimed a violation of their constitutional rights under 42 U.S.C. § 1983, and invoked federal jurisdiction under 28 U.S.C. § 1343(3). In *Mitchum v. Foster*, without dissent, the Supreme Court held that § 1983 is an expressly authorized exception to the general statutory bar to injunctions against state court proceedings.
>
> As the Supreme Court stated in *England v. Board of Medical Examiners*, "There are fundamental objections to any conclusion that a litigant who has properly invoked the jurisdiction of a Federal District Court to consider federal constitutional claim can be compelled without his consent and through no fault of his own, to accept instead a state court's determination of those claims." *New Jersey Ed. Ass'n v. Burke,* 579 F.2d 764, 771 (3d Cir. 1978)

III. Federal Rights Violations

Respondents have subjected Benshoof to unprecedented retaliation for over two years for Benshoof telling the truth and trying to care for his son. As a direct and proximate result of the City's malicious prosecutions and $310,000 in warrants, Benshoof has been unable to see his son, hold church, work, drive, travel, or enter grocery stores and courthouses. "The loss of First Amendment freedoms, for even minimal periods of time, unquestionably constitutes irreparable injury." *New York Times Co. v. United States,* 403 U. S. 713 (1971); *Elrod v. Burns,* 427 U.S. 347 (1976)

The primary role of parents in managing their family was presupposed by early Americans as being so fundamental that "it probably never occurred to the Framers of the Constitution that parental rights could, as a practical matter, ever be called

into question or challenged on a comprehensive scale by state apparatus." Daniel E. Witte, *People v. Bennett: Analytic Approaches to Recognizing a Fundamental Parental Right Under the Ninth Amendment,* 1996 B.Y.U. L. REV. 183, 218-19.

This Court has for over one hundred years jealously guarded a parent's liberty interests in raising children—affirming a constitutional custodial right protecting the right of parents to decide on the care and upbringing of their children. *See Troxel v. Granville,* 530 U.S. 57, 66 (2000) ("The liberty interest at issue in this case—the interest of parents in the care, custody, and control of their children—is perhaps the oldest of the fundamental liberty interests recognized by this Court."); *Santosky v. Kramer,* 455 U.S. 745, 753 (1982) (labeling the liberty interest of natural parents in the management of their child "fundamental"); *Parham v. J. R.,* 442 U.S. 584, 602 (1979) ("Our jurisprudence historically has reflected Western civilization concepts of the family as a unit with broad parental authority over minor children; *Quilloin v. Walcott,* 434 U.S. 246, 255 (1978) ("We have recognized on numerous occasions that the relationship between parent and child is constitutionally protected") (emphasis added); *Moore v. City of E. Cleveland,* 431 U.S. 494, 503-05 (1977) (recognizing that "[d]ecisions concerning child rearing, which *Yoder*, *Meyer*, *Pierce* and other cases have recognized as entitled to constitutional protection" protect the sanctity of the family "because the institution of the family is deeply rooted in this Nation's history and tradition.") (emphasis added); *Cleveland Bd. of Educ. v. LaFleur*, 414 U.S. 632, 639-40 (1974) ("This Court has long recognized that freedom of personal choice in matters of marriage and family life is one of the liberties protected by the Due Process Clause

of the Fourteenth Amendment.") (emphasis added); *Wisconsin v. Yoder*, 406 U.S. 205, 232 (1972) ("The history and culture of Western civilization reflect a strong tradition of parental concern for the nurture and upbringing of their children. This primary role of the parents in the upbringing of their children is now established beyond debate as an enduring American tradition.") (emphasis added); *Stanley v. Illinois*, 405 U.S. 645, 651 (1972) ("The rights to conceive and to raise one's children have been deemed 'essential,' 'basic civil rights of man,' and '[r]ights far more precious . . . than property rights'") (citations omitted); *Prince v. Massachusetts*, 321 U.S. 158, 166 (1944) ("It is cardinal with us that the custody, care and nurture of the child reside first in the parents, whose primary function and freedom include preparation for obligations the state can neither supply nor hinder.") (emphasis added); *Pierce v. Society of Sisters*, 268 U.S. 510, 535 (1925) ("The child is not the mere creature of the State; those who nurture him and direct his destiny have the right, coupled with the high duty, to recognize and prepare him for additional obligations."); *Meyer v. Nebraska,* 262 U.S. 390, 399 (1923) ("While this Court has not attempted to define with exactness the liberty thus guaranteed, the term has received much consideration and some of the included things have been definitely stated. Without doubt, it denotes not merely freedom from bodily restraint but also the right of the individual to. . . establish a home and bring up children.")

King County Superior Court judges disregard the foundational familial rights of Petitioners. "The family entity is the core element upon which modern civilization is founded." *In re Luscier,* 524 P.2d 906, 907 (Wash. 1974)

A. First Amendment Violations – Irreparable Harm

Respondents had no compelling reason to abrogate Benshoof's right of familial association with A.R.W. "[F]reedoms of speech and of press, of assembly, and of worship may not be infringed on such slender grounds. They are susceptible of restriction only to prevent grave and immediate danger to interests which the State may lawfully protect." *West Virginia State Bd. of Educ. v. Barnette*, 319 U.S. 624, 639 (1943) Respondents claimed Benshoof was a direct and imminent threat to other because Benshoof's beliefs proscribed him being coerced to wear a face covering.

"Nor may the government 'act in a manner that passes judgment upon or presupposes the illegitimacy of religious beliefs and practices.'" *Fellowship of Christian Athletes,* 2023 WL 5946036, at *38 (quoting *Masterpiece Cakeshop, Ltd. v. Colo. Civ. Rts. Comm'n*, 138 S.Ct. 1719, 1731 (2018)). "[R]eligious beliefs need not be acceptable, logical, consistent, or comprehensible to others in order to merit First Amendment protection." *Fulton* v. City of Philadelphia, 141 S.Ct. at 1876 (quoting *Thomas v. Review Bd. of Ind. Employment Security Div.*, 450 U.S. 707, 714 (1981)).

Respondents' ongoing pretexts for discriminating against Benshoof are without lawful foundation, jurisdiction, or authority. Respondents' parallel and concerted acts, past and present, continue denying Petitioners' right of familial association.

1) Religious Retaliation Against Benshoof

Keenan facilitated Cliber's subornation of Owen's perjury because Respondents considered Benshoof's religious beliefs a "direct and imminent threat."

Respondents targeted Benshoof for retaliation because Respondents' beliefs did not tolerate Benshoof exercising his own religious beliefs. *See First Pentecostal Church of Holly Springs v. City of Holly Springs*, 959 F.3d 669, 670-71 (5th Cir. 2020) (Willett, J., concurring in grant of injunction pending appeal) ("Singling out [Benshoof for his religious beliefs]—and *only* [Benshoof], it seems—cannot possibly be squared with the First Amendment." (emphasis in original)); *see also S. Bay*, 140 S. Ct. at 1615.

2) Benshoof Targeted For His Petitions For Redress

Benshoof first filed Complaint against the City in U.S. District Court on September 7, 2022. (WAWD No. 2:22-cv-01281-LK). Four weeks later the City began filing what would become over one hundred fraudulent domestic violence charges.

B. Eighth Amendment Violations

Respondents' ongoing punishments inflicted upon Benshoof are cruel, disproportionate, and without just cause. By ignoring the fact that the City never had personal or subject matter jurisdiction to prosecute Benshoof, the City established the pretext for rendering criminal assistance to Owen's kidnapping of A.R.W. through the City's malicious prosecutions. The City's issuance of $310,000 in fraudulent warrants to indefinitely imprison Benshoof shocks the conscience.

C. Fourteenth Amendment Due Process Violations

"[T]he sanctity of the family unit is a fundamental precept firmly ensconced in the Constitution and shielded by the Due Process Clause of the Fourteenth Amendment." *Hodge v. Jones,* 31 F.3d 157, 163 (4th Cir. 1994) While the Due Process Clause under the Fourteenth Amendment guarantees fair process, it also "includes a

substantive component that provides heightened protection against government interference with certain fundamental rights and liberty interests." *Troxel,* 530 U.S. at 65. More specifically, the Due Process Clause prohibits governmental interference with rights "rooted in the traditions and conscience of our people as to be ranked as fundamental" or "implicit in the concept of ordered liberty." *Washington v. Glucksberg,* 521 U.S. 702, 720-21 (1997) (citations omitted).

The Supreme Court in *Troxel* recognized that "there is a presumption that fit parents act in the best interests of their children." *Troxel,* 530 U.S. at 68.

1) Absence of Personal Jurisdiction

The City's practice and widespread custom of mailing criminal summons violates RCW 35.20.270(1); furthermore, it means that personal jurisdiction over Benshoof was never obtained by Seattle Municipal Court.

2) Absence of Subject Matter Jurisdiction

City first initiated "domestic violence" prosecutions with SMC No. 669329 upon the assertion that Keenan had exercised jurisdiction in KCSC No. 21-5-00680 involving Benshoof's minor son. However, that precluded any court but King County Superior Court from adjudicating the alleged restraining order violation, pursuant to RCW 7.105.050(1)(a)(d). The City, by claiming that Benshoof violated a family court restraining order, was collaterally estopped from claiming the City had jurisdiction to thereupon prosecute Benshoof.

3) Spoliation of Evidence

City prosecutors, by selectively concealed text messages between Benshoof and A.R.W. from the judge and Benshoof, violating the holding of *Brady v. Maryland* by

withholding exculpatory evidence from Judge Faye Chess to issue a $250,000 warrant for Benshoof's arrest on March 14, 2024, *supra,* pg. 13 ¶3.

4) Biased Tribunal

The Due Process Clause entitles a person to an impartial and disinterested tribunal. This requirement of neutrality in adjudicative proceedings safeguards the two central concerns of due process: the prevention of unjustified or mistaken deprivations and the promotion of participation and dialogue by affected individuals in the decision-making process.[20]

For eighteen months, City prosecutors have violated due process elements of a fair hearing: (1) the right to examine opposing evidence; and (2) the defendant's right to present exculpatory evidence. An esteemed judge, Henry J. Friendly, wrote, "There can likewise be no fair dispute over the right to know the nature of the evidence on which the administrator relies."[21]

D. Fourteenth Amendment Equal Protection Violations

Police refuse to take Benshoof's complaints over the phone or in writing, presenting another Faustian bargain: to obtain equal protection under the law as a reporting victim of felony crimes, Benshoof must first give up his liberty by subjecting himself to unlawful imprisonment.

IV. *Pro Se* Parental Representation of A.R.W.

Federal courts discourage or prevent parents from representing their minor children on several grounds, *inter alia* uncertainty of the child's wishes and lack of

[20] *See Carey v. Piphus*, 435 U.S. 247, 259–262, 266–267 (1978)
[21] *Some Kind of Hearing,* Univ. Penn. Law Review Vol. 123:1267 at 1283, Henry J. Friendly (1975)

legal acumen. Inconsistent federal court holdings necessitate resolution. District Court avoided ruling on Benshoof representing A.R.W. in their habeas petition, declaring the issue moot under its domestic relations exception dismissal. (App. 37a) This Petition allows the Court to interpret the scope of 28 U.S. Code § 1654 when juxtaposed with intertwined claims of a parent exercised to protect the safety of a minor child. *See Winkelman v. Parma City Sch. Dist.*, 550 U.S. 516, 535 (2007) ("In light of our holding we need not reach petitioners" alternative argument, which concerns whether IDEA entitles parents to litigate their child's claims *pro se*.")

Contradictory holdings among the Circuit Courts on the issue of pro se parents representing their children requires this Court's consideration to uniformly resolve this legal tension, particularly ripe given the widespread assaults upon parental rights across America. The Fifth Circuit recently upheld pro se parental representation of minor children,[22] yet District Court in Seattle denied Petitioner's attempt to represent A.R.W.,[23] and a mother appealed to the Sixth Circuit.[24] *See Maras v. Mayfield City Sch. Dist.*, (U.S. No. 23-1203).

Parents routinely make "unskilled, if caring, decisions" for the children.[25] Government was not delegated the authority to determine if a parent possesses the medical acumen to choose which medicine to give their child, nor the legal acumen to litigate their child's interests. The Ninth Amendment reminds us that "[t]he enumeration in the Constitution, of certain rights, shall not be construed to deny or

---

[22] *Raskin v. Dallas Independent School Dist.*, No. 21-11180 (5th Cir. 2023)
[23] *Benshoof v. Inslee, et al.*. WAWD Case No. 2:22-cv-01281-LK, dismissed without prejudice
[24] *Terpsehore Maras v. Mayfield City SD BoE, et al.*, Case No. 22-3915 (6th Cir.) (U.S. No. 23-1203)
[25] *Raskin v. Dallas Independent School Dist.*, No. 21-11180, at 24 (5th Cir. June 2, 2023)

disparage others retained by the people."

V. The Equities Require Issuance of Writ

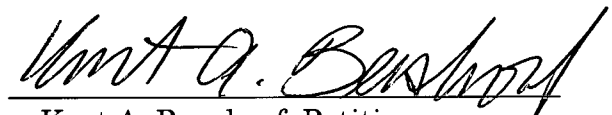
Unable to refute Benshoof's detailed presentation of the facts and law, the district court simply refused to hear Benshoof's Motion for TRO. The merits required granting injunctive relief: the ongoing irreparable harm to Petitioners is undeniable. Seattle Municipal Court is being "used to harass and injure [Benshoof], either because the state courts [are] powerless to stop deprivations or [are] in league with those who [are] bent upon abrogation of federally protected rights." *Mitchum v. Foster,* 407 U.S. 225, 240 (1972) The perjury, fraud, and ultra vires acts must cease.

CONCLUSION

For the reasons stated in this petition, Petitioner Kurt Benshoof respectfully requests, on behalf of himself and A.R.W., that this Court issue a writ of habeas corpus without delay to arrest the unlawful imprisonment of Petitioners.

VERIFICATION

I, Petitioner Kurt A. Benshoof, do hereby declare that the foregoing facts are true and correct to the best of my knowledge, under penalty of perjury of the laws of the United States. Executed this twenty-fifth day of May in the year 2024, in the city of Seattle, in the county of King, in the state of Washington.



Kurt A. Benshoof, Petitioner, *pro se*
1716 N 128th Street
Seattle, WA 98133
(206) 460-4202
kurtbenshoof@gmail.com