

24-5952

No. _____

ORIGINAL

IN THE
SUPREME COURT OF THE UNITED STATES

FILED
OCT 08 2024
OFFICE OF THE CLERK
SUPREME COURT, U.S.

Monica L. Cook — PETITIONER
(Your Name)

vs.

Department of Child — RESPONDENT(S)
Family Services
ON PETITION FOR A WRIT OF CERTIORARI TO

Superior Court of the State of Washington in the
(NAME OF COURT THAT LAST RULED ON MERITS OF YOUR CASE)
County of Snohomish
PETITION FOR WRIT OF CERTIORARI

Monica L. Cook
(Your Name)

607 47th St Se #209
(Address)

Everett WA 98203
(City, State, Zip Code)

(360) 928-8608
(Phone Number)

UNITED STATES SUPREME COURT

MONICA L. COOK,

Plaintiff,

v.

DEPARTMENT OF CHILD FAMILY
SERVICES, et al.
Respondent

On Petition for Writ of Certiorari
to the
The United States of America Supreme Court

PETITION FOR WRIT OF CERTIORARI

QUESTION PRESENTED

1. Whether the termination of parental rights without substantial evidence of unfitness violates the Due Process Clause of the Fourteenth Amendment.
2. Whether the immediate removal of my daughter from my home without direct proof of abuse or neglect by the parent is in direct violation of several Federal and State Constitutional guaranteed Rights and Statutes, without due process? These include the Fourth, Ninth, Fourteenth Amendment, Article 1 Sec 2, 3, and 7, RCW 13.34.130 and 2013 c 254 s 1?
3. Whether DCYF fulfilled its duty to expressly and understandably offer services that were in line with the individual needs of the parent before terminating parental rights?
4. Whether the procedural deficiencies and lack of accommodation for my intellectual disability and Post-Traumatic Stress Disorder (PTSD) constituted a violation of my constitutional rights?

UNITED STATES SUPREME COURT

**LIST OF PARTIES
AND CORPORATE DISCLOSURE STATEMENT**

Parties:

Washington State Attorney
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Respondant/Appellant

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Petitioner/Appellant/Plaintiff

Petitioner is not a subsidiary/affiliate of a publicly owned corporation. Moreover, Petitioner is not a corporation (Rule 29.6 Sup. Ct. R.). Pursuant to Rule 26.1-2 11th Cir. R.,^{1/} Petitioner does not know of any other entities that have interest in this case. Petitioner hereby certifies that this corporate disclosure statement is complete.

LIST OF PROCEEDINGS

Trial Court Proceedings:

In Re the matter of ~~H.G.N.C.~~ **H.G.N.C.**

Superior Court of the State of Washington in the County of Snohomish.

Case #: 22-7-00424-31

Appellate Court Proceedings:

In the matter of Dependency H.G.N.-C.

Division 1 Court of Appeals in the State of Washington.

COA #: 85211-6-1

Supreme Court of Washington

In re the Dependency of H.G.N.C

Department II of Supreme Court of State of Washington

No. 102983-7

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Appendix A Court Superior Court Order Terminating Parental Rights

Appendix B Division 1 COA Wash Affirmed trial order.

Appendix C Supreme court of Wash decision denied review.

Appendix D Trial Court Transcript

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TABLE OF AUTHORITIES

FEDERAL STATUTES

42 U.S. Code § 192

STATUTES (STATE)

RCW 13.34.180(1)(d).

RCW 13.34.062, RCW 74.13.031, 74.04.050, and chapter 26.44 RCW. WSR 02-15-098 and 02-17-045, § 388-15-045, filed 7/16/02 and 8/14/02, effective 2/10/03." Wash. Admin. Code § 110-30-0130

RCW 26.09.191: Emphasizes the necessity of clear and convincing evidence for restricting or terminating parental rights, especially when disabilities are involved. These statutes support my claim that the trial court's failure to provide necessary accommodations violated my due process rights and discriminated against me based on my disabilities. Such failures warrant a review to ensure compliance with federal and state laws protecting the rights of individuals with disabilities.

RCW 13.34.180: Specifies the grounds for terminating parental rights.

RCW 13.34.190: Details the procedures and standards for termination, including the requirement for clear and convincing evidence.

CONSTITUTIONS

Fourteenth Amendment: Protects against state infringements of due process rights. Article I, Section 3: Ensures that no person shall be deprived of life, liberty, or property without due process of law.

Article I, Section 3: Ensures that no person shall be deprived of life, liberty, or property without due process of law.

Amendment IV (1791)

The right of the people to be secure in their persons, houses, papers, and effects, against unreasonable searches and seizures, shall not be violated, and no warrants shall issue, but upon probable cause, supported by oath or

affirmation, and particularly describing the place to be searched, and the persons or things to be seized.

Ninth Amendment: Asserts that listing of certain rights in the Constitution does not mean that people do not have other rights that are not specifically mentioned.

SECTION 29 CONSTITUTION MANDATORY. The provisions of this Constitution are mandatory, unless by express words they are declared to be otherwise.

WASHINGTON STATE CASES

In re Welfare of D.E., 196 Wn.2d 92, 102, 469 P.3d 1163 (2020)

*In Regards to Parental Rights of M.A.C.S. 197 Wn. 2d 12,14
685486 P. 3d.886 (2021)*

Santosky v. Kramer, 455 U.S. 745, 760, 102 S. Ct. 1388, 71 L. Ed. 2d 599

In re Parental Rights to D.H., 195 Wn.2d 710, 727, 464 P.3d 215 (2020)

In re Parental Rights to I.M.-M., 196 Wn. App. 914, 924, 385 P.3d 268 (2016)).

In re Dependency of A.B. Washington COA (2017).

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In re Dependency of K.S.C. (2011): Washington Appeals Court ruled that a parent's substance use alone doesn't constitute unfitness; other factors must also be considered.

In re Welfare of A.S. (2003): Washington Supreme Court held that a parent's past substance use should be evaluated in the context of their current ability to parent.

Gates v. Gates (1994): The court emphasized the importance of evidence showing that the parent's substance use directly affects their parenting abilities.

In re Dependency of K.N.J. (2016): - Key Point: Washington Appeals Court found that refusal of services alone does not constitute unfitness. - Significance: The court examined whether the refusal directly impacted the child's welfare. -

In re Welfare of C.B. (2008): The Washington Supreme Court held that the refusal to participate in services must be considered alongside the parent's overall ability to care for the child. - Significance: The court required a thorough assessment of whether the refusal detrimentally affected the child's well-being.

Definitions and Abbreviations

Department in this document means anyone working on behalf of Department of Child Youth Family Services, whether it be the social worker, attorneys, etc.

MC means the Mother/Parent in the above mentioned cases associated with the termination of parental rights.

The Court means the deciding Judge in the relevant motions, orders, and decisions in each case.

ADA- Means the Americans with Disability Act

WLAD- Washington Law Against Discrimination Act

Re: Petition for Writ of Certiorari

Dear Justices of the Supreme Court,

I, Monica L. Cook, respectfully petition this Court for a writ of certiorari to review the decision of the Snohomish County Superior Court and the Washington State Court of Appeals in the matter of the termination of my parental rights.

Jurisdiction

This Court has jurisdiction under 28 U.S.C. § 1254 to review the case on a writ of certiorari. The decision sought to be reviewed is from the Washington State Court of Appeals, with the decision date of July 8, 2020.

Statement of the Case

On March 23, 2023, the Snohomish County Superior Court terminated my parental rights. Initiated by a single complaint of abuse or neglect of my daughter, while in the care of a babysitter. My daughter was removed and DCYF never offered any preventative services to preserve my family. The Court cited,

and focused on my using drugs, without substantial evidence. There were no drug tests or witness testimonies proving current drug use.

It is true that I relapsed later in the case, however, there is never a reasonable consideration towards the trauma of losing a child, and I took responsibility. The Court unfairly cited and relied on my past history of drug use and alleged parenting deficiencies.

I faced significant challenges, including the failure of the DCYF to issue a service letter for three months, provided non-working numbers to services. And we were in Covid. This delay severely impacted my ability to comply with court orders and does not accurately demonstrate my commitment to parental responsibilities.

Additionally, my learning disability and PTSD were not accommodated during the trial², impacting my ability to fully participate and present my defense. The Judge was bias towards my need for accommodation, violating my rights under the Americans with Disabilities Act (ADA) and the Washington Law Against Discrimination (WLAD).

These issues, paired with DCYF's failure to fulfill its duty to expressly, and understandably offer services to me that were inline considering my intellectual disability, PTSD, and specific, detailed parental deficiencies in the "Social study" evaluation, does not support the parent child bond.

"These must be measured against an objective standard based on current professional guidelines", as emphasized in *In re Parental Rights of M.A.C.S.* They should have been raised and argued affectively by my counsel on appeal. The

M.C. Wishes to also assert that her fourth, and Ninth Amendment rights sounds to be providing more strength to her needing review of the constitutional rights violations.¹

Statement of Facts

1. I am the parent of H.G.N-C., who was born on December 21, 2018.
2. I have a documented history of learning disability and PTSD, which has required reasonable accommodations in various settings.
3. DCYF came to my house on January 27, 2021, when I was not home, because a babysitter fell asleep while watching her. The trial order stated a very different picture, which was not true, nor any proof.
4. The Court cited that responding police allegedly found a drug pipe and the babysitter was drug involved despite a lack of substantive evidence, such as witness testimony, testing, etc.
5. DCYF immediately removed my daughter, without offering any preventive services pursuant to RCW 74.14C¹. based on concerns of substance abuse issues, mental health, and lack of parenting skills.
6. This triggered my PTSD to become very invasive and obvious.
7. Contrast to the allegations, at that time I was engaged in supportive services independently., had remained sober after daughter was born, had a home, and basic needs fulfilled.

department states the removal and termination is based on parenting deficiencies, but what exactly are those deficiencies? It only gives a broad blanket type description.

This adequately raises a Fourteenth Amendment Violation - Parents are supposed to be protected by the Fourteenth Amendment in their rights to their children. However, children are often removed immediately from parents with mental or learning disabilities, and pre-judgement without adequate consideration of the trauma inflicted upon these families. This issue impacts numerous Americans and highlights a broader national concern about the mental health crisis in our country. The loss of parental rights without appropriate support or consideration can lead to severe long-term consequences for affected families. "Identifying parenting deficiencies is not the equivalent of proving parental unfitness" sufficient to terminate a parent's rights. A.B., 181 Wn. App. at 60, 61. Children are the most affected. *"This is yet another distinct harm of removal. Dr. Mitchell identifies "guilt, post-traumatic stress disorder, isolation, substance abuse, anxiety, low self-esteem, and despair" as just some of the consequences that result from a failure to deal with these feelings of grief"* (quoting) Shanta Trivedi, *The Harm of Child Removal*, 43 New York University Review of Law & Social Change 523 (2019).

So, it is of dire importance that I plead for the supreme court to please review, whether DCYF has fulfilled its duty to expressly and understandably offer services to M.C. This case is about the statutory requirement that in a proceeding to terminate parental rights, DCYF must meet a standard and the courts duty to recognize where their rights under the fourteenth and fourth amendment are being violated.

8. During the "Current placement episode" as defined, DCYF failed to issue a service letter for three months, and other pertinent documents, which hindered M.C.'s ability to comply with court orders.
9. DCYF removal document had non-working numbers, and DCYF failed to acknowledge my concerns, and PTSD. Or that I was at the casino, and not using drugs.
10. Nowhere in the record is tested proof of a drug pipe, or of my neglecting my daughter. An effective counsel would have argued these facts.
11. MC's substance abuse counselor, Ms. Lockhart testified, "*I never really had any suspicions of Monica using.*"² *In re* ^{H. C.W.C.} *Snoh. Cnty.* Sup. Ct., p 261 19-20.
12. On March 23, 2023, the Snohomish County Superior Court terminated my parental rights, and the COA affirmed the order.
13. The court's decision was based on the unfounded assumption of "ongoing substance abuse and mental health issues render her unfit to parent." during the proceedings, despite my completion of all mandated services, my PTSD, during Covid,³ *In re* ^{H. C.W.C.} *Snoh. Cnty. Sup. Ct., p. 138*(Line 5)
14. Throughout the entire transcript of trial it is clear of the partiality towards the Department side, and it would have been easy to get inconclusive findings of the deficiencies claimed by review of record transcript.
15. **ADA and WLAD Violations:** - Throughout the trial record, my need for reasonable accommodations for my learning disability and PTSD were

denied.⁴ See *In re H.G. N.C.* Snoh. Cnty. Sup. Ct., p. 7 *Ln 5-7, p.171 Ln 8* - This denial impacted my ability to fully participate and present my defense, violating my rights under the Americans with Disabilities Act (ADA) and the Washington Law Against Discrimination (WLAD).

16. DCYF's Failures: - The Department of Children, Youth, and Families (DCYF) did not provide services in a manner that was understandable and accessible, considering my intellectual disability and PTSD. - This failure is contrary to professional guidelines and standards, as highlighted in *In re Parental Rights of M.A.C.S.*

Fourteenth Amendment Concerns: - The termination of my parental rights without proper accommodations and support is a violation of the Fourteenth Amendment, which protects the right to family integrity. - This case underscores the broader issue of inadequate support for parents with disabilities, which has significant implications for families nationwide.

ARGUMENT IN SUPPORT OF A WRIT OF CERTIORARI

This Court is well-positioned to grant this writ, because the decision below is a violation of Washington State Law and the US Constitution.

Fourth Amendment Violation

- a. The court errored in its analysis by shifting the burden of proof to M.C. It is DCYF's burden to prove that it satisfied all the necessary

elements for termination, and the burden cannot be shifted onto a parent to testify or otherwise.

- While considering the Departments demand of M.C. submitting urinalysis, *it should not be judged as guilt, but that she has a constitutional right given in the Fourth Amendment.* Quoting "The right of the people to be secure in their persons, houses, papers, and effects, against unreasonable searches and seizures, shall not be violated, and no Warrants shall issue, but upon probable cause, supported by Oath or affirmation" *It* protects against unreasonable searches and seizures by the government.
- I also, would like to point to *42 U.S. Code § 192*. This law is relevant because it is the reconstruction that is now Department of Human and Health Services, follow the link.

a. ***FOURTH AMENDMENT PROTECTIONS***

In my case there was a lack of demonstrated need, because DCYF did not provide substantial evidence necessitating UAs. There was no proof the pipe was mine, or what it even was because it was never tested. I was not home. I certainly did not leave my toddler with an unresponsive person Upon returning, I was told I could not go in my home. Public entities must balance privacy interests against governmental needs before mandating drug tests. - *Skinner v. Railway Labor Executives' Association* (1989).

I was at the casino, not using drugs, if anything I should have been offered services for a gambling addiction. The demand for UAs without probable cause infringes on my Fourth Amendment rights. Drug testing mandates require a demonstrated problem or need. -

Chandler v. Miller (1997).

I was believing in my rights and that those rights would be enforced in the Court because "Drug testing without consent or probable cause is a Fourth Amendment violation" - *Ferguson v. City of Charleston (2001).*

Fourteenth Amendment Violations

Parents have a fundamental liberty interest in the care, custody, and management of their children." *In re Welfare of D.E.*, 196 Wn.2d 92, 102, 469 P.3d 1163 (2020).

Additionally, arguing the Court rule to view the evidence and reasonable inferences drawn from it in the light most favorable to the prevailing party, which ultimately means the petitioner, does not support the fourteenth Amendment rights of parents. Especially, in a dependency/termination case, where evidence and inference rules are less strict in a civil case compared to criminal. I argue this as unconstitutional and unfair, because the DCYF is always the petitioner in these types of cases, which gives them an automatic advantage against parents. The expert witness and psychologist contracted by DCYF was given DCYF's Petition and biased case information⁵. Which makes it a question of unfair, influenced bias.

It is fair to say, for an opinion of an expert witness not qualified to evaluate a need for substance abuse to be considered over the opinion of another expert witness that is qualified, when weighing the facts should be called to question.

Trial court at beginning showed a subjective assumption that M.C.'s disability was behavioral⁶ and as you can see throughout the trial, M.C. was often told to control her disability, where it should have recognized the need for accommodation.⁷, Under title II of the Americans with Disabilities Act (ADA), Washington State

order that failed to weigh properly the inconsistent statements in the testimony of Ms. Potter while being cross-examined by Ms. Brice. I think its important to point to the record of Ms. Potter's entire testimony given to Ms. Brice, see ¹⁰.

Due to the consistent procedural deficiencies, and bias made me confident that an appellate Court also see them. An appeal was filed, and the appeal court affirmed the order on July 8, 2024.

Reasons for Granting the Writ

Conflict of Law

The decision by the trial court to terminate my parental rights is in direct conflict with multiple precedents set by other courts. Specifically:

Santosky v. Kramer, 455 U.S. 745 (1982): This case established that parental rights can only be terminated if clear and convincing evidence demonstrates unfit parenting. The trial court did not meet this standard in my case.

Troxel v. Granville, 530 U.S. 57 (2000): This ruling emphasized the fundamental rights of parents in raising their children. The trial court's decision to terminate my parental rights did not adequately consider these rights.

Lassiter v. Department of Social Services, 452 U.S. 18 (1981): It was determined that due process must be strictly followed in parental termination cases. The trial court in my case failed to provide adequate procedural safeguards.

Consistency in Law: Clarifying the legal standards for terminating parental rights will help ensure uniformity across all jurisdictions, thus maintaining the integrity of the legal system, as discussed in *Lassiter v. Department of Social Services*.

These inconsistencies between the trial court's decision and established legal principles warrant the Supreme Court's review.

Violation of Due Process: The decision to terminate my parental rights was made without substantial evidence of unfitness, violating my right to due process under the Fourteenth Amendment. Nor was my parental relationship protected. Because "Parents have a fundamental liberty interest in the care, custody, and management of their children", citing *In re Welfare of D.E.*, 196 Wn.2d 92, 102, 469 P.3d 1163 (2020), that means they are also protected under the same. I was not given this protection when the burden was shifted to me throughout the case and at trial. The Due Process Clause includes a substantive component that "provides heightened protection against government interference with certain fundamental rights and liberty interests." *Washington v. Glucksberg*, 521 U.S. 702, 720 (1997); *see also Reno v. Flores*, 507 U.S. 292, 301-302 (1993).

Failure to Accommodate Disabilities: The court's refusal to accommodate my disability and PTSD impeded my ability to defend myself in violation of the Americans with Disabilities Act (ADA) and my Fourteenth Amendment rights. The Supreme Court has explained the need "which must be measured against an objective standard based on current professional guideline." Quoting *In Regards to Parental Rights of M.A.C.S.* Not only does a Parent have, but likewise, children have "a vital interest in preventing erroneous termination of their natural relationship" with their parents. (quoting *Santosky v. Kramer*, 455 U.S. 745, 760, 102 S. Ct. 1388, 71 L. Ed. 2d 599 (1982) (plurality opinion)). My daughter is the one who's most effected by the decision and will affect her the rest of her life. See Shanta Trivedi,

The Harm of Child Removal, 43 New York University Review of Law & Social Change 523 (2019).

3. Procedural Deficiencies: The significant delay by DCYF in issuing required service letters and documents hindered my ability to understand fully what was expected and my rights. To protect the vital interests at stake, “the burden of proof in a termination trial is on the Department and should never be shifted to the parent.” *In re Termination of Parental Rights to M.A.S.C.*, No. 98905-2. The proof must be “clear, cogent, and convincing evidence” when removing a child. The legislature reaffirmed in **RCW 13.34.180(1)(d)**. that “the family unit should remain intact in the absence of compelling evidence to the contrary.

Sec. 4. RCW 13.34.065 and 2013 c 162 s 6 (5)(a) The court shall release a child alleged to be dependent to the care, custody, and control of the child's parent, guardian, or legal custodian unless the court finds there is reasonable cause to believe that the child is in immediate danger.

This Court is well-positioned to grant this writ because the decision below is not within the statutory requirement and in violation of the Constitution. This petition demonstrates the critical need for the Supreme Court to address the constitutional issues presented and ensure that due process rights are protected in cases involving the termination of parental rights. Parents are supposed to be protected by the 14th amendment in rights to their children, but children are taken without any hope for return if the parent has a mental or learning disability. Where there should be unbiased hope for fair justice, there is devastating decisions regularly effecting families, which the Fourteenth Amendment was written to

protect. It's not just an opinion that there is not enough thought given towards the obvious trauma it inflicts upon families nor that they are long term, I'm living the horror. It is of national importance because it's part of the mental health crisis in our country. When parents have their only purpose, they have to live, taken away, they will wonder around as nothing. Please accept this review because it is my last chance of any hope to get my precious daughter back. Thank you for your time.

Respectfully submitted,

Monica

Monica L. Cook

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