No. 24-

IN THE

Supreme Court of the United States

TAYLOR PACKWOOD AND ANDREA WOOD,

Petitioners,

v.

COUNTY OF CONTRA COSTA, CONTRA COSTA CHILDREN AND FAMILY SERVICES, CONTRA COSTA COUNTY OFFICE OF THE SHERIFF, DAVID LIVINGSTON, SHERIFF, EDYTH WILLIAMS, CECELIA GUTIERREZ, ACACIA CHIDI, KELLIE CASEY, RAVENDER BAINS AND ERICA BAINS,

Respondents.

ON PETITION FOR A WRIT OF CERTIORARI TO THE UNITED STATES COURT OF APPEALS FOR THE NINTH CIRCUIT

PETITION FOR A WRIT OF CERTIORARI

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QUESTION PRESENTED FOR REVIEW

Whether there is a fraud exception to the *Rooker-Feldman* doctrine in domestic relations cases raising claims of a violation of due process of law.

PARTIES TO THE PROCEEDING

Petitioner Taylor Packwood is an adult resident of the State of Nevada.

Petitioner Andrea Wood is an adult resident of the State of Nevada.

County of Contra Costa is a governmental entity operating and organized under the laws of the State of California.

Contra Costa Children and Family Services is a county agency organized and operated under the laws, ordinance and regulations of the County of Contra Costa and the State of California.

Office of the Contra Costa Sheriff is a county law enforcement agency organized and operated under the laws, ordinances and regulations of the County of Contra Costa and the State of California.

David Livingston was all times relevant to these proceedings the Sheriff of Contra Costa County.

Edyth Williams was at all times relevant to these proceedings a social worker employed by County of Contra Costa Children and Family Services.

Cecelia Gutierrez was at all times relevant to these proceedings a social worker employed by County of Contra Costa.

Acacia Chidi was at all times relevant to these proceedings a social worker employed by Contra Costa Family Services.

Kellie Casey was at all times relevant to these proceedings a social worker employed by Contra Costa Family Services.

Ravender Bains is a resident of Contra Costa County.

Erica Bains is a resident of Contra Costa County.

RELATED CASES

1. *Taylor Packwood and Andrea Wood v. County of Contra Costa, et al.*, United States District Court for the Northern District of California

2. *Taylor Packwood; Andrea Wood v. County of Contra Costa, et al.*, United States Court of Appeals for the Ninth Circuit

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PETITION FOR A WRIT OF CERTIORARI

Taylor Packwood and Andrea Wood respectfully request a writ of certiorari to review the judgment of the United States Court of Appeals for the Ninth Circuit.

OPINIONS BELOW

The decision of the United States Court of Appeals for the Ninth Circuit is reprinted in the Appendix (App.) at 32a. The underlying District Court decision from which the appeal was taken is reprinted at App. 19a.

JURISDICTION

The United States Court of Appeals for Ninth Circuit issued its decision on February 10, 2025. App. 32a. Jurisdiction of this Court is invoked pursuant to 28 U.S.C. Section 1254(1).

CONSTITUTIONAL PROVISION

The Fourteenth Amendment to the United States Constitution provides in pertinent part: "nor shall any State deprive any person of life, liberty, or property, without due process of law;…"

INTRODUCTION

There is a split among the Circuits on whether there is a fraud exception to the *Rooker-Feldman* doctrine. The result is doctrinal inconsistency throughout the country, and, sometimes, within the Circuits themselves, about how to apply the doctrine. In this case, a litigant in a child custody case brought an action arising under 42 U.S.C.

Section 1983 claiming, among other things, fraud in the underlying custody proceedings and alteration of her trial record such that a direct appeal would be futile. She also sought relief in the form of equitable relief as deemed appropriate by the Court. The District Court dismissed the actions, claiming, among other things, that the action was barred under *Rooker-Feldman*. On appeal, the Ninth Circuit looked no further than *Rooker-Feldman* to reject her appeal, even though the Circuit is among those that recognizes a fraud exception. The petitioner asks that this Court address the doctrinal inconsistencies and confusions that have plagued *Rooker-Feldman* since it was first applied in the federal courts. At issue is whether a mother's fundamental right to associate with her children warrants a full and fair hearing in federal court when the state courts have failed to provide such a hearing.

STATEMENT OF THE CASE

Andrea Wood has, since 2017, battled county officials in Contra Costa, California over the right to raise and care for her children. The case or controversy at the heart of this litigation is the State of California's decision to seize Ms. Wood's three minor children, one of whom is Taylor Packwood, who was reunited with Ms. Wood and is a co-appellant in this appeal. State court proceedings in the County of Contra Costa resulted in the termination of Ms. Wood's parental rights as to two children; Taylor was eventually returned to her. Ms. Wood has been trying to hold the State of California and its agents accountable ever since the proceedings began; she continues to try to reunite with the two children taken from her.

Beginning in 2019, Ms. Wood, on behalf of herself and her children, began to file a series of complaints with the

aim of challenging the underlying state court proceedings on procedural and substantive due process grounds as well as state law tort claims. She has, at various times, been represented by counsel, and at other times has acted pro se.

In addition to the instant case, it appears that she has brought no fewer than other 10 claims in the United States District Court for the Northern District of California – Docket numbers 3:19-cv-02678, 3:19-cv-03885, 3:19-cv-04266, 3:19-cv-04202; 3:19-cv-04247, 3:19-cv-7124, 3:19-cv-07597, 3:21-cv-00611, 3:21-cv-02203, and 3:22-cv-02741. She has also had at two cases rejected by the Ninth Circuit, Nos. 21-16183 and 21- 15083. All involve Contra Costa County, state employees and related parties, including a lawyer who represented her in the underlying child protection proceedings. This District Court has deemed Ms. Wood a vexatious litigant; the Ninth Circuit has barred Ms. Wood from filing further pro se pleadings related to this controversy. She is not a vexatious litigant; she is a mother devastated by the state's seizure of her children and destruction of her family.

The procedural posture of the case arises from the District Court's dismissal of a Second Amended Complaint with prejudice, ordering that the plaintiffs could not file an additional complaint. The Court also dismissed substantive due process claims on *Rooker/Feldman* and quasi-judicial immunity grounds. Through counsel, the appellants challenged those rulings on appeal.

The District Court dismissed the action and denied the plaintiffs any further permission to amend their complaint. Judgment entered on March 25, 2024.

The Second Amended Complaint, hereinafter "SAC," raised claims against the County of Contra Costa, SAC, App. , the Office of the Contra Costa Sheriff, id., para. 10, and Contra Costa Children and Family Services, App. 3a. It also raised individual capacity claims against Contra Costa Sheriff David Livingston; two private citizens, the Bains defendants; one social worker employed by County of Contra Costa, Cecelia Gutierrez; and, two social workers employed by Contra Costa Children and Family Services, Acacia Chidi, Kellie Casey and Edyth Williams.

The complaint pleaded seven causes of action: first, denial of substantive and procedural due process against all defendants, alleging sometimes secret court proceedings; perjury by three Contra Costa County social workers; threats and intimidation of minor children by the same three Contra Costa social workers; deliberate alteration of trial court transcripts; and the refusal of a trial judge to order de novo proceedings after it became apparent that the judge had a demonstrable bias against former U.S. Senator Robert Packwood, to whom Ms. Wood was related by marriage. In particular, the Second Amended Complaint pleaded that "Plaintiff Wood" was denied "the right to present evidence and her right to have a true and faithful transcript … by agents of Contra Costa acting under color of law." The Complaint specifically pleaded: "The plaintiffs turn to the federal courts for relief on grounds that the courts of the State of California have effectively closed the doors of the Court to Ms. Wood, depriving her of the right to perfect her claims." SAC, App. 9a. On appeal, she raised an issue of first impression, asserting that a litigant claiming fraud in a state court action, even an action involving domestic relations, can seek relief despite *Rooker/Feldman* when

raising a claim of denial of substantive due process by state courts.

A second cause of action pertained to the illegal entry into the plaintiff's home by Defendants Gutierrez and others at the command of Defendant Livingston.

The third claim was a failure to train on behalf of the County of Contra Costa, the Office of the Contra Costa Sherriff and Contra Costa Children and Family Services. The complaint alleges that municipal actors failed to train agents on applicable Fourth Amendment standards for warrantless entry into a home.

Mr. Packwood alleged in the fourth count that he was unlawfully seized by Defendants Livingston and Gutierrez. That seizure took place in 2017.

Mr. Packwood further claimed in the fifth count false imprisonment, in that Defendant Contra Costa Children and Family Services compensated the Bains to house Mr. Packwood against his will beginning in 2017 until an unspecified date.

In the sixth claim, both plaintiffs claim intentional infliction against all of the defendants; Ms. Wood having lost the right to raise her children; Mr. Packwood having lost the care, comfort and support of a relationship with his mother.

In the seventh count, Ms. Woods contends that three social workers, Defendants Williams, Case and Chidi testified falsely under oath in child protection trials, thus having a material effect on her trial, and depriving her of her fundamental right to familial association.

The District Court dismissed with prejudice all of Ms. Wood's claims on a variety of grounds, including lapses of the statute of limitations, *Rooker/Feldman* and an application of judicial immunity for testifying witnesses, including social workers, arising under *Burns v. County of King*, 883 F.3d 819, 821-823 (9th Cir. 1989). The Court did not act on Mr. Packwood's Fourth Amendment claims noting that those issues were raised in a related matter pending before the District Court.

In an unpublished summary order, the Ninth Circuit rejected the appellants' claims that the substantive due process claims were viable, ruling that *Rooker/Feldman* barred the claims. App. 32a.

SUMMARY OF THE ARGUMENT

"[S]tate intervention to terminate the relationship between [a parent] and [a child] must be accompanied by procedures meeting the Due Process Clause." *Lassiter v. Department of Social Services*, 452 U.S. 18, 37 (1987). Indeed, this Court has long recognized that freedom of personal choice in matters of family life is a fundamental liberty interest protected by the Fourteenth Amendment. *Quilloin v. Walcott*, 434 U.S. 246, 255 (1978); *Smith v. Organization of Foster Families*, 431 U.S. 816, 845 (1977); *Moore v. East Cleveland*, 431 U.S. 494, 499 (1977) (plurality opinion); *Cleveland Board of Education v. LaFleur*, 414 U.S. 632, 639-640 (1974); *Stanley v. Illinois*, 405 U.S. 645, 651-652 (1972); *Prince v. Massachusetts*, 321 U.S. 158, 166 (1944); *Pierce v. Society of Sisters,* 268 U.S. 510, 534-535 (1925); *Meyer v. Nebraska*, 262 U.S. 390, 399 (1923).

Of more recent vintage than the Due Process Clause's guarantee of fundamental rights is a jurisdictional doctrine referred to by some commentators as a "docket-clearing device," the *Rooker/Feldman* doctrine. Susan Bandes, *Rooker-Feldman Doctrine: Evaluating Its Jurisdictional Status*, 74 Notre Dame Law Review 11. This doctrine stands for the proposition that final judgments in state courts cannot be relitigated in federal courts. *Rooker v. Fidelity Trust Co.*, 263 U.S. 413 (1923) and *District of Columbia Court of Appeals v. Feldman*, 460 U.S. 462 (1983). The scope and application of this general proposition has created confusion in the Circuits. There is a split in the Circuits on the preclusive effect of the doctrine. Some Circuits, such as the Ninth, are inconsistent in its application of the exception, as this case illustrates. The result is confusion for litigants and inconsistency in legal doctrine, a result that fails to promote respect for the law.

In this case, the petitioners pled something worse than fraud – they claimed alteration of a court record by state actors and perjury by state officials. It appears as though the Ninth Circuit harbors a general reluctance to assert federal jurisdiction in domestic relations cases. The result is a failure to address the injustice presented in the petitioners' pleadings.

The petitioners here contend that given the centrality of familial association in any conception of ordered liberty, *Obergefell v. Hodges*, 576 U.S. 644 (2015), and *Griswold v. Connecticut*, 381 U.S. 479 (1965), this Court can and must recognized a domestic relations exception to *Rooker-Feldman* in child custody cases. The right of a parent to

raise her children, and the right of children to the care, love and regard of their parent, together with a sibling's right to a familial relationship with his siblings – are even more fundamental and deeply rooted in our nation's history than the right of same sex couples to marry, a right traditionally grounded in state domestic relations law. *Obergefell v. Hodges*, 576 U.S. 644 (2015) (ruling, on direct application to the federal court that states are required, as a matter of substantive due process under the Fourteenth Amendment, to both license and recognize same sex marriage). At least one commentator notes that the effect of the *Obergefell* decision was to bypass the normal reluctance of the federal courts to intervene in state domestic relations matters. Bradley Silverman, *Federal Questions and Domestic Relations Exception,* 125 Yale L. J. 5 (March 2016). Indeed, the exceptions to *Rooker/Feldman* appear to be growing, rather than narrowing, *Lance v. Dennis*, 546 U.S. 459 (2006), leading another commentator to have declared the doctrine dead. Samuel Bray, *Rooker/Feldman (1923-2006)* 9 Green Bag 2d 317.

REASONS FOR GRANTING THE PETITION

I. There is Split in the Circuits on Whether There is a Fraud Exception to *Rooker/Feldman*, Creating Significant Confusion Among Litigants About Whether They Can Seek Relief for Significant Wrongdoing in the Federal Courts

This Court has yet to resolve a split in the Circuits on whether the *Rooker/Feldman* doctrine's ad hoc approach to limiting federal jurisdiction closes the doors of the federal courts to those claiming that state court proceedings were

tainted by fraud. The Fourth, Sixth and Ninth Circuits recognize a fraud exception. The Eleventh, Tenth and Eighth Circuits do not recognize such an exception. The Second and Fifth Circuits at times recognize an exception, and at other times reject or criticize the exception.

The Fourth Circuit expressly states that a "federal court may entertain a collateral attack on a state court judgment which alleged to have been procured through fraud, deception, accident, or mistake,…" *Resolute Ins. Co. v. North Carolina*, 397 F.2d 586, 589 (4th Cir. 1968). In so ruling, the Fourth Circuit relied heavily on precedent from this Court, to wit: *Atchinson, T. & S. F. Ry. Co. v. Wells*, 265 U.S. 101 (1924); *Simons v. Southern Railway Co*, 236 U.S. 115 (1915); and *Wells Fargo & Co. v. Taylor*, 254 U.S. 175 (1929).

In addition to the Fourth Circuit, two other circuits permit a district court to consider a collateral attack on a state court judgment. *In re Sun Valley Foods Co.*, 801 F.2d 186, 189 (6th Cir. 1986) (relying on Resolute Insurance); *Kougasian v. TMSL.*, 359 F.3d 1136 (9th Cir. 2004). Each of these cases cites different rationale for permitting collateral attacks.

Three other circuits reject a fraud exception to *Rooker/Feldman*. The Eleventh Circuit is blunt in its refusal. "[S]ome of our sister circuits have recognized an extrinsic-fraud exception to *Rooker-Feldman*. … But we have not, and we do not do so now." *Scott v. Frankel*, 606 F. App'x 529, 532 n.4 (11th Cir. 2015). The Eighth Circuit refuses, but notes the enigmatic character of *Rooker-Feldman*. *Fielder v. Credit Acceptance Corp.*, 188 F.3d 1301, 1036 (8th Cir. 1999). See also, *West v. Evergreen Highlands Ass'n*, 213 F. App'x 670 (10th Cir. 2007).

Other Circuits at times recognize collateral attacks. *See Sitton v. United States*, 413 F.2d 1386, 1389-90 (5th Cir.); *Griffith v. Bank of N.Y.*, 147 F.2d 899, 901 (2d Cir. 1945). Yet these same Circuits also are reluctant to recognize such attacks in other cases. *Williams v. Liberty Mut. Ins. Co.*, 2005 WL 776170, at *1 (5th Cir. April 7, 2005); *Kropelnicki v. Siegel*, 290 F.3d 118 (2d Cir. 2002).

The result is doctrinal confusion and inconsistency.

In this case, the Ninth Circuit appears to join the ranks of the confused. Despite recognizing a fraud exception, *Kougasian v. TMSL.*, 359 F.3d 1136 (9th Cir. 2004), the Circuit refused to use the exception in the instant case without any attempt to explain what appears to be doctrinal inconsistency. One suspects the Court was reluctant to apply the exception to case involving family relations, creating an unusual universe in which the right to engage in sodomy or to marry a member of the same sex is somehow deemed more worthy of constitutional protection than the right to raise one's own progeny. At least one commentator notes that the effect of the *Obergefell* decision was to bypass the normal reluctance of the federal courts to intervene in state domestic relations matters. Bradley Silverman, *Federal Questions and Domestic Relations Exception,* 125 Yale L. J. 5 (March 2016). Indeed, the exceptions to *Rooker/Feldman* appear to be growing, rather than narrowing, *Lance v. Dennis*, 546 U.S. 459 (2006), leading another commentator to have declared the doctrine dead. Samuel Bray, *Rooker/Feldman (1923-2006)* 9 Green Bag 2d 317.

The federal courts' intervention on Constitutional grounds in matters of intimacy shouldn't stop at the door

of consenting adults; it also ought to embrace review of those cases raising significant questions about the fundamental right of parents to raise their children. For this reason, and because of the Circuit split on the exceptions to *Rooker/Feldman*, this Court should review and rule in such a way as to promote respect for the law by assuring that a key jurisdictional doctrine is uniformly applied across the United States.

II. The Rights to Raise One's Own Children and to Familial Association are Fundamental, and *Rooker/Feldman* Ought not to Shut Federal Courthouse Doors to Those Pleading Fraudulent Conduct by State Actors

Among the most fundamental of constitutional rights is the right to familial association. Paradoxically, federal courts are loathe to adjudicate claims under the so-called domestic-relations exception to federal subject-matter jurisdiction. Yet beleaguered state courts often fail in basic ways to see that justice is done in these cases, with the result being that families are shattered without relief. The federal courts can and should recognize an exception to the family-relations exception to subject matter jurisdiction in cases in which it is futile to expect even the semblance of fair proceedings in state court.

"[S]tate intervention to terminate the relationship between [a parent] and [a child] must be accompanied by procedures meeting the Due Process Clause." *Lassiter v. Department of Social Services*, 452 U.S. 18, 37 (1987). Indeed, this Court has long recognized that freedom of personal choice in matters of family life is a fundamental liberty interest protected by the Fourteenth Amendment.

Quilloin v. Walcott, 434 U.S. 246, 255 (1978); *Smith v. Organization of Foster Families*, 431 U.S. 816, 845 (1977); *Moore v. East Cleveland*, 431 U.S. 494, 499 (1977) (plurality opinion); *Cleveland Board of Education v. LaFleur*, 414 U.S. 632, 639-640 (1974); *Stanley v. Illinois*, 405 U.S. 645, 651-652 (1972); *Prince v. Massachusetts*, 321 U.S. 158, 166 (1944); *Pierce v. Society of Sisters*, 268 U.S. 510, 534-535 (1925); *Meyer v. Nebraska*, 262 U.S. 390, 399 (1923).

Paragraph 35 of the Second Amended Complaint asserts a damning set of allegations concerning the state court proceedings that led to the termination of Ms. Wood's relationship with her children. These allegations are to be taken as true in the context of a motion to dismiss, and the District Court made no findings that the allegations were not well-plead or were so tenuous as to warrant dismissal under *Ashcroft v. Iqbal*, 556 U.S. 662 (2009) and it progeny. The claims are, therefore, for purposes of appellate review, "plausible on [their] face." *Bell Atlantic Corp. v. Twombly*, 550 U.S. 544, 570 (2007).

The allegations are recited here verbatim. They demonstrate why this case presents an exception to the *Rooker/Feldman* doctrine. Simply put, the state court trial was orchestrated in such a matter as to deprive the appellants of the record they would require to prevail on appeal – alteration of court transcripts alone should be sufficient cause to warrant what would be otherwise called a collateral attack on the state court proceedings.

a. The trial was initially presided over by a jurist, Judge Haight, with a known and demonstrable bias against Senator

> Packwood [related to the plaintiff by marriage] and anyone associated with him; after Judge Haight recused herself, the trial court refused to conduct hearings de novo, and the proceedings were irredeemably tainted by an appearance of impropriety and [..]partiality.

b. Defendant Contra Costa Children and Family workers presented evidence at trial it either knew, or should have known, was false, including claims that Plaintiff Wood was neglected the children's medical treatment.

c. As a result of the trial court's bias, the Court disregarded the unrebutted testimony of medical professionals that Ms. Wood was a good and capable parent.

d. The minor children were induced, coerced and compelled to give false testimony about their mother by agents of Defendant Contra Costa Children and Family Services;

e. As a result of the procedural irregularities, including alteration of a certified court transcript, and conflicts asserted herein, Plaintiff Wood unable to make a record sufficient to accord her adequate and effective appellate relief;

f. Defendant[s] Williams, Case and Chidi offered material and false testimony in support of both the jurisdictional claims

> relating to the removal of the children from their home and in support of a denial of Ms. Wood's efforts to reunify with her children, asserting that Ms. Wood engaged in physical violence against one or more of the children, that Ms. Wood had failed to participate in reunification efforts, and that Ms. Wood's behavior rendered her unfit as a mother. Defendant Williams knew these statements and opinions were untrue at the time she made them, but she made them nonetheless in a malicious effort to deny Ms. Wood access to her children;
>
> g. Defendant[s] Williams, Case and Chidi used threats and intimidation to coerce Ms. Wood's children to testify falsely;
>
> h. The juvenile proceedings related the children received testimony in sometimes secret proceedings, thus depriving [Ms. Wood of] the ability to challenge the evidence.

The plaintiffs contend that *Rooker/Feldman* does not bar this Court's consideration of their federal claims. *Rooker v. Fidelity Trust Co.*, 263 U.S. 413 (1923) and *District of Columbia Court of Appeals v. Feldman*, 460 U.S. 462 (1983). They contend that the rights they seek to vindicate – the right of a parent to raise her children, and the right of children to the care, love and regard of their parent, together with a sibling's right to a familial relationship with his siblings – is even more fundamental and deeply rooted in our nation's history than the right of

same sex couples to marry, a right traditionally grounded in state domestic relations law. *Obergefell v. Hodges*, 576 U.S. 644 (2015) (ruling, on direct application to the federal court that states are required, as a matter of substantive due process under the Fourteenth Amendment, to both license and recognize same sex marriage). At least one commentator notes that the effect of the *Obergefell* decision was to bypass the normal reluctance of the federal courts to intervene in state domestic relations matters. Bradley Silverman, *Federal Questions and Domestic Relations Exception,* 125 Yale L. J. 5 (March 2016). Indeed, the exceptions to *Rooker/Feldman* appear to be growing, rather than narrowing, *Lance v. Dennis*, 546 U.S. 459 (2006), leading another commentator to have declared the doctrine dead. Samuel Bray, *Rooker/Feldman (1923-2006)* 9 Green Bag 2d 317.

The plaintiffs here contend that due to the fundamental constitutional rights they assert were abridged in California, and recognition those rights have been accorded in such cases as *Obergefell,* it should not take an act of Congress to create a remedy akin to the federal habeas corpus relief over the final judgment of a state criminal proceeding. See, 18 U.S.C. Section 2254. In this case, California failed to meet the most basic commitments to substantive and procedural due process resulting in the bizarre result that three of Ms. Wood's children were seized and taken from her home, her parental rights to two of the children were terminated, but her third child, Mr. Packwood, who was similarly situated to his two siblings, was returned home to his mother. She contends that just as the federal courts can review a state criminal conviction that has gone to judgment in state proceedings to determine where a convicted defendant's

federal constitutional rights were violated, as is done in the habeas corpus context, so, too, can the courts review the federal claims of a mother who contends that her federal constitutional rights were breached. It simply makes no sense to suggest that the state's deprivation of a defendant's liberty interests after conviction of a crime takes a superior position to a mother's, or a child's, fundamental right to familial association when no one has been convicted of a crime. The requirements of substantive due process mandate effective review by a federal court when state courts fail fundamentally to protect an interest as profound and as deeply rooted in our nation's history as familial association.

CONCLUSION

The petition for writ of certiorari should be granted.

Dated: May 8, 2025

Respectfully submitted

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APPENDIX

TABLE OF APPENDICES

APPENDIX A — SECOND AMENDED COMPLAINT, UNITED STATES DISTRICT COURT, NORTHERN DISTRICT OF CALIFORNIA, FILED JULY 10, 2023

UNITED STATES DISTRICT COURT
NORTHERN DISTRICT OF CALIFORNIA

3:23-cv-01003-MMC

ANDREA WOOD, TAYLOR PACKWOOD,

Plaintiffs,

v.

COUNTY OF CONTRA COSTA, CONTRA COSTA CHILDREN AND FAMILY SERVICES, OFFICE OF THE CONTRA COSTA SHERIFF, SHERIFF DAVID LIVINGTON, IN HIS INDIVIDUAL CAPACITY ONLY, EDYTH WILLIAMS, IN HER INDIVIDUAL CAPACITY ONLY, CECELIA GUTIERREZ, IN HER INDIVIDUAL CAPACITY ONLY, ERICA BAINS, IN HER INDIVIDUAL CAPACITY ONLY, RAVINDER BAINS, IN HIS INDIVIDUAL CAPACITY ONLY, ACACIA CHIDI, IN HER INDIVIDUAL CAPACITY ONLY, KELLIE CASEY, IN HER INDIVIDUAL CAPACITY ONLY,

Defendants.

JULY 10, 2023

SECOND AMENDED COMPLAINT

1. Among the most fundamental of all rights guaranteed by the United States Constitution is the right to familial association. It is one of the cornerstones

of civilized society as we know it. A parent deprived of this right is a person deprived of life's richest treasure, a child; a child removed from his or her parent's home is ripped from a place of safety and succor. A public authority interfering with that right does so in violation of something more fundamental than the social contract; such interference cuts to the heart of rights the source of which no state can abridge. As Antigone reasoned when defying on order by the King not to bury her brother: "Justice, enacted not these human laws. Nor did I deem that thou, a mortal man, Could'st by a breath annul and override The immutable unwritten laws of Heaven." Sophocles, *Antigone*.

2. In our more prosaic times, we locate such rights in the concept of substantive due process. Andrea Wood and Taylor Packwood seek to vindicate these rights: their family has been destroyed by the State of California and its agents. They turn to this Court for relief.

3. The plaintiffs bring claims arising under the Fourth and Fourteenth Amendments to the United States Constitution and state law torts of false imprisonment and intentional infliction of emotional distress.

Jurisdiction

4. Jurisdiction is proper pursuant to 28 U.S.C. Section 1331 as it raises a federal question; the state law claims arise from the same facts, and jurisdiction is appropriate under 28 U,S,C, Section 1367. Venue is appropriate under 28 U.S.C. Section 1391(b)(2).

5. The claims sounding in substantive due process are not, and cannot be, barred on *Rooker-Feldman* grounds. The plaintiffs contend that their efforts to obtain relief in the Courts of the State of California are futile, based on the acts and omissions described herein.

Parties

6. Andrea Wood was, at the time the events giving rise to the action took place, an adult resident of Orinda, California. She currently maintains a residence in Nevada.

7. Taylor Packwood is currently a resident of Reno, Nevada..

8. County of Contra Costa is a governmental entity operating and organized under the laws of the State of California.

9. Contra Costa Children and Family Services is a county agency organized and operated under the laws, ordinances and regulations of the County of Contra Costa and the State of California.

10. Office of the Contra Costa Sheriff is a county law enforcement agency operated under the laws, ordinances and regulations of the County of Contra Costa and the State of California.

11. David Livingston was at all times relevant to this Complaint the Sherriff of Contra Costa County acting under color of law. He is sued in his individual capacity only.

12. Cecelia Gutierrez was at all times relevant to this Complaint a social worker employed by Contra Costa County acting under color of law. She is sued in her individual capacity only.

13. Erica Bains is a resident of Contra Costa County.

14. Ravinder Bains is a resident of Contra Costa County.

15. Edyth Williams was at all times relevant to this action, a social worker employed by Contra Costa Children and Family Services acting under color of law. She is sued in her individual capacity only.

16. Acacia Chidi was at all times relevant to this action, a social worker employed by Contra Costa Children and Family Services acting under color of law. She is sued in her individual capacity only.

17. Kellie Casey was at all times relevant to this action, a social worker employed by Contra Costa Children and Family Services acting under color of law. She is sued in her individual capacity only.

Statute of Limitations

18. The harm resulting from the acts and omissions complained of herein are ongoing to this very day in that the plaintiffs lack the companionship, love and support of their siblings and children as a direct and proximate result of the harm caused by the defendants. Ms. Wood's most recent effort to obtain appellate relief in the California

courts was denied on March 16, 2021. *In re H.P.*, 2021 Cal. App. Unpub. LEXIS 1701 *In re H.P., 2021 Cal. App. Unpub. LEXIS 1701 , *1 ,2021 WL 973262* .

19. The plaintiffs contend that the continuing course of conduct alleged herein tolls any applicable statute of limitations arising under state and/or federal law.

Related Claims

20. Plaintiff Wood has previously sought relief in a variety of related claims beginning in 2019.

21. This case was initially filed in the United States District Court for the District of Nevada after the plaintiff established a domicile there. She filed in that jurisdiction due to her conviction that she could not get a full and fair hearing in any Court in California because of animosity extant against her former father-in-law Senator Taylor Packwood. This case has been transferred to California on equitable grounds. Prior to the transfer, Ms. Wood withdrew her claims. Mr. Packwood has a pending Fourth Amendment claim against defendants Gutierrez and Livingston, together with supplemental state law claims. The docket number in that action is 3:22-cv-02741- MMC. Those claims are repleaded in this action so that all claims adjudicated once and in one suit.

Factual Basis Of The Claims

22. Prior to August 2017, Andrea Wood lived happily with her three minor children in Orinda, California. Ms. Wood was a single mother, whose husband, Jeremy

Packwood, died in 2007. The children were co-plaintiff Taylor Packwood, who has since reached the age of majority, and two children, who remain minors, H.P. and K.P.

23. Ms. Wood relied on the assistance of a live-in nanny, Steffi Guggenbichler, to care for her children. Ms. Guggenbichler became close friends of Defendants Erica Bains and Ravinder Bains, who resided together and were neighbors of Ms. Wood.

24. Ms. Guggenbichler's employment was coming to an end in July 2017, and Ms. Guggenbichler was preparing to return to her native Austria.

25. Before Ms. Guggenbichler left the Wood home, she wrote a letter to Ms. Wood demanding payment of a sum of $100,000. Ms. Guggenbichler told Ms. Wood that unless that sum were paid, she would spread lies about Ms. Wood's ability to care for her children.

26. Upon information and belief, Mrs. and Mrs. Bains were made aware of the extortion plot at or about the time it was made and foresaw an opportunity to benefit from participation in it..

27. Ms. Wood refused to pay the $100,000.

28. Ms. Guggenbichler then ransacked Ms. Wood's home before leaving to return to Austria. Ms. Guggenbichler was fired after assaulting one of the minor children, H.P.

29. At or about this time, Ms. Wood was scheduled to travel to New York State on -pre-planned business trip. She left her children in the care, custody and control of mother, the children's grandmother, Sandra Wood DeUdy. The children were well cared for, well groomed, and contented. Ms. DeUdy was a capable and qualified caregiver.

30. On or about August 17, 2017, the Bains defendants called the defendant Contra Costa Children and Family Services, hereinafter "CFS," and the Office of the Contra Costa Sheriff, hereinafter "CCS," to report that the Ms. Wood's minor children were in danger.

31. The Bains defendants knew at the time they made these calls that the allegations were false, and they made the calls maliciously, with the hope that they could become foster parents to the children, and thereby enjoy the financial benefits that come of providing foster care.

32. In response to those calls, Defendants Cecilia Gutierrez and David Livingston went to Ms. Wood's home. The defendants forcibly entered the home without a warrant, a court order and in the absence of exigent circumstances, relying on the information relayed to them about the Bains defendants' calls.

33. Ms. DeUdy asked the officers to leave the home, but Defendants Gutierrez and Livingston refused to do so. They instead took custody and control of the children and removed them from Ms. Wood's home, threatening to arrest Ms. DeUdy if she interfered with their removal efforts.

34. At all times herein described. Defendants Gutierrez and Livingston were acting under color of law. Their acts were intentional and inspired in part by malice in the form of hostility toward Ms. Wood, who is a related through marriage to former Oregon Senator Robert Packwood, a formal political figure of national reputation.

35. At a hearing to contest the unlawful seizure of their children and to contest the State's determination to terminate her parental rights, the plaintiff's rights to due process of law were violated in the following ways:

a. The trial was initially presided over by a jurist, Judge Haight, with a known and demonstrable bias against Senator Packwood and anyone associated with him; after Judge Haight recused herself, the trial court refused to conduct hearings de novo, and the proceedings were irredeemably tainted by an appearance of impropriety and impartiality;

b. Defendant Contra Costa Children and Family Services workers presented evidence at trial it either knew, or should have known, was false, including claims that Plaintiff Wood had neglected the children's medical treatment;

c. As a result of the trial court's bias, the Court disregarded the unrebutted testimony of medical professionals that Ms. Wood was a good and capable parent;

d. The minor children were induced, coerced and compelled to give false testimony about their mother by agents of Defendant Contra Costa Children and Family Services;

e. As a result of the procedural irregularities, including alteration of a certified court transcript, and conflicts asserted herein. Plaintiff Wood was unable to make a record sufficient to accord her adequate and effective appellate relief;

f. Defendant Williams, Casey and Chidi offered material and false testimony in support of both the jurisdictional claims relating to the removal of the children from their home and in support of a denial of Ms. Wood's efforts to reunify with her children, asserting that Ms. Wood engaged in physical violence against one of more of the children, that Ms. Wood had failed to participate in reunification efforts, and that Ms. Wood's behavior rendered her unfit as a mother. Defendant Williams knew these statements and opinions were untrue at the time she made them, but she made them nonetheless in a malicious effort to deny Ms. Wood access to her children;

g. Defendant Williams, Casey and Chidi used threats and intimidation to coerce Ms. Wood's minor children to testify falsely;

h. The juvenile proceedings related to the children received testimony in sometimes secret proceedings, thus depriving plaintiff Wood's ability to challenge the evidence.

36. The minor children were ordered removed from their mother's care, custody and control, and she was barred from further contact with her children. The children were placed in the home of the Bains defendants as wards of the state.

37. While wards of the state, the children, Plaintiff Packwood, H.P., and K.P. were, and in some cases remain, psychologically and emotionally abused. Plaintiff Packwood found the abuse and separation from his mother so intolerable that he has been returned to her mother's care, custody and control. To this very day and at the time of this filing the abuse consists of forcing the children to take psychotropic medications that are unnecessary, dangerous and designed and intended to stifle their ability and will to seek reunification with their mother.

38. The fact that Plaintiff Packwood has been returned to his mother's care, custody and control belies that claim that she is incapable of providing the love, care and support that H.P. and K.P. deserve and require.

39. H.P. and K.P. remain wards of the State under the supervision of defendants County of Contra Costa and Contra Costa Children and Family Services. Their exact whereabouts are unknown to the plaintiffs.

40. Plaintiff Wood does not know the exact whereabouts of H.P. and K.P. or even how to contact them, a loss she finds intolerable to bear.

Causes of Action

Count One - Violation of the Right to Substantive and Procedural Due Process

41. Paragraphs one through 40 are incorporated herein.

42. The plaintiffs lived together as mother and child with H.P. and K.P. in the family home in August 2017.

43. Plaintiff Packwood, H.P. and K.P. were removed from their home without legal justification or excuse by Defendants Livingston and Gutierrez, who were, at the time of the removal, state actors acting under color of law.

44. Thereafter, Defendants County of Contra Costa and Contra Costa Department of Children and Families caused legal proceedings to commence in the courts of the State of California to remove permanently Plaintiff Packwood, H.P. and K.P. from Plaintiff Wood's home, and effectively to eliminate her role as caregiver of the children.

45. At those legal proceedings, Plaintiff Wood was denied the right to present evidence and her right to a true and faithful transcript of the proceedings were denied by

agents of the County of Contra Costa acting under color of law.

46. As a direct and proximate result of this denial of procedural due process, Plaintiff Wood did not have the ability to protect her fundamental right to raise her children in accordance with her "concept of existence, of meaning, of the universe, and of the mystery of human life. Mr. Packwood likewise was deprived of his mother's care, love and attention.

47. The plaintiffs turn to the federal courts for relief on grounds that the courts of the State of California have effectively closed the doors of the Court to Ms. Wood, depriving her of the right to perfect her claims. She raises an issue of first impression and asserts that a litigant claiming futility in a state court action, even an action involving domestic relations, can seek relief despite Rooker/Feldman when raising a claim asserting a violation of substantive due process by the state courts.

48. The plaintiffs seek compensatory damages against all of the defendants, and punitive damages only against the individually named defendants.

Unlawful Entry as to Defendants Livingston and Gutierrez

49. Paragraphs one through 43 are incorporated herein.

50. Defendant Livingston sent deputies to enter, and Defendant Gutierrez entered, the home belonging

to Plaintiff Wood and resided in by her three children without a warrant, without the consent of a person with apparent authority, without a court order, and without exigent circumstances, as such their entry was unlawful, and no reasonable police officer would have believed it was lawful.

51. Plaintiffs Wood and Packwood had a reasonable expectation of privacy in their home.

52. The plaintiffs seek compensatory and punitive damages against Defendants Livingston and Wood.

Failure to Train County of Contra Costa, Office of the Contra Costa Sheriff and Contra Costa Children and Family Services

53. Paragraphs 1-40 are incorporated herein.

54. Paragraphs 49-51 are incorporated herein.

55. The Fourth Amendment right to be free from unreasonable searches and seizures entails the right to be free from unlawful entry into one's home.

56. The right to be free from unlawful entry into one's home was clearly established in the United States in August 2017.

57. The Count of Contra Costa maintains and supports the Office of the Contra Costa Sheriff and the Contra Costa Children and Family Services office to assure the safety and welfare of individuals within the

jurisdiction of Contra Costa County. That duty extends to training officers on the rights of individuals to be free from unlawful entry into their homes.

58. To the extent and degree that Defendants Livingston and Gutierrez claim belief that they had legal authority, excuse or justification to enter the home, that belief is a result of inadequate training by the County of Contra Costa, Office of the Contra Cost Sheriff and the Contra Costa Children and Family Services office.

59. The County of Contra Costa, the Office of the Contra Costa Sheriff failed, and the Contra Costs Children and Family Services office refused and/or neglected to provide adequate training to officers on lawful entry into private residences.

60. The plaintiffs seek compensatory damages against the County of Contra Costa, the Office of the Contra Costa Sheriff, and the Contra Costs Children and Family Services office.

Unlawful Seizure as to Taylor Packwood

61. Paragraphs one through 60 are incorporated herein.

62. Plaintiff Packwood was removed from the safety and security of home by Defendants Livingston and Gutierrez.

63. The defendants lacked any lawful authority of excuse for removing the plaintiff from his home.

64. Plaintiff Packwood was unlawfully seized in violation of the Fourth Amendment to the United States Constitution.

65. Mr. Packwood seeks compensatory and punitive damages against Defendants Livingston and Gutierrez.

False Imprisonment

66. Paragraphs one through 65 are incorporated herein.

67. From August 17, 201 7 until the date Mr. Packwood was permitted to return to his mother's home, he was held against his will and forced to reside with strangers, to wit: the Bains defendants.

68. The Bains defendants were compensated by Defendant Contra Costa Children and Family Services.

69. Mr. Packwood suffered fear, terror, anxiety and extreme emotional distress during his period of captivity.

70. The conduct of the defendants, each of them, was willful, wanton and reckless, and caused Mr. Packwood's extreme emotional distress.

71. Mr. Packwood seeks compensatory damages against each defendant, imposed jointly and severally, and punitive damages against the individually named defendants only.

Appendix A

Intentional Infliction of Emotional Distress

72. Paragraphs one through 71 are incorporated herein.

73. As a direct and proximate result of the acts of the defendants, Ms. Wood suffered anxiety, fear, terror and extreme emotional distress due to the loss of her ability to care for her children.

74. As a direct and proximate result of the acts of the defendants, Mr. Packwood suffered fear, anxiety, terror and extreme emotional distress as a result of the forced interruption of his relationship with his mother.

75. The plaintiffs, each of them, seek compensatory damages against each defendant, imposed jointly and severally, and punitive damages against the individually named defendants only.

Denial of Substantive Due Process as to Edyth Williams, Kellie Casey and Acacia Chidi

76. Paragraphs one through 75 are incorporated herein.

77. Defendants Williams, Chidi and Casey testified under oath at both jurisdictional and reunification hearings involving Ms. Wood. In both trials, Defendants Williams, Casey and Chidi testified falsely under oath in a malicious effort to deprive Ms. Wood of her fundamental right to familial association.

78. Notwithstanding the general bar on civil actions arising from the testimony of a witness under the doctrine of judicial immunity, California law permits such actions under California Government Code, Section 820.21, which states that civil immunity shall not extend to social workers and child protection workers who maliciously engage in perjury, fabrication and obtaining evidence under duress. This statute has been recognized as a means of defeating claims of immunity by the Ninth Circuit Court of Appeals in *Hardwick v. County of Orange, et al.*, 844 F.3d 1112 (2017).

79. As a direct and proximate result of Defendant Williams' false testimony, the plaintiffs suffered injury in that their relationship with their children and siblings was effectively terminated.

80. The plaintiffs seek compensatory and punitive damages against Defendant Williams in her individual capacity only.

WHEREFORE, the plaintiffs seek relief as follows:

1. Compensatory damages in an amount that is fair, just and reasonable as to each defendant;

2. Punitive damages in an amount that is fair, just and reasonable as to each individually named defendant only;

3. Attorney's fees and costs arising under 42 U.S.C. Section 1988;

4. Such other relief as this Court deems equitable.

TRIAL CLAIM

The plaintiff claims trial by jury.

THE PLAINTIFFS

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APPENDIX B — ORDER OF THE UNITED STATES DISTRICT COURT FOR THE NORTHERN DISTRICT OF CALIFORNIA, FILED MARCH 22, 2024

IN THE UNITED STATES DISTRICT COURT
FOR THE NORTHERN DISTRICT OF
CALIFORNIA

Case No. 23-cv-01003-MMC

TAYLOR PACKWOOD and ANDREA WOOD,

Plaintiffs,

v.

COUNTY OF CONTRA COSTA, *et al.*,

Defendants.

ORDER DISMISSING AMENDED COMPLAINT WITHOUT FURTHER LEAVE TO AMEND

On March 2, 2023, the above-titled action was transferred to this district from the District of Nevada. By order filed April 7, 2023 ("April 7 Order"), the Court directed plaintiffs Taylor Packwood ("Packwood") and Andrea Wood ("Wood") to show cause why their Amended Complaint ("AC"), the operative complaint in the instant action, should not be dismissed for the reasons stated in said order.

Now before the Court is plaintiffs' Response, filed June 12, 2023, and a Supplemental Response, filed July

10, 2023. Also before the Court is a Reply to the above-referenced filings, submitted on behalf of defendants County of Contra Costa ("County"), Contra Costa Children and Family Services ("CFS"), Contra Costa Office of the Sheriff ("Sheriff's Office"), David Livingston ("Livingston"), Kellie Casey ("Casey"), Edyth Williams ("Williams"), Cecelia Gutierrez ("Gutierrez"), and Acacia Chidi ("Chidi") (collectively, "County Defendants").

Having read and considered the parties' respective written submissions, the Court rules as follows.

A. Claims Asserted in the AC

The AC, which was filed by plaintiffs pro se when the instant action was pending in the District of Nevada,[1] consists of claims arising from the August 2017 removal of Wood's three children from her custody, the subsequent child dependency proceedings in state court, and the custodial conditions to which Packwood, Wood's oldest child, was subjected after the removal and prior to the state court's December 2017 decision returning him to Wood's custody. The named defendants are the County Defendants, as well as Erica Bains and Ravinder Bains (collectively, "Bains Defendants"), who are alleged to be former neighbors of plaintiffs.

Plaintiffs do not, either in their Response or their Supplemental Response, assert that the claims set forth in the AC are not subject to dismissal. Rather, as discussed

1. After the action was transferred to this District, plaintiffs obtained counsel.

below, plaintiffs seek leave to file another amended complaint.

Accordingly, the Court finds the AC is, for the reasons stated in its April 7 Order, subject to dismissal in its entirety, and the Court next turns to the issue of whether plaintiffs should be afforded further leave to amend.

B. Claims Asserted in the Proposed SAC

In their Response to the OSC, plaintiffs request further leave to amend, and, upon direction of the Court, submitted a Second Amended Complaint ("Proposed SAC") with their Supplemental Response.

"As a general rule, leave to amend should be 'freely given when justice so requires.'" *Lockheed Martin Corp. v. Network Solutions, Inc.*, 194 F.3d 980, 986 (9th Cir. 1999) (quoting Fed. R. Civ. P. 15(a)). In considering whether to afford leave to amend, courts consider the following four factors: "(1) bad faith on the part of the plaintiffs; (2) undue delay; (3) prejudice to the opposing party; and (4) futility of the proposed amendment." *See id.*

In the Proposed SAC, plaintiffs name as defendants the same defendants named in the AC, and propose asserting seven "Causes of Action." (*See* Doc. No. 74.)

1. Proposed Claims Asserted on Behalf of Wood

The Court first considers the five Causes of Action plaintiffs propose to assert on behalf of Wood.

Appendix B

a. "Violation of the Right to Substantive and Procedural Due Process"

Plaintiffs allege that, during the course of the state court child dependency proceedings, Wood was denied the right "to present evidence" and the right "to a true and faithful transcript of the proceedings." (*See* Proposed SAC ¶ 45.) Plaintiffs also allege that, as a result of such asserted "denial of procedural due process," Wood has been deprived of her "fundamental right to raise her children." (*See* Proposed SAC ¶ 46.) Further, according to plaintiffs, "the courts of the State of California have effectively closed the doors of the [c]ourt to Ms. Wood, depriving her of the right to perfect her claims." (*See* Proposed SAC ¶ 47.)

County Defendants argue such claims are barred by the Rooker-Feldman doctrine.

The Rooker-Feldman doctrine "precludes federal court review of state court judgments other than review by the Supreme Court on certiorari." *See Doe & Associates Law Offices v. Napolitano*, 252 F.3d 1026, 1029 (9th Cir. 2001) (citing *Rooker v. Fid. Trust Co.*, 263 U.S. 413, 44 S. Ct. 149, 68 L. Ed. 2d 362, 68 L. Ed. 362 (1923) and *D.C. Ct. of App. v. Feldman*, 460 U.S. 462, 103 S. Ct. 1303, 75 L. Ed. 2d 206 (1983).) "The doctrine bars a district court from exercising jurisdiction not only over an action explicitly styled as a direct appeal, but also over the de facto equivalent of such an appeal." *See Cooper v. Ramos*, 704 F.3d 772, 777 (9th Cir. 2012). A "de facto appeal" is a civil action in which the claim is "inextricably intertwined with

the state-court judgment," meaning the claim "succeeds only to the extent that the state court wrongly decided the issues before it." *See id.* at 778 (internal quotation and citation omitted); *see also id.* at 781-82 (affirming, under Rooker-Feldman doctrine, dismissal of claim for damages, where potential monetary award was "contingent upon a finding that the state court decision was in error").

Here, plaintiffs seek relief based on the theory that Wood was deprived of her right to raise her children as a result of her alleged inability to present evidence to the state court conducting the child dependency proceedings and her alleged inability to obtain accurate transcripts of those proceedings. Such claims are inextricably intertwined with the state court judgment, described by plaintiffs in their Response as "the termination of Ms. Wood's parental rights as to two children" (*see* Pls.' Response at 1-2), in that the claims cannot succeed without a showing that "the state court wrongly decided the issues before it," *see Cooper*, 704 F.3d at 778 (internal quotation and citation omitted), namely, a showing that the state court erred in not allowing Wood to present evidence and not causing an accurate record of the proceedings to be prepared.[2] Consequently, the substantive and procedural due process deprivation claims Wood seeks to bring are barred by the Rooker-Feldman doctrine.

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2. Although the Proposed SAC does not make clear the basis for the allegation that the state court record was inaccurate, plaintiffs, in their Supplemental Response, assert that, "apparently, the state court refused to accept or assemble" a "complete record" of the proceedings. (*See* Pls.' Supp. Response at 4.)

To the extent plaintiffs argue "strict application of Rooker/Feldman in this case would be inequitable" (*see* Pls.' Supp. Response at 5), the Court is not persuaded. The Rooker-Feldman doctrine, where applicable, constitutes a jurisdictional bar to a district court's consideration of a claim, *see Doe & Associates*, 252 F.3d at 1029 (holding "federal district courts lack jurisdiction to review the final determinations of a state court in judicial proceedings"), and the Court cannot, for equitable reasons, exercise jurisdiction it does not have.[3]

Accordingly, the Court finds amendment to plead claims for Violation of the Right to Substantive and Procedural Due Process is futile.

b. "Unlawful Entry as to Defendants Livingston and Gutierrez"

Plaintiffs allege that, in August 2017, "[d]efendant Livingston sent deputies to enter, and [d]efendant Gutierrez entered, the home belonging to [p]laintiff Wood and resided in by her three children without a warrant,

3. Moreover, plaintiffs have failed to allege any facts to support their conclusory assertion that "Wood was unable to make a record sufficient to accord her adequate and effective appellate relief." (*See* Proposed SAC ¶ 35.e.) Indeed, the California Rules of Court provide appellants with the ability to seek an order from the reviewing court for purposes of "augment[ing]" the record to include any document "filed or lodged in the case in superior court," *see* Cal. Rules of Court, Rule 8.155(a), and/or an order to "correct[ ] . . . any part of the record," *see* Cal. Rules of Court, Rule 8.155(c)(1). Plaintiffs do not allege Wood was deprived of an opportunity to augment or correct the record under said Rules.

without the consent of a person with apparent authority, without a court order, and without exigent circumstances." (*See* Proposed SAC ¶ 50; *see also* Proposed SAC ¶¶ 22, 56.)

County Defendants argue said Unlawful Entry claim, by which plaintiffs assert violations of the Fourth Amendment, is barred by the applicable statute of limitations.

A claim asserting a Fourth Amendment violation is subject to a two-year statute of limitations and accrues on the date the act allegedly constituting the deprivation occurred. *See Mills v. City of Covina*, 921 F.3d 1161, 1166 (9th Cir. 2019) (holding claim alleging "unlawful stop and detention" accrued on date "search was conducted").

Here, as noted, plaintiffs allege the entry occurred in August 2017. The instant case was filed in the District of Nevada on May 12, 2022, significantly later than two years after the challenged entry, and, consequently, the Unlawful Entry claim is barred by the applicable statute of limitations.

Accordingly, the Court finds the proposed amendment to plead the Unlawful Entry claim is futile.

c. "Failure to Train"

Plaintiffs allege that, "[t]o the extent that [d]efendants Livingston and Gutierrez claim [a] belief that they had legal authority, excuse[,] or justification to enter the home, that belief was a result of inadequate training" by the

County, the Sheriff's Office, and the CFS. (*See* Proposed SAC ¶ 58.) More specifically, plaintiffs allege that the County, the Sheriff's Office, and the CFS "refused and/or neglected to provide adequate training to officers on lawful entry into private residences." (*See* Proposed SAC ¶ 59.)

As the claim is based on the August 2017 entry into Wood's home, the Failure to Train claim is, for the reasons stated above, barred by the applicable statute of limitations.

Accordingly, the Court finds the proposed amendment to plead the Failure to Train claim is futile.

d. "Intentional Infliction of Emotional Distress"

Plaintiffs allege Wood "suffered anxiety, fear, terror[,] and extreme emotional distress due to the loss of her ability to care for her children." (*See* Proposed SAC ¶ 73.)

County Defendants argue the instant claim, which arises under state law, is futile, for the reason that plaintiffs do not allege Wood has complied with the claim presentation requirements set forth in the California Government Code.

Subject to exceptions not relevant to Wood's proposed state law claim, *see* Cal. Gov. Code § 905, a plaintiff must submit a claim for damages to a public entity prior to filing suit against either the entity, *see* Cal. Gov. Code § 945.4, or an employee of the entity, *see* Cal. Gov. Code § 950.2.

"Compliance with the claims statutes is mandatory . . . and failure to file a claim is fatal to the cause of action." *See City of San Jose v. Superior Court of Santa Clara County*, 12 Cal. 3d 447, 454, 115 Cal. Rptr. 797, 525 P.2d 701 (1974); *see also State of California v. Superior Court*, 32 Cal. 4th 1234, 1239, 13 Cal. Rptr. 3d 534, 90 P.3d 116 (2004) (holding "failure to timely present a claim for money or damages to a public entity bars a plaintiff from filing a lawsuit against that entity"). Consequently, a party's failure "to allege facts demonstrating or excusing compliance with the claim presentation requirements subjects a claim against a public entity to a demurrer for failure to state a cause of action." *See State of California*, 32 Cal. 4th at 1239.

The Proposed AC does not include an allegation that Wood has at any time presented a claim to the County, let alone a claim for intentional infliction of emotional distress.

Accordingly, the Court finds the proposed amendment to plead the Intentional Infliction of Emotional Distress claim is futile to the extent asserted against the County Defendants.

With respect to the Bains Defendants, who are not alleged to be employees of a public entity, the claim is based on two allegations. First, plaintiffs allege the Bains Defendants made telephone calls "[o]n or about August 17, 2017," in which they allegedly falsely stated to CFS and to the Sheriff's Office that "Wood's minor children were in danger." (*See* Proposed SAC ¶¶ 30-31.) Second, plaintiffs allege the Bains Defendants were Packwood's foster parents "[f]rom August 17, 2017, until the date . . .

Packwood was permitted to return to his mother's home" (*see* Proposed SAC ¶ 67), on December 5, 2017 (*see* AC ¶ 42), during which period of time Packwood was subjected to conduct that allegedly caused him "anxiety, fear, terror[,] and extreme emotional distress" (*see* Proposed SAC ¶ 73).[4]

The statute of limitations applicable to a claim for intentional infliction of emotional distress is two years. *See Pugliese v. Superior Court*, 146 Cal. App. 4th 1444, 1450, 53 Cal. Rptr. 3d 681 (2007). Here, although nothing in the record sets forth the date on which Wood is alleged to have learned the Bains engaged in the alleged behavior on which the claim is based, it cannot be disputed that she learned of the above-referenced false telephone calls no later than May 28, 2019, the date on which Wood described such conduct in a publicly-filed document (*see Wood v. County of Contra Costa*, Case No. 19-02678-JD, Amended Complaint, filed May 28, 2019, ¶ 55), and it is readily apparent that she learned of the alleged conditions of Packwood's foster care no later than 2019, the year in which plaintiffs allege Packwood publicized them (*see* Compl., Summary ¶ 9).

Accordingly, the Court finds the proposed amendment to plead the Intentional Infliction of Emotional Distress claim is futile to the extent proposed against the Bains Defendants.

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4. The above-referenced conduct is identified in the initial Complaint as a "molest[ation]" and "forced drugging." (*See* Compl., Summary ¶ 9.)

e. "Denial of Substantive Due Process as to Edyth Williams, Kellie Casey[,] and Acacia Chidi"

Plaintiffs allege Williams, Casey, and Chidi, each of whom is a social worker (see Proposed SAC ¶¶ 15-17), testified falsely during two hearings conducted by the state court and that, as a result of such testimony, Wood's "relationship" with her children was "effectively terminated." (*See* Proposed SAC ¶¶ 77, 79.)

County Defendants argue the claim is futile, as the three named defendants are entitled to absolute immunity.

The Ninth Circuit has held that "witnesses," including social workers, "are absolutely immune from suits for damages." *See Burns v. County of King*, 883 F.3d 819, 821-23 (9th Cir. 1989) (holding social worker entitled to absolute immunity as to claim she made false statement under oath). Here, as noted, the claim is based on a theory that three social workers falsely testified under oath during state court hearings.

Accordingly, the Court finds the proposed amendment to plead the Denial of Substantive Due Process claim is futile.

2. Packwood

Each of the seven proposed Causes of Action in the Proposed SAC is asserted on behalf of Packwood. In addition to the five Causes of Action discussed above with respect to Wood, the Proposed SAC also includes two

Causes of Action asserted solely by Packwood, namely, a claim titled "Unlawful Seizure," which claim is based on Packwood's alleged removal from his home by Livingston and Gutierrez (*see* Proposed SAC ¶ 62), and a claim titled "False Imprisonment," which claim is based on Packwood's not being allowed to reside with his mother from the date of the removal to the date the state court allowed him to return to her (*see* Proposed SAC ¶ 67).

For the reasons stated above with respect to Wood, the proposed amendment to plead the claims for Violation of the Right to Substantive and Procedural Due Process and the proposed amendment to plead the claim for Denial of Substantive Due Process is futile as asserted on behalf of Packwood.

Additionally, as the Proposed SAC does not include an allegation that Packwood has at any time presented his state law claims to the County, the proposed amendment to plead both the False Imprisonment claim and the Intentional Infliction of Emotional Distress claim, to the extent asserted against the County Defendants, is futile.

The remaining claims proposed on behalf of Packwood are three Fourth Amendment claims, namely, the proposed Unlawful Entry, Failure to Train, and Unlawful Seizure claims, and the one Intentional Infliction of Emotional Distress Claim to the extent asserted against the Bains. Each of those claims, however, has been made by Packwood in a related action that is pending before the undersigned, namely, *Packwood v. County of Contra Costa*, Case No. 22-cv-02741-MMC, and the Court previously has made rulings as to the viability of each of

those claims in said related proceeding. (*See* Order, filed April 7, 2023, in Case No. 22-cv-02741-MMC.)[5]

As a plaintiff has "no right to maintain two separate actions involving the same subject matter at the same time in the same court and against the same defendant[s]," *see Adams v. Cal. Dep't of Health Servs.*, 487 F.3d 684, 688 (9th Cir. 2007), plaintiffs will not be afforded leave to file, in the instant action on behalf of Packwood, the proposed Fourth Amendment claims and the proposed Intentional Infliction of Emotional Distress claim to the extent asserted against the Bains.

CONCLUSION

For the reasons stated above, the Amended Complaint is hereby DISMISSED, without further leave to amend. Such dismissal is without prejudice to Packwood's proceeding in the pending related action as to the claims remaining therein.

IT IS SO ORDERED.

Dated: March 22, 2024

/s/ Maxine M. Chesney
MAXINE M. CHESNEY
United States District Judge

5. Specifically, the Court found the Fourth Amendment claims, to the extent asserted against Livingston and Gutierrez, as well as the Intentional Infliction of Emotional Distress claim asserted against the Bains, were not subject to dismissal. The Court dismissed, however, the Fourth Amendment claims to the extent asserted against the County, the Sheriff's Office, the CFS, and the Bains.

APPENDIX C — MEMORANDUM OF THE UNITED STATES COURT OF APPEALS FOR THE NINTH CIRCUIT, FILED FEBRUARY 10, 2025

UNITED STATES COURT OF APPEALS
FOR THE NINTH CIRCUIT

No. 24-1760
D.C. No. 3:23-cv-01003-MMC

TAYLOR PACKWOOD; ANDREA WOOD,

Plaintiffs-Appellants,

v.

COUNTY OF CONTRA COSTA; CONTRA COSTA CHILDREN AND FAMILY SERVICES; CONTRA COSTA COUNTY OFFICE OF THE SHERIFF; DAVID LIVINGSTON, SHERIFF; KELLIE CASEY; EDYTH WILLIAMS; CECELIA GUTIERREZ; ACACIA CHIDI; RAVINDER BAINS; ERICA BAINS,

Defendants-Appellees.

Appeal from the United States District Court
for the Northern District of California
Maxine M. Chesney, District Judge, Presiding

Submitted February 6, 2025*
San Francisco, California

* The panel unanimously concludes this case is suitable for decision without oral argument. See Fed. R. App. P. 34(a)(2).

Appendix C

Before: FORREST and SANCHEZ, Circuit Judges, and EZRA, District Judge.**

MEMORANDUM***

Andrea Wood ("Wood") and Taylor Packwood ("Packwood") (collectively, "Appellants") appeal the district court's judgment dismissing their action alleging various claims arising from state court proceedings. We review de novo a dismissal for lack of subject matter jurisdiction under the *Rooker-Feldman* doctrine. *Noel v. Hall*, 341 F.3d 1148, 1154 (9th Cir. 2003). We have jurisdiction under 28 U.S.C. § 1291, and we affirm.

1. Appellants contend that their due process rights were violated in state court proceedings due to the alleged alteration of a certified court transcript and false testimony offered by social workers. But as Appellants conceded in their operative complaint and opening brief on appeal, these claims were adjudicated by the California Court of Appeal. The district court properly dismissed Appellants' action as barred by the *Rooker-Feldman* doctrine because it amounted to a "forbidden de facto appeal" of a prior state court judgment and raised claims

** The Honorable David Alan Ezra, United States District Judge for the District of Hawaii, sitting by designation.

*** This disposition is not appropriate for publication and is not precedent except as provided by Ninth Circuit Rule 36-3.

that were "inextricably intertwined" with that judgment.[1] *Hooper v. Brnovich*, 56 F.4th 619, 624 (9th Cir. 2022) (per curiam) (quoting *Noel*, 341 F.3d at 1163); *see also Cooper v. Ramos*, 704 F.3d 772, 779 (9th Cir. 2012) (finding that claims are "inextricably intertwined" with the state court ruling if "the relief requested in the federal action would effectively reverse the state court decision or void its ruling" (internal quotation marks omitted)).

2. We review the district court's denial of leave to amend for abuse of discretion. *Davidson v. Kimberly-Clark Corp.*, 889 F.3d 956, 963 (9th Cir. 2018). The district court did not abuse its discretion in denying leave to amend. Because Appellants have not demonstrated that they could replead their due process claims to avoid the *Rooker-Feldman* jurisdictional bar, granting leave to amend would be futile. *See Cervantes v. Countrywide Home Loans, Inc.*, 656 F.3d 1034, 1041 (9th Cir. 2011) (explaining that dismissal without leave to amend is proper when amendment would be futile).

AFFIRMED.

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1. Because the *Rooker-Feldman* doctrine applies to Appellants' allegation about the social workers' testimony, we need not address the district court's ruling concerning absolute witness immunity.