

No. **24-5334**

ORIGINAL

In the
Supreme Court of the United States

Russell G. Conlon,

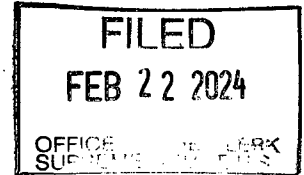
Petitioner

v.

State Of Oklahoma; Department Of Human Services,
Child Support Services, and Tracy D. Conlon

Respondents

**On Petition for Writ of Certiorari to the Oklahoma
Court Of Civil Appeals**



PETITION FOR WRIT OF CERTIORARI

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December 23, 2023 – Original date on cover page of
first petition for writ of certiorari
submitted in booklet format on February 22, 2024

August 8, 2024 – Re-submission of petition for writ
of certiorari formatted to proceed *in forma pauperis*

QUESTIONS PRESENTED

1. Whether a court of law can convict an American citizen of a criminal charge without a trial, if such citizen has pled not guilty, and such citizen has not agreed to any plea deal.
2. Whether a presiding judge in a court case can continue to rule on pending matters and subsequently memorialize such rulings into final, appealable orders once a party has initiated, and has yet to exhaust, recusal action upon such a presiding judge.
3. Whether a State in the United States can levy an additional tax on a divorced or paternal obligor parent who already pays federal and state income taxes for state medical benefits, that are subsidized by federal funding through Medicaid, that insures a divorced or paternal obligor's children on such medical benefits.
4. Whether a state through its government departments, can be a necessary party in a divorce or paternal court case, when credible and incriminating evidence arises implicating employees/contractors for a state, for violations of federal and/or state criminal statutes associated with enforcement of child support within a divorce or paternal case.
5. What framework a court of law must follow in conducted proceeding(s) and procedures, when credible evidence exists, that violations of criminal statutes took place within an ongoing civil court case.

6. Whether an appellate court, or a lower trial court being appealed, can exclude materials on a case record an appellant has designated for the record of appeal, including materials that were before the trial court being appealed, on the date of ruling appealed and subsequent order that memorialized ruling appealed.
7. Whether certain Oklahoma statutes Petitioner challenged on constitutional grounds in appeal with the Supreme Court of Oklahoma, violate the *Due Process Clause*, *Equal Protection Clause*, *Origination Clause*, *Commerce Clause*, *Necessary and Proper Clause*, or the *Supremacy Clause* of the *Constitution of the United States*.

PARTIES TO THE PROCEEDINGS

Petitioner in this matter is Russell G. Conlon. Mr. Conlon is representing himself as pro se in this petition, and is not an attorney.

Respondents are the State Of Oklahoma; Department Of Human Services, and, Tracy D. Conlon.

STATEMENT OF RELATED PROCEEDINGS

This case is directly related to the following proceedings in the Supreme Court of Oklahoma, and the District Court of Oklahoma County, Oklahoma.

Conlon v. Conlon, No. FD-2016-1357, District Court Of Oklahoma County, judgment entered August 25, 2021.

Conlon v. Conlon, No. DF-119852, Oklahoma Civil Court of Appeals, judgment entered January 6, 2023. Judgment of Oklahoma Court of Civil Appeals upheld by Supreme Court Of Oklahoma on September 25, 2023, by denying petition for writ of certiorari made by Petitioner to review judgment of Oklahoma Court Of Civil Appeals. Mandate issued by Supreme Court of Oklahoma on October 26, 2023.

Conlon v. Oakes, No. MA-120080, Oklahoma Supreme Court. Judgment entered February 22, 2022.

Conlon v. Office of Administrative Hearings, No. PR-121089, Oklahoma Supreme Court. Judgment entered March 27, 2023.

Conlon v. Hafar, MA-121705, Oklahoma Supreme Court. Judgment is pending.

Conlon v. Conlon, OAH-2023-00381, Office Of Administrative Hearings,
Department Of Human Services, Child Support Division. Judgment entered on
June 21, 2023.

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PETITION FOR CERTIORARI AND INTRODUCTION

Petitioner, Russell G. Conlon, respectfully petitions this Court to review the opinion of the Oklahoma Court of Civil Appeals affirming the order of the District Court of Oklahoma County, Oklahoma in opinion rendered on January 6, 2023.

Introduction

One of the cornerstones of the Constitution Of The United States is that no American citizen is to be deprived life, liberty, or property without due process of law and the equal protection of the laws.

The questions presented and raised herein should alarm and shock this Court's conscience to its core. Because the questions presented by Petitioner indicate that such events, if this Court should grant certiorari and review the cases' records associated with this petition, do verify as fact that such events did indeed take place. Even more unconscionable upon review of the case record and the opinion of the Oklahoma Court of Civil Appeals being appealed, is that the Oklahoma judiciary has engaged in astounding abuse of discretion, and the dissolution of marriage case and associated appeal, has been practically void of balanced weighing of the merits as it pertains to law and evidence when the parties have presented argument in matters to be ruled on. The issues the questions present in this petition for certiorari are interlinked and potentially dovetail in raising additional issues this Court may have to contemplate.

When an obligor parent in a dissolution of marriage or a paternity case, is convicted of failure to pay child support (Worse, the case record reflects Petitioner herein was convicted of failure to pay child support without a trial) and/or medical support, federal law mandates a state take enforcement action and ensure support obligations are being met. Applicable Oklahoma state law through statute *43 OS §112(F)* states at App. 92, that the State of Oklahoma can be necessary party to a dissolution of marriage or paternity case only for the adjudication of debt owed to the State. Petitioner has discovered that cash medical support debts of obligor parents frequently accrue and allow the State of Oklahoma through the Oklahoma Department Of Human Services to remain as a permanent necessary party in such dissolution of marriage or paternal cases, is because of guidance from the United States Department of Human Services, an agency of the Executive Branch of the federal government, has instituted through certain federal regulation *45 CFR § 303.31*. In particular, and highly relevant, *45 CFR § 303.31(a)(1)* defines cash medical support as meaning an amount ordered to be paid toward the cost of health insurance provided by a public entity or by another parent through employment or otherwise, or for other medical costs not covered by insurance, App. 46. The Code of Federal Regulations is according to the National Archives a codification of the general and permanent rules published in the *Federal Register* by the executive departments and agencies of the Federal Government.¹ Therefore, by these definitions, *45 CFR § 303.31* clearly appearsto originate or

¹ <https://www.archives.gov/federal-register/cfr/about.html>

suggestively permit a state to engage in unconstitutional taxation, identified as cash medical support, and is thus imputed onto obligor parents. This results in the usurpation of the federal government Legislative Branch's delegated constitutional power to tax through the *Origination Clause of the Constitution Of The United States*, Art. 1, §7, cl. 1, App.28. This usurpation also creates multiple and unconscionable ripple effects. First, this usurpation creates constitutional infringement on the rights of Petitioner and likely on the rights of numerous other parents that the Constitution Of The United States affords every American citizen. Second, this usurpation by unconstitutional taxation, additionally and unfairly taxes divorced parents, in effect punishing one or both parents for dissolving their marriage in the courts, who already pay for access to government health benefits with their federal and state income taxes. Third, it could also be argued that this is also discriminatory towards divorced parents because divorced parents pay taxes for access to government health benefits like all rest of taxpayers do, yet all the rest of the taxpayers are not subject to repaying a state back like divorced parents are.

Further verifying that the United States Department Of Human Services, again a federal agency of the federal Executive Branch, also through federal regulation *45 CFR § 303.31* that appears to procure unconstitutional taxation upon obligor parents through state government, an analysis of the relevant provisions of Title IV(D) of The Federal Social Security Act must be examined to see if the appropriate body to tax, the federal Legislative Branch that is the United States Congress, if there is any existing enacted legislation that mentions of cash medical

support defined as the United States Department of Human Services defines cash medical support, that is subject to repayment by an obligor parent. Upon examination of Title IV(D) of the Federal Social Security Act and its sections therein, there is no mention of it. The closest Petitioner could find in answering this is two sections, *42 U.S.C. §656* and *42 U.S.C. §608*, that define situations an obligor parent would have to pay back a state for state health care coverage as the United States Department of Human Services defines cash medical support.

By a reading and interpretation of and more specifically, *42 U.S.C. §656(a)(1)*, at App. 50 and *42 U.S.C. §608(a)(3)*, at App. 55, cash medical support that must be paid back by an obligor parent to a state, only when an obligor parent has applied, and been approved for Temporary Assistance For Needy Families, otherwise known as TANF, that Title IV(A) of the Federal Security Act and sections within, institute for states to administer and distribute such benefits that are subject to repayment. When an obligor parent receives TANF benefits, the obligor parent is required to assign their rights to support a child or children of the obligor parent, temporarily to a state. Neither Petitioner nor Respondent Tracy D. Conlon have ever applied for such benefits and assigned their support rights to the State of Oklahoma outlines in statute per *56 OS § 230.52*, at App.73-79. Furthermore, Oklahoma statute *56 OS §238* which states at App.80, that any payment of public assistance by The State for the benefit of any children, only results in debt to The State when a parent(s) have assigned their parental rights and custody of the children to The State. The relevant Oklahoma administrative code *OAC 340:25-1-*

1.1 affirms in defining unreimbursed public assistance at App.89, as money paid as cash assistance from Title IV-A and Title IV-E programs. Therefore by this deducement and analysis, cash medical support as defined by the United States Department Of Human Services and to be collected by a state Title IV(D) agency, that being Respondent State Of Oklahoma State Of Oklahoma; Oklahoma Department Of Human Services, Child Support Services (Petitioner will reference said respondent hereafter as “The State”), as defined and identified in *45 CFR § 303.31(b)* at App.47, by clear reading and interpretation is not subject to repayment by an obligor parent to the state, and confirms that the United States Department Of Human Services, a federal Executive Branch agency, and The State are procuring debt that in reality is unconstitutional taxation, requiring obligor parents such as Petitioner, to repay the State of Oklahoma for state health coverage provided through Soonercare, subsidized by Medicaid.

The United States Department Of Human Services, again a federal agency of the federal Executive Branch, also through federal regulation *45 CFR § 303.31(a)(3)* at App.46,47, creates a “reasonable cost standard” which clearly appears to interfere with and usurp the United States Congress’ enumerated powers to regulate interstate commerce, and thus violate the *Commerce Clause Of The Constitution Of The United States*, Art. 1, §8, cl. 3, at App.33.

As a result of this reasonable cost standard and guidance from the United States Department Of Human Services, The State of Oklahoma empowers

Oklahoma courts of law through state statute 43 OS §118F(C),(D) at App.96, by ensuring that health insurance falls within the bounds of reasonable cost, to dictate to non-custodial and/or custodial parents what health insurance such parents can purchase for their children, limiting parents' health insurance choices that the parents deem best for their children. Such limitation would undoubtedly infringe on an individual's constitutional liberty to choose what health insurance coverage is best for their children. Aside from infringement on an individual's constitutional liberty, the State of Oklahoma through its judicial branch and department of human services aside from problems with the *Commerce Clause* Petitioner just outlined, the State of Oklahoma through its department of human services and judicial branch also stifle free market competition that possibly violates federal anti-trust law by claiming the reasonable cost standard is being met, are driving out private health insurance providers whose coverage options that cannot meet the "reasonable cost" threshold, and creates a greater budgetary burden on state government by forcing divorced or paternal parents to insure their children on Medicaid subsidized state health coverage. If an obligor parent pays for private health insurance through their employer or for a health insurance policy solely by an obligor parent that is higher than this reasonable cost limitation because the obligor parent feels their choice offers the best quality of care and benefit options, then any difference in cost that exceeds the reasonable cost coverage, should be credited as additional paid child support from the obligor parent to the non-obligor parent. By preserving a parent's constitutional liberty to choose the best health

insurance coverage for their children a parent deems fit, not what a state government deems fit, the children are ensured the best health care possible.

It should become clear to this Court that the State of Oklahoma has enacted by certain state statutes and federal regulations, an unconstitutional family law system that benefits state government and family law attorneys, while impoverishing a substantial number of Oklahomans which creates difficult financial burdens upon obligor parents, and as a result, creates lasting discord between divorced and paternal parents. This results in many cases as has happened in this case, protracted litigation post-divorce decree. The case record of certain cases associated with this petition and clear evidence offered and presented therein, reflect that the State of Oklahoma through its Department of Human Services, in concert with attorneys representing the State of Oklahoma and a custodial parent's family law attorneys and the Oklahoma judicial branch, are using any means, willingly and openly violating federal and state law, both civil and criminal, to hold onto this oppressive abuse of governing power, trampling on the constitutional and statutory rights of obligor parents in divorced and paternity cases, that state government is meant to serve and protect.

Furthermore, Oklahoma statute 43 OS §118I(B)(1) at App. 101, prevents retroaction of child support imputation. This in a *de facto* matter, creates future situations that frequently happen of that are in practical reality, unconstitutional taxation on non-custodial and custodial parents. Such situations occur when there is a reduction in income, or an increase in income of either of the parties.

Most troubling to be contemplated by this Court, is what must happen, and mode of proceedings must be conducted to address such unlawful indiscretion, when credible evidence arises and is brought to a court's attention that employees of a state, attorneys representing a state's interest, the parent(s), or judges have become so emboldened in their corrupt character to overstep or ignore statutory boundaries, that such people begin to at minimum incriminate, or openly violate criminal statutes without fear of any accountability. It must then be contemplated if this be an adequate legal basis to terminate The State of Oklahoma as a necessary party to the dissolution of marriage case associated with this petition for certiorari? This was the central argument to the motion Petitioner made that has climbed upward the appellate ladder and is now with this Court. This has created by observation a complex and likely unprecedented procedural dilemma in how a court of law is to proceed when such a situation arises as it has in this case. This needs resolution and guidance from this Court to set precedent on how a court of law in these United States needs to proceed when such future situations arise.

These issues alone are more than adequate for this Court to conduct plenary review. If judiciary bodies within the state are beginning to convict American citizens of a crime without trial and appellate courts are affirming those decisions, if judiciary bodies through unconstitutional taxation and regulation of interstate commerce, are enriching established government and attorneys at the cost and oppression of its citizenry, if judiciary bodies are willfully blind to clear evidence and supporting law that supports a party's argument, if judiciary bodies

become aware and make the appropriate law authorities aware of criminal activity and/or refuse to hold those accountable and administer appropriate justice, this country that is the United States as we know it is beginning to have cracks in its foundation that may lead to a catastrophic outcome which scope cannot be quantified or imagined.

OPINIONS BELOW

The unpublished opinion of the Oklahoma Court Of Civil Appeals, Division II, rendered on January 6, 2023, is reproduced in Appendix A at App.1.

The unpublished opinion of the District Court of Oklahoma County, rendered on August 25, 2021, is reproduced in Appendix B at App.25.

The unpublished opinion of the Supreme Court of Oklahoma Denying Review is reproduced in Appendix C at App.27.

JURISDICTION

On September 25, 2023, The Supreme Court of Oklahoma denied petition for certiorari that Petitioner had filed on January 9, 2023. This decision was not published.

On October 26, 2023, The Supreme Court Of Oklahoma issued mandate affirming the opinion of the Oklahoma Court Of Civil Appeals, Division II.

This Court has jurisdiction under 28 U.S.C. § 1257.

CONSTITUTIONAL AND STATUTORY PROVISIONS INVOLVED

The Origination Clause, U.S. Const. Art 1, §7, cl. 1 is reproduced in Appendix D, at App. 28.

The Commerce Clause, U.S. Const. Art. 1, §8, cl. 3 is reproduced in Appendix D, at App. 33.

The 5th Amendment Of The Constitution Of The United States is reproduced in Appendix D, App. 35.

The 6th Amendment Of The Constitution of the United States is reproduced in Appendix D, at App. 39.

The 14th Amendment of the Constitution Of The United States is reproduced in Appendix D, at App. 42.

The relevant provisions of federal regulation and statutory law are reproduced in Appendix D, at App. 46.

The relevant provision of Oklahoma constitutional is reproduced in Appendix E, at App. 71.

The relevant provisions of Oklahoma statutory law are reproduced in Appendix E, at App. 73.

STATEMENT OF THE CASE

I. Legal Background

Oklahoma raises tax revenue as to individual Oklahomans through an imposed state income tax that taxes a percentage of an Oklahoman taxpayer's gross income. As constitutionally standard, tax revenue generated by Oklahoma's state income tax upon Oklahoman taxpayers is appropriated as the legislative branch by executed annual budget legislation bills. As relevant and applicable in this case, the State of Oklahoma appropriates a portion of these state funds to the Oklahoma Department of Human Services. In addition, and applicable in this matter, The State Of Oklahoma receives matching federal funds to state appropriated funding from the Oklahoma Legislature in the form of block grants through Medicaid to provide Soonercare, which is state health coverage designed to help low-income individuals and families that qualify to get medical coverage based on primarily income qualifying criteria.

The jurisdiction of a state to tax is limited by the *Due Process Clause of the 14th Amendment Of The Constitution Of The United States*². To go into further depth regarding a state's jurisdiction to tax, *Amdt14.S1.7.2.2* of the Constitution of the United States, Petitioner cites and directs this Court to review an article from the Legal Information Institute through Cornell University³ that effectively breaks down the elements of jurisdictional limitation on the taxing power of such states.

² Marquette Law Review, Vol. 17, Issue 4, June 1993 --
<https://scholarship.law.marquette.edu/cgi/viewcontent.cgi?article=4029&context=mulr>

³ <https://www.law.cornell.edu/constitution-conan/amendment->

As Petitioner in previous section opened in argument earlier, and the case record reflects and indicates, courts in Oklahoma impose debts upon obligor parents when such parent's children are insured through Soonercare. This violates the *Origination Clause Of The Constitution Of The United States*, Art. 1, §7, cl. 1, and affirmed by *The Constitution Of The State Of Oklahoma*, Art. 5, §V-33, as these debts are, unconstitutional taxation by Oklahoma courts of law. This unconstitutional taxation also violates the spirit of *McCullough v. Maryland* 17 U.S. 316 (1819), later affirmed by *Osborn v. Bank Of United States* 22 U.S. 738 (1824). At ¶12 of *MuCullough*, the Supreme Court addressed the dangers of unchecked taxing power of state governments. This became known as the Doctrine of Federal Exemption From State Taxation⁴. Because Soonercare is subsidized by federal funding through Medicaid, the State of Oklahoma is indeed violating *MuCullough* and this doctrine. By imposing such debts on obligor parents, the State of Oklahoma through the Oklahoma Department of Human Services, in a substantial number of divorce or paternity cases, becomes a permanent necessary party, or in practical reality, a permanent probation officer in such cases. If an obligor parent falls behind on child support, in theory the State of Oklahoma can set up the debt owed for children being insured on Soonercare, to be the last of the debt to be paid off. *Id est*, back child support and interest are paid first to a non-obligor parent, then debt for Soonercare coverage of an obligor parent is paid last.

⁴ <https://law.justia.com/constitution/us/article-6/08-federalexemption-from-state-taxation.html>

Aside from unconstitutional taxation, this also becomes an infringement on an individual's constitutional rights to life and liberty. In summary, this apparently is a novel, unprecedented issue as Petitioner has been unsuccessful in his case law research finding cases that have had this same issue and are applicable. Petition for certiorari Petitioner has brought forth clears the bar of this case being of great precedential value.

II. PROCEEDINGS BELOW

The District Court Of Oklahoma County will be referenced hereafter by Petitioner as the "Trial Court".

The Oklahoma Court Of Civil Appeals will be referenced hereafter as "OCCA".

Petitioner Russell G. Conlon is the respondent in a dissolution of marriage of action case in the District Court Of Oklahoma County. Respondent Tracy D. Conlon is the petitioner that filed the dissolution of marriage action in the District Court of Oklahoma County on April 15, 2016. The State entered the case before the Trial Court as a necessary party to the dissolution of marriage action on August 4, 2017.

There have been six presiding judges in the dissolution of marriage case before the Trial Court. The first two were promoted to higher district court judicial positions. The third was administratively reassigned to another judicial division. The fourth and fifth presiding judges recused from the case after Petitioner initiated recusal action, on the dates of June 1, 2020 and March 7, 2022, due to becoming material witnesses and incriminated in criminal violation of

federal and state statutes. The current sixth presiding judge had recusal action initiated against him by Petitioner on June 21, 2022 due to a material witness issue that again arose. Of important note, Petitioner initiated mandamus action with the Supreme Court of Oklahoma on October 25, 2023 due to the current presiding judge conducting proceedings contrary to state law, while recusal procedure was ongoing and in force, on motions brought by The State, and ruled on October 4, 2023 and memorialized into order on October 16, 2023.

There have been two memorialized decrees of divorce. The first was vacated when the Trial Court granted Petitioner a new trial on March 28, 2017. Nearly a month later, Respondent Tracy D. Conlon filed an application for indirect contempt of court for failure to pay child support and an order of citation was filed. Petitioner was served with order of citation and subsequently arraigned. Petitioner pleaded not guilty and waived jury trial.

On June 13, 2017, a merits trial was held. The hearing of the entire proceeding that took place on said date was transcribed. There was no citation trial as to Petitioner's indirect contempt of court charge conducted on said date and there is no transcript that verified a citation trial of Petitioner was conducted. It is an undisputed fact that the Trial Court did not conduct a separate, subsequent citation trial and adduce evidence from both parties after merits trial dividing marital assets, liability, and custody of the children was completed, and by bench verdict found Petitioner guilty of failure to pay child support. The second decree of divorce was memorialized on July 28, 2017. The transcription of this

proceeding, and the July 28, 2017 decree of divorce reflects the Trial Court imputing a debt of \$1910.40 upon Petitioner for cash medical support in arrears because the parties' children had been on Soonercare from the time Respondent Tracy D. Conlon petitioned for divorce up to the time the second merits trial was held on June 13, 2017.

Shortly thereafter in October 2017, Petitioner presented substantial exculpatory evidence to the lower court that at minimum, showed clearly reasonable doubt that Petitioner was in indirect contempt of court for failure to pay child support, that Petitioner had been convicted of on June 13, 2017. The Trial Court in subsequent sentencing hearings, did not sentence Petitioner, but also did not vacate the guilty verdict that had been rendered against Petitioner.

It was also at this time that Petitioner began to uncover evidence of criminal acts that had taken place at the June 13, 2017 merits trial by counsel for Respondent Tracy D. Conlon. Petitioner offered and presented evidence to the Trial Court in October and November of 2017, but the Trial Court never took, or refused, to take any remedial action.

In September and October 2019, clear and substantial evidence began to emerge showing a pattern of racketeering activity and has continued, with incriminating acts taking place on September 30, 2019, October 15, 2019, October 16, 2019, October 31, 2019, August 25, 2021, October 4, 2023, and October 16, 2023, to have taken place. Petitioner uncovered, offered, and presented the evidence to the

Trial Court that such criminal activity was taking place where attorneys representing both Respondents and presiding judges in the dissolution of marriage action, were incriminated in such activities.

On June 9, 2020, Petitioner filed a motion to reconsider the ruling that had been rendered on October 16, 2019 by the Trial Court. Subsequently, on August 7, 2020, a hearing was held on Petitioner's motion to reconsider. It was at this point that Petitioner began to raise questions of federal constitutional law that applied to pending matters before the lower court at that time. However, the presiding trial judge cut off Petitioner while Petitioner was presenting oral argument in support of his motion and denied Petitioner's motion to reconsider. This forced Petitioner to file his oral argument he had prepared in writing to present to the court at hearing on August 7, 2020, post hearing onto the case record with the Oklahoma County Clerk. It was also at this juncture of time, that Petitioner first offered and presented substantial, clear, credible, and incriminating exhibits, that were admitted by the Trial Court which revealed a pattern of racketeering activity by attorneys representing Respondents at minimum.

On April 27, 2021, Petitioner filed a motion to terminate The State as necessary party to the dissolution of marriage action. This is the motion that was the pioneer of this petition for certiorari that is now before this Court.

On May 10, 2021 and March 31, 2022, Petitioner filed notices, initiating citizen's arrest twice and designated two different judges as magistrates to execute citizen's arrest initiated, one that was the current presiding judge at the time in the

dissolution of marriage case, the other judge being the chief district judge of the Trial Court, upon incriminated attorneys representing both Respondents that Petitioner identified, in accordance with state law granting Petitioner authority to take such action and as required by the State Of Oklahoma's Code of Judicial Conduct. Neither judge executed the citizen's arrests that Petitioner initiated. On the date of ruling appealed, June 25, 2021, the Trial Court conducted a proceeding on Petitioner's April 27, 2021 motion to terminate. The Trial Court denied the said motion of Petitioner and Petitioner immediately initiated recusal procedure requesting to convene in the judge's chambers to make an *in camera* request for the purpose to request recusal. The presiding judge instead excused all persons from the courtroom with the exception of counsel for Respondents and Petitioner present and conducted a closed proceeding instead. The presiding judge denied Petitioner's *in camera* request to recuse. Recusal procedure is outlined as a four step process in *The Rules Of The District Courts Of Oklahoma*. Five days later June 30, 2021, Petitioner filed a formal motion to disqualify the presiding judge as applicable district court rule directs a moving party which was the second step of recusal procedure. The presiding judge proceeded to memorialize its June 25, 2021 ruling as to Petitioner's April 27, 2021 motion to terminate into a final, appealable order on August 25, 2021, though there was ongoing recusal procedure and all four steps of recusal procedure had yet to be exhausted by Petitioner as movant.

On September 15, 2021, Petitioner appealed by petition-in-error, the Trial Court's August 25, 2021 order to the Supreme Court of Oklahoma.

On October 29, 2021, Petitioner advised the presiding judge in filed formal request that Petitioner would stand on written argument made in Petitioner's formal motion to disqualify presiding judge, requesting the presiding judge to rule on Petitioner's formal motion to disqualify without conducting hearing, so that certain constitutional rights of the presiding judge would not be compromised. Another purpose of Petitioner's request was to also resolve procedural complexities that had arisen due to ongoing recusal procedure. Petitioner as his responsibility outlined in applicable Oklahoma Supreme Court rule, had to ensure that the record of appeal both parties had designated and submission of record of appeal to the Supreme Court would be timely completed.

The presiding judge refused to rule on Petitioner's October 29, 2021 request. This forced Petitioner to petition for writ of mandamus with the Supreme Court of Oklahoma on December 15, 2021, requesting said court to compel the presiding judge to rule on Petitioner's formal motion to disqualify presiding judge. The Supreme Court of Oklahoma unanimously granted Petitioner writ of mandamus, ordering the presiding judge to rule on Petitioner's formal motion to disqualify presiding judge and memorialize the ruling the presiding judge rendered. On March 7, 2022, the presiding judge recused herself from the dissolution of marriage case.

From June 25, 2021 thereafter, The State objected vigorously to the record Petitioner had designated for appeal. In the record Petitioner designated for appeal, was clear and highly incriminating evidence that as Petitioner detailed earlier

herein, had offered and presented to the Trial Court at hearing on August 7, 2020, and later referenced again by Petitioner at hearing on June 25, 2021, the date of ruling appealed.

Oklahoma Supreme Court rules give a trial court discretionary power to determine what materials are to be in the record of appeal to be submitted to the Supreme Court of Oklahoma. This arguably creates a question of whether an appellant who petitions a higher court for appeal can truly be given a fair and impartial appeal. If the record an appellant, or even an appellee designates, can have portions of record a party designates for appellate review excluded by discretionary determination by the trial court being appealed, it cannot be claimed whatsoever that an appeal is being conducted fairly.

On April 20, 2022, the Trial Court sustained The State's objection to record Petitioner had designated for appeal, excluding practically all pleadings and materials Petitioner had designated, including materials that were before the Trial Court on the hearing date of ruling appealed, to be included in the record of appeal that was to be submitted to the Supreme Court of Oklahoma. Petitioner immediately motioned the Supreme Court of Oklahoma to review the Trial Court ruling in question. The Supreme Court of Oklahoma granted Petitioner's motion to review, but denied the relief sought by Petitioner, letting the lower court's decision stand. Subsequently, Petitioner and The State timely filed appellate briefs.

The case was assigned by the Supreme Court of Oklahoma to the OCCA to render judgment on November 9, 2022. The Oklahoma Civil Court of Appeals affirmed the Lower Court order of August 25, 2021, in opinion on January 6, 2023.

Petitioner petitioned the Supreme Court of Oklahoma on January 9, 2023 for certiorari. On September 25, 2023, the Supreme Court of Oklahoma unanimously denied certiorari. Subsequently, on October 26, 2023, the Supreme Court of Oklahoma issued mandate affirming the opinion of the OCCA.

REASONS FOR GRANTING CERTIORARI

I. The Decision Below Violates Multiple Constitutional Protections Afforded To Every American Citizen By The United States Constitution

The decision of the OCCA let stand conviction of Petitioner of a crime without a citation trial being conducted on the Respondent Tracy D. Conlon's charge that Petitioner was disobeying a court order. This has never been contested by Respondents when Petitioner has raised this claim. This clearly violated Petitioner's constitutional rights of the *5th, 6th , and 14th Amendment rights under the Constitution of the United States*. Applicable Oklahoma state law Petitioner cited clearly gave the OCCA legal authority to vacate Petitioner's conviction, which the OCCA refused to do.

The Trial Court at hearing on the date of ruling that resulted in memorialized order being appealed and OCCA affirmed, June 25, 2021, conducted the proceeding on Petitioner's motion as if it were a trial proceeding, not a motion

proceeding. This violated multiple court rules of procedure regarding conducting a trial proceeding and denied Petitioner due process and equal protection of the laws, which the OCCA affirmed. The transcript of the June 25, 2021 hearing on the case record clearly reflects this did take place without doubt.

Of astonishment was OCCA's misapplication of law and understanding of legal terms in its opinion. Petitioner raises two appalling examples for this Court. In opinion, at App.34, 35, OCCA stated that criminal allegations made by Petitioner were a "protected interest" and not subject to due process protection. A protected interest is "the enforceable interest of a claimant in property, shown not to be subject to forfeiture."⁵ Obviously this is an error in interpretation and misapplication of what a protected interest is. The second example Petitioner gives is that OCCA stated in opinion at App. 37, 38 that "...and Mr. Conlon's (Petitioner) challenge constitutes a collateral attack of a final order in an incidental proceeding." A collateral attack according to The People's Law Dictionary⁶ is defined as "a legal action to challenge a ruling in another case." A collateral attack according to Legal Information Institute⁷ is "a challenge on the validity of a prior judgment through new case rather than by direct appeal." The case record reflects Petitioner clearly brought his allegations within the context of the dissolution of marriage case and direct appeal associated with said case, not by separately filed civil action. The definition cited by OCCA in its opinion implied that

⁵ <https://www.lawinsider.com/dictionary/protected-interest>

⁶ <https://dictionary.law.com/Default.aspx?selected=229>

⁷ https://www.law.cornell.edu/wex/collateral_attack

OCCA concluded by insinuation that Petitioner was trying to avoid complying with court orders. No such evidence is on the case record that validates such a conclusion. It is also bewildering that OCCA says that the collateral attack is against a final order, which could only be the July 28, 2017 decree of divorce and order of contempt, in an incidental proceeding. The proposition of Petitioner that OCCA was referencing dealt with Petitioner detailing that the Trial Court clearly entered false electronic entries into and falsified the case record on June 13, 2017 and August 25, 2021, and entered a false instrument into the case record, that being the August 25, 2021 memorialized court order containing a false version of events. A viewing of the transcripts from the proceedings on said dates and the August 25, 2021 order clearly show and confirm, violation of Oklahoma felony criminal statutes. But most importantly, the transcript of the June 13, 2017 proceeding and ruling of the Trial Court, which Petitioner designated to be in the record of appeal but the Trial Court excluded later in ruling on April 20, 2022 in sustaining The State's objection to what Petitioner had designated for record, proved there was no separate citation trial conducted apart from the merits trial on June 13, 2017, on Petitioner's indirect contempt of court charge. The June 13, 2017 transcript undoubtedly proves Petitioner was convicted by the Trial Court of a crime without a trial. It should raise the question in this Court's mind, why would the Trial Court allow the July 28, 2017 divorce decree and order of contempt to be in the record of appeal that both Petitioner and Respondent had designated for record of appeal, but

not permit the transcript of the June 13, 2017 proceeding that resulted in the July 28, 2017 divorce decree to be included in the record of appeal. It clearly appears OCCA's intention in opinion rendered was to conclude that the criminal allegations and supporting evidence Petitioner cited and incriminated persons was an accident and attempt to exonerate incriminated parties, which would be most certainly a shocking abuse of discretion.

The OCCA's opinion was rife with abuse of discretion, clearly contrary to reason, law, and the unlawful exclusion of substantial evidence that supported Petitioner's appeal to the Supreme Court of Oklahoma, as Petitioner detailed in petition for certiorari made to the Supreme Court of Oklahoma. In said petition, Petitioner additionally highlighted numerous oversights, conclusions OCCA came to that were clearly false, contrary to law, what the egregiously truncated record of appeal reflected, and showed what can only be perceived as astounding poor legal understanding and lack of adequate judicial due diligence. There were far more legal defects that Petitioner could have highlighted in his petition for certiorari to the Supreme Court of Oklahoma, but unfortunately page limitations outlined in Oklahoma Supreme Court rules prevented Petitioner from doing so. If this Court grants certiorari, Petitioner will most certainly bring these additional legal defects in later brief to this Court's attention. What is most astonishing, and this Court would see in reviewing appeal by the OCCA, is there is no judicial weighing of the parties' arguments, only outright rejection of what Petitioner argued in extensive detail multiple propositions in appellate briefs Petitioner filed. This Court should

note that OCCA took less than two months to render opinion from assignment of appeal from the Supreme Court of Oklahoma to address the extensive issues raised in appeal. By Petitioner's observation, OCCA just blew Petitioner off and never gave Petitioner's appeal any reasonable consideration nor contemplation whatsoever.

During the dissolution of marriage case and associated appeal, Petitioner filed two Jennings reservations, reserving his right to litigate constitutional claims and/or violations later in a federal judicial forum, as federal case law allows per *Jennings v. Caddo Parish School Bd.*, 531 F.2d 1331 (5th Cir.), cert. denied, 429 U.S. 897 (1976), and *Fields v. Sarasota Manatee Airport Authority*, 953 F.2d 1299, (11th Cir.), (1992). The first reservation was filed and thus executed on June 9, 2020 in motion Petitioner presented to the Trial Court. The purpose of filing this reservation was due to the substantial injury Petitioner incurred due to the actions of attorneys representing Respondents and judges representing the State of Oklahoma. The second reservation was filed and thus executed by notice of Petitioner on July 22, 2022 in Supreme Court Case No. DF-119852, shortly after the Supreme Court of Oklahoma on July 18, 2022, upheld The State's objection to what Petitioner had designated for record of appeal.

II. The Decision Below Impinges On An American Citizen's Constitutional Right To A Fair And Impartial Tribunal

The opinion of the OCCA clearly avoided the fact that the presiding judge that ruled on June 25, 2021 and memorialized August 25, 2021 into order appealed that Petitioner is now asking this Court to review, had recusal action initiated by Petitioner on June 25, 2021 that was ongoing. Established Oklahoma law and applicable Oklahoma Supreme Court decisions clearly mandate that a presiding judge requested to recuse cannot preside over and rule on any pending matters once recusal procedure is properly initiated, until the recusal ruling of the presiding judge is memorialized, and recusal procedure has been exhausted at the discretion of the movant, that being Petitioner. As stated earlier, this presiding judge ultimately recused from the case on March 7, 2022. The reason the presiding judge gave in her disqualification order was that she was a material witness, though Petitioner had offered and presented strong evidence of prejudice and bias attached to his formal motion to disqualify the presiding judge.

In summary, opinion by the OCCA affirming the lower court's order of August 25, 2021 is defective *prima facie* as it violates Petitioner's rights to a fair and impartial tribunal of the *5th and 14th Amendments of the United States Constitution*.

III. The Questions Presented Are Exceptionally Important, Reveal The Perils Of Unchecked, Encroaching, And Oppressive Government On An American Citizen, And Resolution Will Provide Great Precedential Value For Future Case As They Relate To Family Law In These United States Of America

In petition for certiorari cases that Petitioner has viewed on SCOTUS blog, such cases have a voluminous amount of federal case law and in some cases, federal statutes that are additionally cited. This voluminous amount of federal law that a party cites in support of argument in typical petitions for certiorari obviously is used to apply to the unique characteristics of its case down to a microscopic scale and viewpoint, for this Court to contemplate for judgment. In instant petition for certiorari that Petitioner has brought, this is not so as the section of Table Of Authorities herein petition reflects. The transgressions of law that are clearly apparent in this case are so fundamental and simple in nature in their violation of core constitutional rights that a voluminous number of federal statutes, case law, and regulations is not necessary to cite in support this petition for certiorari.

When it becomes apparent that a state government has enacted governing legal systems that take advantage of the tragic and horrible event that is a dissolution of marriage to enrich government and legal professionals, exacerbate and encourage discord between the divorcing parties by creating impossible financial burdens, and by observation, become willfully blind to evidence and

abandons sober, fair, and impartial reasoning to preserve such system, such systems cannot be tolerated.

This case alone is likely the very tip of the iceberg to what has happened to and injured with devastating effect, countless Oklahomans and possibly Americans across the country as to parents and children that are forced to experience the emotional trauma of seeing their parents split. This growing scourge on American society has certainly been flying under the radar and has not been confronted until now. As a spark can cause a massive forest fire, so can indifference and decisions that are clearly contrary to reason, law, and evidence by jurists at the lowest courts in this country, create a destructive fire that has now reached this Court's doorstep.

CONCLUSION

Petitioner closes with a couple of examples he gave and made in the dissolution marriage case and associated appeal.

In the 1961 movie Judgment at Nuremburg, there is a poignant scene at the end of the movie. The scene involves a convicted judge, Herr Yanning, meeting with Chief Judge Don Haywood that had pronounced Yanning guilty and sentenced Yanning to life imprisonment. Yanning pleaded with Judge Haywood that Haywood had to know that Yanning could have never known that finding a person guilty would lead to the holocaust of millions of people. Haywood in sad response replied "Herr Yanning, it came to that the first time you sentenced a man to death you knew to be innocent." The lesson learned is when judges willfully ignore what righteous justice requires a judge to administer based on the law and evidence

before a judge, it is certain there will be catastrophic consequences of unimaginable scope in the future. Such has certainly happened in this case.

Finally, in conclusion of appellate brief-in-chief made to the Supreme Court of Oklahoma, Petitioner cited an excerpt from *Documents Of The Revolution: Common Sense, The Complete Federalist And Anti- Federalist Papers, The Articles of Confederation, The U.S. Constitution, The Bill of Rights*, authored by founding fathers Alexander Hamilton, Thomas Jefferson, and John Jay. On page 28 of said book, the authors succinctly wrote "Society is produced by our wants, and government our wickedness." The survival and fall of these United States of America is determined by the character of its people. Freedom in this country is preserved when the people of this country choose to be virtuous, righteous, and just. When evil is allowed to grow unpunished and unabated with no confrontation, when the number of people increases that choose to be corrupt, fearful, and/or indifferent, then our nation is in true peril. Our elected leaders and judges at the local, state, and federal level are only a reflection of what the current character of Americans is at in whole at this current time in American history. As Benjamin Franklin stated on what our American nation is and was founded as: "A republic, if you can keep it." The costs because of what has taken place that Petitioner unjustly incurred that came from the actions of Respondents and a complicit Oklahoma judiciary have been far too much. This Court would find on reviewing the record of the dissolution of marriage case that Petitioner was falsely charged and convicted without a trial, causing Petitioner's business that he had opened in March 2017 while divorce case

was ongoing to go under, was robbed of having any adequate role as a parent in the parties' children's lives, missing out on a significant portion of the children's childhoods, and since then Petitioner has been trying to rebuild from the financial ruin that was caused. What has happened is undeserved and a travesty of justice that needs remedial action from this Court that administers appropriate, corrective justice. This would set a clear precedent and administer a well justified check upon the states from abusing their power by going beyond their constitutional and statutory boundaries of law, that exacerbates discord between the parents and causes oppressive burdens to be carried.

For the foregoing reasons, this Court should grant petition for certiorari.

Respectfully submitted,
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CERTIFICATE OF WORD COUNT

Case No. _____

Case Name: *Russell G. Conlon v. Oklahoma Department Of Human Services, Child Support Services, et al.*

Title: Petition for Writ of Certiorari

Pursuant to Rule 33.1(h) of the Rules of this Court, I certify that the accompanying Petition for Writ of Certiorari, which was prepared using Century Schoolbook 12-point typeface, contains 7,109 words, excluding the parts of the document that are exempted by Rule 33.1(d). This certificate was prepared in reliance on the word-count function of the word-processing system (Microsoft Word) used to prepare the document.

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

DATED this ~~8TH~~ ^{August} of ~~July~~ 2024.

Respectfully submitted,



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