No. 23-7781

ORIGINAL

IN THE
SUPREME COURT OF THE UNITED STATES

JENNIFER KNAPP(DASLER)

Respondent,

V.

TIMOTHY DASLER

Petitioner,

On petition for Writ of Certiorari
to the Supreme Court of Vermont

PETITION FOR WRIT OF CERTIORARI

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QUESTIONS PRESENTED

1. In light of the Supreme Court's efforts to clarify the use of 'jurisdictional' versus 'claims-processing' terms (Hamer v. Neighborhood Hous. Servs., 2017) and recognizing equitable tolling as a 'traditional feature of American jurisprudence' that applies absent explicit legislative contravention (Boechler, P.C. v. Commissioner of Internal Revenue, 2022), are state courts required to demonstrate clear legislative intent for jurisdictional limits and exercise appropriate discretion before denying the availability of equitable tolling, to ensure procedural fairness consistent with federal principles?
2. In light of limited Supreme Court guidance affirming constitutional guarantees in parental custody decisions—specifically between parents, as outlined in standards set by Troxel v. Granville, 530 U.S. 57(2000), and Palmore v. Sidoti, 466 U.S. 429(1984)—is it constitutional for state courts to allow subjective judicial assessments of the 'best interest of the child' to supersede the fundamental rights of parents and children to a fair and meaningful hearing grounded in constitutionally permissible factors, or otherwise circumvent established standards of fairness and due process in domestic relations proceedings? This question is exemplified by Knutsen v. Cegalis VT 2017 62, which allowed five years of suspended visitation by prioritizing judicial preferences and constitutionally intolerable considerations over due process rights.

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PETITION FOR WRIT OF CERTIORARI

Timothy Dasler petitions for a writ of certiorari to review the judgment of the Vermont Supreme Court and Superior Court.

OPINIONS BELOW

The decision of the Vermont Supreme Court(10/13/23) is reported at(A.P.0007), Reargument denied(11/7/23) is reported at(A.P.0002). The decisions of the Superior Court(9/30/23), is reported at(A.P.0097)

JURISDICTION

State Court Judgement on 10/13/23(A.P.0007),

Reargument denied on 11/7/23(A.P.0002).

Extension pursuant to this Court's Rules 13.5, 22, 30.2, and 30.3(return receipt 1/25/24, docketed 1/29/24)

Granted on 1/30/24,

new deadline on 4/5/24(23A697).

Jurisdiction invoked under 28 U.S.C. § 1257, authorizing review of final judgments/decrees of the highest state court where the case presents substantial questions of federal law. This petition challenges the Vermont Supreme Court's practices/precedents as they have been applied to the petitioner, and Superior

Court's Due Process violations.

Petitioner asserts violations of Constitutional and Federal Common Law principles fundamental to the administration of justice in domestic relations proceedings. Specifically, the petitioner contends that the state court's interpretation and application of custody and visitation standards fail to comport with the requirements of due process and equal protection as mandated by the 14th Amendment to the United States Constitution, thereby presenting a significant federal question meriting this Court's review.

CONSTITUTIONAL AND STATUTORY PROVISIONS INVOLVED

This petition raises questions under the Fourteenth Amendment to the United States Constitution, which guarantees due process and equal protection under the law. Specifically, the following provisions are implicated:

Due Process Clause of the Fourteenth Amendment: "No State shall... deprive any person of life, liberty, or property, without due process of law..."

Equal Protection Clause of the Fourteenth Amendment: "No State shall... deny to any person within its jurisdiction the equal protection of the laws."

Due Process and Equal Protection encompass Parental Rights and state court procedures must comply with U.S. Supreme Court precedent interpreting these rights.

Additionally, this petition implicates the principles of equitable tolling as recognized in the context of federal law, which, while not codified in a specific statute applicable to this case, has been established as a traditional feature of American jurisprudence by the Supreme Court in cases such as:

Boechler, P.C. v. Commissioner of Internal Revenue, 142 S. Ct. 1493 (2022), which acknowledged equitable tolling's presumptive applicability absent explicit legislative contravention.

Hamer v. Neighborhood Hous. Servs. of Chicago, 583 U.S. ___, 138 S. Ct. 13 (2017), which clarified the distinction between jurisdictional and claims-processing rules, emphasizing the need for clear legislative intent to render procedural limitations jurisdictional.

These constitutional and jurisprudential principles form the basis of the petitioner's challenge to state court practices and precedents that, as applied, allegedly fail to uphold the required standards of due process and equal protection in parental custody decisions.

Statement of the Case

Background

1. This case arises from a custody dispute between Petitioner Timothy Dasler and Respondent Jennifer Knapp(F.K.A. Jennifer Dasler), following their separation on 5/12/17. Divorce finalized on 8/17/18.

2. Respondent's False criminal complaints, hundreds of pages of false allegations, and months of ex-parte deprivation of parental rights/visitation are central to this 2018 Custody Order

3. The series of family court decisions that ultimately awarded Ms. Knapp custody were based on her self-appointed role as the primary caregiver through ex-parte actions during the couple's separation.

4. State courts compelled Mr. Dasler to navigate a precarious balance between his Fifth Amendment and Fourteenth Amendment due process rights, with neither a stay nor immunity offered to mitigate prejudice to his case, and where proving "no credible factual basis" to the allegations in the ex-parte "emergency" suspension of visitation does not restore his rights.

5. In the prior appeal of the 8/17/18 Divorce Order, The Supreme Court of Vermont(SCOV) upheld the lower court's application of a 9 month ex-parte suspension of visitation(from 5/12/17-2/23/18) to justify shifting of the burden of proof to Petitioner, requiring him to prove Respondant to be

harmful to the child in order to restore his parental rights rather than for her to prove it was appropriate to have suspended his rights.

6. For 8 of those 9 months the standing court order was to "normalize contact", and Respondant obstructed it with 7 filings totaling 170 pages, 3 additional false criminal charges, an attempt to get the child on an RFA, and hearings on 8/1/17 and 2/23/18 both rejected her justifications of supervised contact, and reaffirmed the 6/13/17 Order to "normalize contact".

7. Respondent used "temporary" parental rights to hire therapist Dalene Washburn as part of her legal team under the guise of the child's therapist and attempt to make an end-run around the court orders by having Ms. Washburn support allegations in spite of no clinical observations or reasonable basis to support interference with parental rights(2/23/18 Order)

8. Although the court rejected Ms. Washburn's reasoning, it ordered the parties to continue therapeutic services with her(2/23/18 Order)

9. Proving his fitness as a parent did not prevent prejudice resulting from ex-parte suspensions of visitation. Respondent prevailed on the fruits rather than merits of her own misconduct.

10. The criminal investigation found exculpatory evidence and the charges resolved with no findings supporting the ex-parte suspension of visitation

or abuse allegations, and established Respondent committed perjury, submitted false statements, and committed fraud upon the court with assistance of counsel to extend ex-parte suspension of contact for 9 months.

11. Mr. Dasler's motions for relief(citing new evidence, fraud upon the court, and lack of fair opportunity to litigate) filed in 2020 after the resolution of the criminal case(denied, affirmed on appeal).

Motions Subject to This Appeal

12. Petitioner's Motions for Enforcement, Contempt, and Modification are the subject of the instant appeal.

13. In September 2018, Ms. Washburn's "therapy dog" Shanti bit the 3 year old child in the face, leaving severe lacerations and a lasting scar. When Petitioner asked for records of the dog's training/credentials, Ms. Washburn did not respond, but 10 days later forbid him from ever coming to her office, making false allegations that he coached the child to say her mom hits her.(apparently to prevent further inquiry into her dog's training/credentials)

14. In October 2018, Respondent approved Ms. Washburn's change to the child's medical care that fully severed Petitioner from his rights to access to appointments, medical information, records, and decisionmaking,.

15. In September 2019 Respondent moved and changed the child's school

district without the required notice or meaningful opportunity to have input in the change.

16. In June 2020 the child's daycare was changed without the required notice or Opportunity to have input.

17. Proceedings were delayed until 2022, Petitioner had been attempting to subpoena medical information since June 2021(before the 2022 hearing was even scheduled) but obstruction by the medical provider, Respondent, and procedural errors of the court prevented discovery prior to the hearing.

18. The court repeatedly affirmed Petitioner's right to "equal access" to medical records, and a "meaningful opportunity to have input". These rights were never in dispute, however, the court claimed that "equal access" does not mean access must be equal.

19. At trial, the court allowed Ms. Washburn's non-party counsel to repeatedly interfere with Petitioner's examination. The court also forbid impeachment of the witness for bias(shielding herself from scrutiny after the dog bite, failing to produce those records, or being hired to advance Respondent's legal case rather than child's therapeutic needs) or questions of whether therapy was being practiced within the child's interest.

20. The court's findings were not reasonable in light of the evidence, refused

to apply Mandatory Statutory factors to Enforcement of Visitation, refused to enforce the production of documents via subpoena of Ms. Washburn, did not allow adequate hearing time or maintain order, and the court even engaged with non-party counsel and silenced Petitioner during his examination to have entirely unauthorized legal/factual exchanges with non-party counsel.

21. Petitioner filed a Motion to Extend time to file a Rule 59 Motion and/or appeal, which was granted. He filed within the court's deadline(11/4/22, incorrectly docketed as 11/7/22 and subsequently corrected), the court denied his Motion to Reconsider(11/22/22), and he appealed timely on 12/5/22

22. On appeal, the SCOV found the lower court exceeded authority under V.R.A.P 6(b) by extending time to file a Rule 59 Motion, thus Petitioner's Rule 59 Motion would be treated as a Rule 60 Motion that did not toll the time to appeal(1/19/23 Order(A.P.0054)

23. Petitioner filed a Motion to Reconsider pointing out that where the court exceeded authority under Rule 6, the one-sentence order must be void for having not one valid sentence/principle within it. That would require a reissued order, which would therefore allow the Appeal to go forward as there is no upper limit to a length of time to extend appeal so long as it is within 14 days of the date of the order granting permission. He argued Rule 60 relief was appropriate

24. The court responded " Rule 60 "does not protect a party from tactical decisions which in retrospect may seem ill advised."(2/1/23 Order), thus denying appellate review due to Petitioner's "tactical decision" to rely upon the deadline set by the court.

25. Petitioner's appeal was therefore treated as a post-judgment Rule 60 Motion(untimely Rule 59) wholly inadequate to address the issues raised.

26. Petitioner challenged various orders and judicial practices and raised profound concerns regarding the standards of fairness, evidence, and due process in domestic relations decisions. Notably, Mr. Dasler's efforts to subpoena critical witnesses and obtain necessary records were obstructed, and the court's failure to enforce custody orders or allow for a fair examination of witnesses severely hampered his ability to present his case. These issues culminated in a final judgment entered by the Vermont Supreme Court on 10/13/23,(reargument denied11/7/23, which have prompted this appeal).

27. Petitioner's constitutional questions presented focus on the applicability of due process and equal protection principles in the context of state court custody decisions and the broader implications of state practices that prioritize subjective judicial assessments over Federal legal standards and fundamental parental rights.

Reasons for Granting the Writ

I. State courts disagree with reasoning and discipline in Hamer et al.

Introduction

28. State grounds are inadequate to due to circumvent the issues of Federal Law in this case.
29. The SCOTUS' recent cases urging discipline regarding the "traditional feature of American jurisprudence and a background principle against which Congress drafts limitations periods."(Boechler) represented by Equitable Tolling.
30. The bar for states to limit these principles should be no lower than it is for Congress.

Principles of jurisdiction and tolling

31. Hamer et al. Articulate interconnected principles of equitable tolling and rules that are "claims-processing" as opposed to jurisdictional.
32. It is rare for the U.S. Supreme Court to reiterate a principle repeatedly in such a short span, however, the court's effort "in recent cases to [bring some discipline] to the use of" the term "jurisdictional"(Henderson v. Shinseki, 562 U.S. 428) indicates the level of importance and urgency to correct the inconsistency of application of law.
33. The oft repeated language is strong and consistent;

> *"Equitable tolling is a* ***traditional feature of American jurisprudence and a background principle against which Congress drafts limitations periods.*** *Because Congress does not alter that backdrop lightly,* ***nonjurisdictional limitations periods are presumptively subject to equitable tolling."***
> *Boechler, P.C. v. Comm'r, 142 S. Ct. 1493, 1494, 212 L. Ed. 2d 524, 527,(2022)U.S.(emphasis added)*

34. A deadline set by an act of Congress does not disturb the

presumption of availability of equitable tolling without articulated jurisdictional intent.

"The ***question here, therefore, is whether Congress mandated that the 120-day deadline be "jurisdictional."*** *In Arbaugh, we applied a* ***"readily administrable bright line" rule for deciding such questions.*** *546 U.S., at 515-516, 126 S. Ct. 1235, 163 L. Ed. 2d 1097. [6] Under Arbaugh,[****15] [*436] we look to see if there is* ***any "clear" indication that Congress wanted the rule to be "jurisdictional."*** *Ibid. This approach is suited to capture Congress' likely intent and* ***also provides helpful guidance for courts and litigants, who will be "duly instructed" regarding a rule's nature.*** *See id., at 514-515, and n. 11, 126 S. Ct. 1235, 163 L. Ed. 2d 1097."*

Henderson v. Shinseki, 562 U.S. 428, 435-436, 131 S. Ct.

35. Hamer explains this backdrop, distinctions, and even recognizing that the SCOTUS itself has, at time, misused the term and contributed to the confusion.

""Only Congress may determine a lower federal court's subject-matter jurisdiction."(citing U. S. Const., Art. III, §1); ("**[I]t is axiomatic that the Federal Rules of Civil Procedure do not create or withdraw federal jurisdiction.**"). Accordingly, a provision[***254] governing the time to appeal in a civil action qualifies as jurisdictional only if Congress sets the time(noting "the jurisdictional distinction between court-promulgated rules and limits enacted by Congress");(**noting "the inability of a court, by rule, to extend or restrict the jurisdiction conferred by a statute"**). A time limit not prescribed by Congress ranks as a mandatory claim-processing rule, serving "to promote the orderly progress of litigation by requiring that the parties take certain procedural steps at certain specified times." Henderson v. Shinseki, 562 U. S. 428, 435, 131 S. Ct. 1197, 179 L. Ed. 2d 159 (2011).

[3] **This Court and other forums have sometimes overlooked this distinction, "mischaracteriz[ing] claim-processing rules or elements of a cause of action as jurisdictional limitations,**

[*20] particularly when that characterization was not central to the case, and thus did not require close analysis."...**But prevailing precedent makes the distinction critical. Failure to comply with a jurisdictional time prescription, we have maintained, deprives a court of adjudicatory authority over the case, necessitating dismissal—a "drastic" result....**("[W]hen an 'appeal has not been prosecuted... within the time limited by the acts of Congress, it must be dismissed for want of jurisdiction.'.... The **jurisdictional defect is not subject to waiver or forfeiture 1 and may be raised at any time in the court of first instance and on direct appeal....In contrast to the ordinary operation of[****6] our adversarial system, courts are obliged to notice jurisdictional issues and raise them on their own initiative.... Mandatory claim-processing rules are less stern. If properly invoked, mandatory claim-processing rules must be enforced, but they may be waived or forfeited...** "[C]laim-processing rules [ensure] relief to a party properly raising them, but do not compel the same result if the party forfeits them."

Hamer v. Neighborhood Hous. Servs., 583 U.S. 17, 19-20, 138 S. Ct. 13, 17-18, 199 L. Ed. 2d 249, 253-254, 2017 U.S.(Citations omittied, emphasis added)

Limits of State Power

36. Given the apparent Federal Common Law origins of this "traditional feature of American jurisprudence", it must be assumed that "adequate state grounds" must meet the tests the SCOTUS has identified for disturbing these principles.

37. While the U.S. Supreme Court can't overrule state interpretations of state law, it need not overrule state law to "bring some discipline" to the word "jurisdictional".

38. In the instant case, the SCOV claimed it didn't have discretion, so the question is instead whether it claimed that the bright line rule is

met to meet the SCOTUS standards.

"We do not rely on the principle that our review is not precluded when the state court has failed to exercise discretion to disregard the procedural default. See Williams v. Georgia, 349 U.S. 375. We read the second Mississippi Supreme Court opinion as holding that there is no such discretion"
Henry v. Mississippi, 379 U.S. 443, 449, 85 S. Ct. 564, 568, 13 L. Ed. 2d 408, 414, 1965 U.S.

39. The SCOTUS can also consider whether an exercise of discretion is an effort to circumvent a Federal Law/principle or in this case, a simple failure to even recognize the principle, standards, and SCOTUS definitions.

*"Where a State allows questions of this sort to be raised at a late stage and be determined[****2] by its courts as a matter of discretion, this Court is not precluded from assuming jurisdiction and deciding whether the state court's action in the particular circumstances is, in effect, an avoidance of the federal right.P. 383"*
*Williams v. Georgia, 349 U.S. 375, 376, 75 S. Ct. 814, 815, 99 L. Ed. 1161, 1166, 1955 U.S. LEXIS 601, *1-2 (U.S. June 6, 1955)*

40. Having established that equitable tolling is presumed to exist without need for statute/rule creating it, we can certainly forgive state legislature or courts for not recognizing they need to specifically state intent to constrain it.

41. When the Vermont Supreme Court says V.R.A.P 6 is "jurisdictional", the issue isn't the interpretation of the state rule, but the failure of the Vermont Court to recognize there is a judicial principle, which the SCOTUS has clearly indicated only recently with such high regard, that must be overcome.

42. So how do we weigh the state court setting this jurisdictional limit?

43. In the instant case, the SCOV

1. Refused to acknowledge citations of Hamer et al. and clearly misapplies the legal definitions of "jurisdictional" precisely

contrary to SCOTUS "discipline".

2. In erroneously claiming it has "no jurisdiction", it erroneously abbrogates the Common Law Federal Principles of Equitable Tolling that the SCOTUS says courts posess.
3. By failing to recognize it posesses discretion, it fails to exercise discretion, and although the legislature could deprive it of that power with a clear dictate, the SCOV has not claimed adequate state grounds to satisfy the mandate that even Congress must adhere to.
4. By failing to recognize its power, it fails to properly apply Federal Principles of Equity, Fairness, and Due Process by arbitrarily revoking power granted by SCOTUS precedent/decree of Common Law.
5. While the court DOES posess the power to use discretion to refuse Equitable Tolling, it requires that the court apply a valid legal reasoning, which clearly has not happened when the court does not even believe it posesses the power the SCOTUS says is a presumed power not casually revoked.

44. Given this is a Federal Principle, surely they must meet, at minimum, the same requirements that Congress and Federal Courts must meet with either

1. Setting a "readily administrable bright line rule" by statute with clear intent to set a Jurisdictional limit(court rule is inadequate to set jurisdictional limits, as stated in Hamer), or;
2. Proper use of discretion, which should recognize the intent not to apply equitable tolling for a valid legal reason.

2.A. Given the specificity of the SCOTUS precedent, it would seem that Federal Common Law presumes this power exists without clear intent to revoke/withhold it. A court can't properly exercise power it does not have. Therefore, proper use

of discretion should

2.A.i. Recognize that this presumed power is vested in the court by Federal Common Law

2.A.ii. Use valid legal reasoning for discretion not to apply equitable tolling or to treat a rule as "claims-processing" rather than jurisdictional.

2.A.iii. Properly distinguish between the legal definitions of Jurisdictional vs. Claims-Processing.

45. There is still a really important distinction here, this is still about the SCOTUS bringing some discipline to the use of Legal Terminology and setting standards for the restrictions of a Federal Common Law Principle.

46. If the SCOV had said V.R.A.P 6 is Jurisdictional because some act of the legislature made it so with clear legislative intent; then that satisfies the "readily administrative bright line rule" requirement, then we know they have grasped and understood both the SCOTUS guidance on "jurisdictional" AND the existence of the Federal Common Law principles and found the state law/rule to satisfy them.

47. That's not the case here, the SCOV did not acknowledge the citation of Hamer, instead pointing to state precedent in Casella simply saying that the rule is Jurisdictional without satisfying the SCOTUS mandates to overcome the Federal Common Law Principles that even Congress must meet.

48. So the issue here really isn't the state court's ability to either overcome this Federal Common Law, nor to interpret its own state laws. The issue is a misapplication of a Federal principle, misuse of legal terminology, and failure to adhere to the related SCOTUS mandates that would allow the state to exercise such power.

49. If remanded, the court could certainly look to the statutes and rules and determine whether it can satisfy the SCOTUS directives,

however, as a matter of consistent application of "Traditional Feature of American Jurisprudence", this requirement should be standardized at both state and Federal level.

States Disagree

50. Vermont is not alone in failing to recognize the "discipline" of Hamer et al.(A.P.0002), the majority of cases found in a comprehensive search wholly reject the SCOTUS' "axiomatic" reasoning, and doggedly mis-apply Jurisdictional terms and "Traditional Features of American Jurisprudence".

51. Hamer's reasoning is rejected by VT(2023), T.X.(2023), A.R.(2020), U.T.(2020), N.V.(2018), U.T.(2021), A.Z.(2022),

Bexar Appraisal Dist. v. Lucifer Lighting Co.,(2023) Tex. App.(finding jurisdictional limit set by court rule with no legislative intent or recognition of intent to overcome presumed equitable tolling)
Blos v. Blos, 253 Ariz. 40, 42, 508 P.3d 790, 792,(2022) Ariz. App.
Pettry v. State,(2020) Ark. App. 162, 1, 595 S.W.3d 442, 444, 2020 Ark. App.N.C.(2020)
Zion Vill. Resort LLC v. Pro Curb U.S.A. LLC,(2020) UT App 167

"we decline the dissent's invitation to reconsider decades of Nevada jurisprudence in light of the United States Supreme Court's interpretation of federal jurisdiction in Hamer v. Neighborhood Haus. Servs. of Chicago, 583 U.S. ___, 138 S. Ct. 13, 199 L. Ed. 2D 249 (2017)"
(Clark Cty. Deputy Marshals Ass'n v. Clark Cty., 2018 Nev. Unpub.)

52. A.Z.(2020) not applying Hamer, but "Courts are divided on whether the violation of a procedural court rule can deprive a court of jurisdiction."(State v. Hirning, 2020 SD 29, P11, 944 N.W.2d 537, 540, 2020 S.D.)

53. M.I.(2017) grappled with whether it needed to apply SCOTUS claims-processing distinction when Federal Claim was raised in state

court

McGraw v. Estate of Albert Colby,(2017) MI Odawa App.

54. N.C.(2020) and I.A.(2021) found the court rule deadline was Jurisdictional, but tolled it anyways, clearly misapplying the term Jurisdictional, but using Equitable Tolling in a way that treated the rule as claim-processing in this instance as an exceptional case.
Doe v. City of Charlotte, 273 N.C. App. 10(2020)(rejecting Hamer, misapplying "jurisdictional", but using tolling as extraordinary relief)
In the Interest of A.B., 957 N.W.2d 280, 289,(2021) Iowa Sup

55. Utah distinguishes Hamer as inapplicable to the states and cites state statute;

"Hamer clearly does not apply as it dealt with jurisdiction in the federal context, see 138 S. Ct. at 17 ("Only Congress may determine a lower federal court's subject-matter jurisdiction.") (emphasis added) (quotation otherwise simplified), and not in a state context where the state legislature grants a court the authority to manage jurisdiction through its own rules.
C.R. Eng. v. Labor Comm'n,(2021) UT App 108, P14, 501 P.3d 109, 114, Utah App.

56. The Utah statute reads;

(2)(a) To seek judicial review of final agency action resulting from formal adjudicative proceedings, the petitioner shall file a petition for review of agency action with the appropriate appellate court in the form required by the appellate rules of the appropriate appellate court.
(b) The appellate rules of the appropriate appellate court shall govern all additional filings and proceedings in the appellate court.
(Utah Code Ann. § 63G-4-403)

57. Not only does it fail to pass the same test Congress would be put to, but Utah doesn't even claim that it has met the standard because it doesn't recognize the standard applies here. Again, it COULD overcome it if it interpreted that law to say that the state legislature met the "readily administrable bright line rule" with intent to set jurisdictional, as opposed to claims-processing limits at the discretion

of the court. Realistically, though, that's clearly not what the statute says, so the state grounds to overcome the Federal Principle is inadequate.

58. M.D.(2022) is the only state to adopt Hamer specifically, but K.S. (2019), M.A.(2023) adopt Henderson's reasoning
Cirincione v. State,(2022) Md. App. LEXIS 672(disturbed stare decisis to conform to Hamer's reasoning)
Bryan W Burns M.D. v. Kan. Bd. of Healing Arts, 2019 Kan. Dist.
Commonwealth ex rel. Minarik v. Tresca Bros. Concrete, Sand & Gravel, Inc.,(2023) Mass. Super.

59. Clearly there is a substantial spread interpreting these Federal Principles in even just the last few years. The weight of state court cases found by Petitioner, though, rejects SCOTUS definitions and reasoning, justifying clarification.

Unity of Traditional Features of American Jurisprudence

60. The U.S. Supreme Court's effort to "discipline" the courts' use of the terms "jurisdictional" vs. "claims-processing" has clearly not resonated with the state courts. The consensus appears to be that it is a Congress vs. Federal Court issue, perhaps rooted in Constitutional separation of powers/Constitutional struggles that are wholly independent at the state level.
61. Clearly for the reasons illustrated above, though, this cannot be so. The U.S. Supreme Court certainly has the power to set the interpretation of a Common Law Doctrine that is deeply ingrained and presumed without needing to be said.
62. It thereby has the power to ensure such a doctrine is applied with some consistency, which still leave broad room for states to exercise their power, but to do so in a more disciplined and orderly way.
63. By clarifying these principles apply to this Federal Doctrine

throughout all jurisdictions State and Federal, it would unify the interpretations and legal language.

64. Petitioner can see only benefits to a unified use of critical legal terminology that currently lacks the discipline the U.S. Supreme Court desires(even moreso at the state level), and even more benefit to unifying application of the related principles, thus clarifying "[judicial] intent"; "provid[ing] helpful guidance for courts and litigants, who will be "duly instructed" regarding a rule's nature.", and promoting fairness through judicial flexibility where it is warranted.

65. There really is no burden to the courts, who can easily adjust their approach to the consistent guidance by the U.S. Supreme Court on this issue by;

1. Understanding and acknowledging their Federal Common Law powers so they may exercise discretion properly as opposed to indiscriminately denying powers they don't recognize or understand.
2. Unifying their terminology with U.S. Supreme Court definitions of fundament principles of Due Process and Federal Common Law

66. Legislatures likely don't need to change anything, however, they may need to add specific language, just as Congress does, to specify rules intended to be Jurisdictional and inflexible as opposed to the presumption of Claims-Processing Rule flexibility.

II. INTRODUCING QUESTION 2

67. Vermont has taken "broad discretion" to determine Domestic Relations issues beyond all reasonable bounds, and the variance in state interpretation of the Floor of Constitutional Guarantees warrants SCOTUS clarification.

68. The errors in this case are examples of pervasive disregard for fair proceedings in Vermont Family Court, and deciding this question can

move a step closer to unifying state splits on Due Process.

II. A STATES MISUNDERSTAND SCOTUS' RARE PRECEDENT REGARDING FAMILY COURT

69. Given the rarity of SCOTUS precedent in child custody issues, there may be no more than a dozen child custody cases ever considered on Certiorari, perhaps only one of them(Palmore) between two parents, and the vast majority touching on child custody are more parent vs. agency, not regarding standards in custody disputes.
70. The result is a wild range of interpretations of what process is due.
71. State discretion is constrained Constitutional Guarantees requiring;
    1. Meaningful hearing at a Meaningful time
    2. Equal Protection of laws, not Arbitrary/Capricious application
    3. Constitutionally Required Standards of Evidence(405 U.S. 645)
    4. Discretion must be based in Constitutionally Permissible Factors(See 405 U.S. 645 and Palmore v. Sidoti)
    5. The state may not disturb Parental Rights simply because it believes a better decision could be made(Troxel)
72. The SCOTUS holds "the State registers no gain towards its declared goals when it separates children from the custody of fit parents. Indeed, if Stanley is a fit father, the State spites its own articulated goals when it needlessly separates him from his family."(Stanley v. Ill., 405 U.S. 645, 652-653, 92 S. Ct.)
73. In the face of this unambiguous guidance we can conclude the following;
    1. Marital status does not lower the bar to disturb Parental Rights
    2. Wrongful deprivation of contact between a fit parent and child is also harmful to the child, it can't be considered a 50/50 gambit.
    3. The only rational conclusion is that whenever parents are able to exercise rights in tandem, it is what the Constitution Commands

without Clear and Convincing Evidence of harm to disturb equal rights/visitation.

4. Enforcement of valid Child Custody Orders is necessary because failure to enforce "spites" the same goals as well depriving families of Constitutional Guarantees

74. SCOTUS precedent has required Clear and Convincing Evidence to disturb Parental Rights anywhere on the spectrum from occasional weekends(Troxel) to termination(Santosky).

75. "it is in the best interests of the children of this nation to preserve family bonds when parents are willing and capable of assuming responsibility for their parenting roles. The Constitution commands it... **The presumption that an award of sole custody is in the best interests of the child if parents cannot mutually agree to joint custody is contrary to the longstanding constitutional doctrine: Fit parents are presumed to act in the best interests of their children.**"31 Hofstra L. Rev. 547(emphasis added)

76. In some states, there is a rebuttable presumption of joint custody(Minn. Stat. §518.17, D.C Stat §16–914, N.H. §461-A:5, M.O. Stat §452.375, K.Y. Stat §403.270), while in VT one parent can veto joint custody(while also holding the trump card through ex-parte suspensions of visitation).

77. In NH it takes Clear and Convincing Evidence to disturb a custody decree(NH Rev Stat § 461-A:11), in VT findings supported by "any evidence" satisfies the standard of evidence(2023 VT 18)

78. It is impossible to square SCOTUS guidance with Vermont's shameful precedent violating every Constitutional Guarantee listed above(Knutsen alone violates ALL of them)

79. This illustrates the futility of litigating in a Vermont Family Court;

1. Knutsen v. Cegalis VT 2016 2(holding a Custodial parent can prevail on the fruits rather than the merits of an ex-parte

suspension of visitation with "no credible factual basis")(see also Cabot v. Cabot, 166 Vt. 485 finding mother's violation of custody agreement was bad for children, but even as the less fit parent, withholding contact made the children more settled with her, necessitating that she maintain custody as opposed to father, who had done no wrong)

2. Knutsen v. Cegalis VT 2017 62(holding Knutsen could prevail on the fruits of his own misconduct, although the prevailing party would be forced to pay the attorney fees of the losing party as a consolation prize for being deprived of a fair hearing. Concurrence notes that 5 years of severance of visitation and parental rights is not long enough for the fit parent's Constitutional Right to a fair hearing to supersede the lower court's opinion that a better decision could be made)
3. DeSantis v. Pegues, 2011 VT 114(Holding although the court accepted the temporary suspension of father's visitation stipulating it would "be entirely without prejudice" pending the resolution of a criminal investigation of child abuse, when the charges were dropped "with prejudice", it was permissible to refuse to lift the stipulated suspension and instead modify because it was only the act of signing the agreement that did not prejudice father, not the effect of the agreement, visitation was not restored)
4. Newton Wells v. Spera, 2023 VT 18(Findings need only to be supported by "any credible evidence", misapplication/misapprehension of Standards of Evidence is not erroneous.)
5. Knutsen 2016, Mullin v Phelps, 162 VT 250, and Desantis; all permit private prosecution of quasi-criminal claims at a lower standard, resulting in near total severance of contact at lowered

judicial standards after DCF chose not to prosecute. Based on marital status and identity of the accuser, the state disregards Santosky's key holding that "[The] State registers no gain towards its declared goals when it separates children from the custody of fit parents." 405 U.S., at 652.(455 U.S. 745, 767, 102 S. Ct)

80. Where Constitutional Guarantees are withdrawn and the promise of your day in court is broken by the court actively misleading a litigant(Desantis, Knutsen, Mullin), it would seem that the only thing correct about the SCOV's 2/6/23 Order in this case is that faith a Vermont Court's integrity is ill advised.

II B. DUTY TO CORRECT 10/17/22 ORDER

81. The lower court's error exceeding authority to grant an extension(10/17/22 Order) is not in dispute.

82. Nor is the SCOV's power to correct it(2/6/23 Order)

83. Rather than promoting fairness and adherence to law, the SCOV blames Petitioner

84. "It is axiomatic that courts have the power and the duty to correct judgments which contain clerical errors or judgments which have issued due to inadvertence or mistake." AMERICAN TRUCKING v. FRISCO, 358 U.S. 133, 145, 79 S. Ct.(1958)

85. Under V.R.A.P 4(d)(3) a valid order reissued to replace the 10/17/22 Order can grant any length of extension so long as it is 14 days from the date of the order.

86. This issue is still directly tied to state court's frequent misuse of "jurisdictional" limits, which warrants guidance from the SCOTUS and correction in this case.

II C. ERRORS IN LOWER COURT DECISIONS

87. As illustrated in II. A., SCOV precedent contains many outrageous departures from Constitutional Guarantees, but in VT they just call

it 'good law'.

88. It is therefore no surprise that the lower court flagrantly failed to adhere to due process principles. It is illustrative of the court process when you consider the sticks and carrots that guide the lower courts in Vermont.

89. Having abrogated the standards of evidence, the findings only need "any evidence" to support the findings, so a court that wants to guarantee a passing grade can simply look to the SCOTUS' judicial preferences.

90. The common thread of Knutsen, Desantis, Cabot v. Cabot, and the instant case is that "continuing to give great weight to that [primary caregivers] creates a spiral that the noncustodial parent can never overcome."

Knutsen v. Cegalis, 2017 VT 62, P32, 205 Vt. 144,(concurrence)

91. Lower courts know the custodial parents are heavily favored and if they want to ensure a 'passing grade' they need not pass on a difficult question of law with factors favoring both parties, because they have the easy out where the factfinding need not be plausible in light of the record.

92. This is precisely the vulnerable sort of case where "fact discretion makes facts less helpful in predicting trial outcomes, it makes judicial preferences more helpful for so doing."(Judicial Fact Discretion, 37 J. Legal Stud. 1, 14)

93. As described in the study, given the right incentive/opportunity in "vulnerable cases" courts manipulate factfinding unreasonably in light of the evidence to inoculate questionable legal conclusions from appellate scrutiny.

94. Favoring a non-custodial parent is risky even when the Custodial parent's actions are eggregious, but favoring the custodial parent is always safe.

95. To avoid remand, the court can simply align all the factors to favor the custodial parent and ensure their legal conclusions are safe even if their factfinding is indefensible.

96. This provides an incentive to do exactly as Judge Gray did, and take every chance to hamstring the non-custodial parent's case to expedite the clearing of the docket including;

    1. Accepting Attorney Loftus' lie about the deposition being for a different case to justify denying a continuance.(A.P.0140)
    2. Failing to enforce the deposition
    3. Refusing a statutorily required hearing(15 V.S.A §668a(c))
    4. Refusing order Statutorily Required Makeup Visitation(A.P.0101)
    5. Erroneously finding that Respondent's move didn't violate the order because school didn't start for months after the move(it's the move, date of decision to move, and change of enrollment, not the date of school starting that decide Notice and Meaningful Opportunity to have Input)

97. The 9/30/22 Order reads like a string of excuses where Judge Gray tries to bend every fact as far as possible to ensure the custodial parent has no factors against them. That guarantees a clean slate, nothing to question on appeal because she whitewashed the facts.

98. No matter how unreasonable in light of the evidence, it's not error if any evidence exists to support them(2023 VT 18)

99. When called out for the disregard for statutory factors in 15 V.S.A §668a, refusal to hold a hearing, entirely indefensible representation of the facts, and failure to conduct a fair proceeding, Judge Gray responded to the Motion to Reconsider with a Judicial tantrum, going back through the case and reclassifying as many Motions as possible to threaten Petitioner with Sanctions based upon orders not before the court and not even considered by this judge.

100. She even counted against him Motions on which he

prevailed, suggesting the court only acquiesced because he pestered them. She somehow concludes that Petitioner's roughly 20% success rate of his Motions to Reconsider illustrated how unreasonable the filings were.

101. Again, the SCOV disregards SCOTUS guidance on the value of Motions to Reconsider certain aspects of decisions, the benefit of plenary findings, and efficient way courts may correct errors without lengthy appeal(140 S. Ct. 1698), and

102. This petition challenges the Vermont Supreme Court's (SCOV) decisions on two threshold issues that reflect broader systemic failings in safeguarding constitutional guarantees in parental custody cases. First, the refusal of the SCOV to correct a lower court's erroneous order, erroneously faulting the petitioner for relying on the lower court's deadline in what it termed a "tactical decision." Second, the SCOV's abrogation of the standards of evidence, which critically undermines judicial fact-finding and strips every decision of its adherence to Constitutional Guarantees.

103.

104. Refusal to Correct Lower Court's Error: The refusal to correct an acknowledged lower court error—on the grounds that the petitioner's reliance on the court's directive was a "tactical decision"—not only contravenes principles of fairness and due process but also sets a dangerous precedent. It implies that litigants cannot trust court orders at face value, an untenable position that erodes the foundation of our legal system's integrity and accountability.

105. Abrogation of Standards of Evidence: The SCOV's approach to the standards of evidence, wherein the mere existence of evidence suffices to meet the standards, regardless of its application,

essentially renders these standards ceremonial rather than functional. This approach is a direct affront to constitutional guarantees, reducing rigorous evidentiary standards to mere formalities devoid of substantive judicial scrutiny. By accepting that the application of the standard is unreviewable, the SCOV leaves the determination of facts to the arbitrary discretion of the court, a clear violation of due process and a fair trial.

106. Before delving deeper into the systemic issues plaguing parental custody decisions, it's imperative to recognize that these threshold issues already present a compelling case for Supreme Court intervention. The SCOV's practices not only deviate from constitutional norms but also signify a broader disregard for the foundational principles of fairness, equity, and justice in the state's judicial proceedings.

107.

108. The Need for Supreme Court Guidance: Beyond these initial concerns lies a complex landscape of issues that further necessitate this Court's review. Notably, the presumption that enforcement of custody decrees is mandatory, as implicitly understood in the enforcement of foreign decrees under § 1738A, must be clarified and extended to intra-state decree enforcement. The SCOV's treatment of custody and visitation rights, as evidenced in cases like Knutsen, reveals a troubling pattern of discretionary enforcement that fails to uphold constitutional standards of due process and equal protection.

109.

110. In the present case, the persistent denial of the petitioner's access to his child's medical providers and decision-making processes for over six years—without any meaningful recourse or enforcement of statutory mandates—underscores the urgent need for this Court's

intervention. The SCOV's refusal to apply statutory factors, even when acknowledging direct violations of the petitioner's rights, is emblematic of a judiciary that has strayed far from its constitutional moorings.

111.

112. This petition, therefore, not only seeks redress for the petitioner's immediate grievances but also implores this Court to reaffirm the constitutional protections that must guide all parental custody decisions. Only through such clarification can we ensure that the rights and welfare of parents and children are safeguarded within a judicial framework that respects the constitutional guarantees underpinning our legal system.

113.

114. This approach aims to succinctly frame the critical issues at the outset, setting the stage for a detailed exploration of the systemic problems identified in your broader argument. It underscores the immediate need for Supreme Court review to correct specific judicial errors and to reinforce constitutional standards in family law.

II. D. PETITIONER WAS DENIED A FAIR HEARING

115. The series of failures in this case may seem accidental at first blush, but I'll start with an example that illustrates the court KNEW it was lying about the record. Indeed, if the court's statements were signed affidavits rather than judicial acts, they would form grounds for perjury as they are self-evident that the court knew it lied.

Judicial Candor

116. Petitioner's 7/26/22 Motion to Enforce was denied on 7/26/22 with resolution directed through Parent Coordination rather than a hearing.

117. Petitioner filed a Motion to reconsider stating;

118. "While Mr. Dasler agrees that Parent Coordination may necessary to get Ms. Knapp to at least come to the table to discuss the parenting plan...he does not have the available income to pay for the initial 12.5 hours of services. "(A.P.0107)8/10/22 Motion Pg.1)

"Mr. Dasler lacks the resources to comply with the 8/2/22 Order"(A.P.0116)8 8/10/22 Motion Pg.9)

"Mr. Dasler requested "A. Order Ms. Knapp to cover Mr. Dasler's costs for Parental Coordination C. Grant Mr. Dasler's Motion for Makeup Time

D. Grant a hearing on Mr. Dasler's Motions for Contempt/Enforcement "(A.P.0117)8/10/22 Motion Pg.10)"

119. Denied in 11/4/22 Order;

""At the outset, the court notes that Father's only request in his motion is for attorney's fees....Father makes no argument that the court has failed to apply any certain law or new facts to his matter. Father makes no argument that it was improper for this court to deny his emergency relief. Father does not contest the court's decision that his emergency motion made no demonstration of immediate threat of personal injury or damage to the minor child. Father concedes that Parent Coordination is necessary. The court is unclear on what Father seeks reconsideration."(A.P.0077)

120. 2nd Motion to Reconsider cites to what the court apparently overlooked/misapprehended;

1. Cites directly from the 8/11/22 Motion that he DID state he is unable to comply with the order, and requested relief on that basis(A.P.0066) 11/22/22 Motion Pg.1)
2. Cites statutory requirement of hearing within 30 days, deprivation of visitation only justified by risk of harm to child, and person failing to comply with "all terms" of visitation order is

subject to contempt proceedings(A.P.0070 11/22/22 Motion Pg.4)

121. Denied 12/20/22;

""Father does not point to any new controlling authority, nor does he make any argument he has not already made — Father merely disagrees with the court's orders"(12/20/22 Order denying Reconsideration Pg.1-2)"

122. Same Day, separate order also denied Respondent's Motion to Enforce Parent Coordination;

123. "Father has indicated that he is unable to afford parent coordination. Without the agreement of both parties to engage in parent coordination in this matter, the Court is Without authority to order it"(A.P.0060 Pg.1)

124. Several issues ;

1. The court acknowledges in the 12/20/22 Order that it lacked authority to order Parent Coordination AND understood that Petitioner articulated inability to pay/comply with the order.
   1.A. That means that the 11/4/22 and 12/20/22 Orders denying Reconsideration weren't just misunderstanging Petitioner,
      1.A.i. The court knowingly lied about the contents of his motions lacking in fact/authority,
      1.A.ii. Knew it lacked authority when it denied his Motions to Reconsider
      1.A.iii. Denied relief through deception and never issued an order within its authority to correct the error.

125. Although judicial acts rarely show bias, I think a court knowingly lying to deprive a litigant of rights certainly is flagrant enough to qualify.

Abuse of Discretion

126. The lack of candor above certainly should call in to question the court's impartiality/integrity, but it doesn't stop there.

127. The court threatened Petitioner with sanctions in response to his 11/4/22 Motion to Reconsider, which was solidly grounded in;

1. Correcting Fact Error by citing the transcript(A.P.0084)
2. Citing statute misapplied(A.P.0088, A.P.0093))
3. Citing authority for principle misapplied(A.P.0081, A.P.0091-A.P.0092)

128. Denied 11/22/22;

1. ""arguments raised by Father do not articulate any cognizable justification for relief...Father only seeks to relitigate issues that have already been resolved "(A.P.0065)
2. Threatening sanctions(A.P.0063-A.P.0064)
3. Absurdly parodying prior filings(before other judges) in a Judicial Tantrum to justify sanctions(A.P.0062-A.P.0063)

129. The court;

1. Allowed non-party counsel to usurp ½ of Petitioner's time to examine the witness as a result of unauthorized objections, legal arguments, and unsworn statements of fact.((A.P.0032)
2. Silenced PetitiOner during his examination to give non-party counsel the floor(with no valid legal basis)
3. Deprived Petitioner of his right to impeach witnesses((A.P.0079)

130. Petitioner sought a Continuance on 4/27/22 to accommodate non-party witness' request to reschedule Deposition;

1. Opposing counsel objected and lied about the deposition being for a separate "Federal Matter", citing 2:21-CV-194(Dasler v. Washburn)(5/2/22 Motion)
2. Continuance denied on 5/2/22 with no findings, therefore no exercise of discretion(A.P.0153)
3. 5/5/22 Motion to Reconsider Continuance submits exhibits showing Attorney Loftus' emails agreeing to reschedule Deposion for THIS CASE, and identified it for this case along with the date

in an email within a week of lying to the court about it being for a Federal Case(A.P.0144 Motion Generally)

4. 5/5/22 denied Motion to reconsider finding "Defendant provides the court with nothing that could lead it to believe that Plaintiff acted in bad faith."(Pg.2)(A.P.0140)

131. Again, we can plainly look at the documents and see opposing counsel had the date, case number, and knew it was for this case when he lied to the court. There is no plausible way to call that good faith, and in conjunction with the series of other issues, shows clear and bias/abuse.

Abitrary and Capricious Appplications of Law

132. As seen in the preceding examples, the court in this case did more than simply make an honest error of law.

133. Where Petitioner had clearly defined rights, the court read out of these provisions the very protections on which Petitioner is entitled to rely.

134. § 1738A requires states "shall enforce" custody orders, and there is no reasonable state interest in failing to enforce a domestic custody order, nor to deprive a fit parent of contact consistent with a valid custody order.

VISITATION

135. In terms of visitation;

1. 15 V.S.A §668a requires;
2. A hearing within 30 days,
3. Requires makeup visitation, and
4. Sets specific factors for permissible reasons for failing to provide visitation.

136. The court disregarded all of these factors;

1. "the reason that Father's parenting time was postponed on November 16, 2018, is not critical, as Mother offered to make up

parenting time. This demonstrates to the court that her actions were not done in a willful manner and/or to interfere with Father's parenting time. (footnote Despite the offer to make up parenting time, it was not made up.)"(A.P.0101)

2. Ordered Parent Coordination in lieu of a hearing, then refused to hold a hearing when it decided parent coordination exceeded its authority(12/20/22(A.P.0060-A.P.0061)
3. Has recognized Respondent did not adhere to the visitation requirements on multiple occasions, but refused to order makeup time.

137. Petitioner filed a Motion to Reconsider citing statutory factors not applied(A.P.0066)(Denied 11/22/22(A.P.0062)and 12/20/22(A.P.0061))

Parental Rights

138. The court arbitrarily eliminated Petitioner's Rights under the order

1. Petitioner is entitled to;
   1.A. 60 Days' notice of a move effecting school, equal access to information, prior notice of, to be fully informed of and have meaningful opportunity to have input in Major Decisions for the child under "shared Decision-Making" provisions
      1.A.i. The court says Respondent has "Sole" Decision-Making power, not primary(A.P.0106-107)
      1.A.ii. The court disregards the prior notice and meaningful opportunity, finding he could review decisions after they are made(A.P.0099)
      1.A.iii. The court says Respondent's approval, support, and perpetuation of a change to medical services that severs Petitioner's access is not a violation of the order.(A.P.0097)
      1.A.iv. It is not in dispute that Respondent's selection of

providers and support of service plan prevents Petitioner from accessing rights to which he is entitled

II.E. GATEKEEPERS OF CONSTITUTIONAL RIGHTS

139. If/when a state either delegates or otherwise permits a private person to assume the role of 'Gatekeeper' of another person's Constituitonal Right, it may not either enforce wrongful use of that power or fail to enforce after wrongful deprivation.

140. The common thread of all forms of state action is much more simple than the various theories/factors construe.

1. The 'Gatekeeper' has discretion/control over access to another person's Constitutional right
2. The 'Gatekeeper's' discretion/control is backed/supported by state power
3. The combination of the 'Gatekeeper's' discretion/control and state power causes harm to a right that would be Unconstitutional when attributed to state action.

141. In each of the examples below, it is state power that elevates the private harm to Unconstitutional deprivation;

1. Private creditor's pre-trial attachment is ratified by the court(Lugar v. Edmondson Oil Co., 457 U.S. 922 (1982))
2. Discriminatory Private Real Estate Agreement would be Unconstitutional state action if enforcedShelley v. Kraemer, 334 U.S. 1 (1948)
3. Private doctor's refusal to care for prisoner was Unconstitutional state action when the state narrowed medical care to one source(West v. Atkins, 487 U.S. 42)

142. When the state court creates a heirarchy through which a parent must traverse in order to access a Constitutional Right, it may not also abrogate the right to enforce access when the prescribed path is blocked by a 'Gatekeeper' appointed by the state.

143. Here, the 8/17/18 Order(A.P.0167) created a heirarchy including a "shared decision-making" method that essentially gives Respondent a tie-breaking vote on "Major Decisions" regarding the child only AFTER the requisite factors are met(providing Petitioner with Notice, Meaningful Opportunity to have Input, information about all options, etc...)

144. In practice, however, the court has retroactively framed Respondent as having "sole right" to make decisions on Petitioner's behalf.

145. Although prohibited by order, she has excluded Petitioner from his 14th Amendment Rights under the Custody Order. If the state court had enforced access, then the heirarchy would not result in an Unconstitutional harm, but a private one.

146. Where the court has not altered the 8/17/18 Order(A.P.0155-(A.P.0167-0172), but instead abrogated its enforcement duty, it has allowed Respondent, as Gatekeeper, to fully usurp Petitioner's 14th Amendment Right and exercise Parental Decision-Making on his behalf.

147. If we were considering any other decison-making body where a court order or contract had defined a Quorum, and rules for valid decision-making, then clearly justice would also prevent any individual member from making sole decisions without a Quorum.

148. Under the terms of the 8/17/18 Order(A.P.0167), Respondent has NO authority to make Major Decisions without meeting the terms of the order, when the court ratifies these invalid decisions and permits the practice to continue, it has allowed the 'Gatekeeper' an Unconstitutional usurpation of power.

149. In this case, enforcement was mandatory.

Conclusion

150. State splits should be resolved by Question 1;

1. Unify application of terms Jurisdictional vs. Claims-Processing to be consistent with SCOTUS definition of "traditional American Jurisprudence" rooted in Common Law
2. Confirm this "background principle against which [legislatures] draft[] limitations periods." applies to states
3. The presumption of equitable tolling must be disturbed by either specifically articulated legislative intent or proper use of judicial discretion.

151. Question 2 addresses Judicial Fairness by confirming the balance between Domestic Relations Decrees and Constitutional Guarantees

1. The Child's Best Interest can only be informed by a fair and meaningful hearing
2. Domestic Relations Orders may not be rooted in Constitutionally Intolerable considerations
3. Recognizing the fit parents are presumed to act in the child's interest, and the state may not intefere simply because it believes a "better decision could be made", it Must enforce valid custody decrees and may not permit a litigant's misconduct to operate as a form of "self-help" circumvent judicial proceedings(as in Knutsen et al.)

152. Answering Questions 1 and 2 in the affirmative in this case should result in remand for a new trial consistent with Due Process as identified herein.

153. Instructions shall be made for the lower court to prioritize

proceedings to consider an interim injunction or other remedy to ensure that the now 7 year deprivation of rights does not perpetuate further while awaiting trial.

1. Since Respondent has already testified and admitted she conducts medical appointments with no notice/involvement of Petitioner, this is easily remedied with an order to
   1.A. Include him in all contact with medical providers and
   1.B. Shall ensure he is included in all "major decisions" pertaining to the child, and
   1.C. Has access to all information pertaining to the child, which she has access to, and
   1.D. Failure to adhere to these directives shall be subject to Contempt penalties if she perpetuates interference.
2. Courts have a panoply of tools to expedite enforcement when they so desire. It must be communicated that the sort of malaise seen in Knutsen is intolerable. The court must use equitable powers to ensure deprivation comes to an immediate end.

CERTIFICATE OF COMPLIANCE

I, Timothy Dasler certify that this brief contains fewer than 8849 words

4/5/24
Date

Timothy Dasler
Signature