

24-6440

No. _____

ORIGINAL

FILED

SEP 16 2024

OFFICE OF THE CLERK
SUPREME COURT, U.S.

IN THE

SUPREME COURT OF THE UNITED STATES

Andrew LaChaux — PETITIONER
(Your Name)

vs.

Dept. of Family Services — RESPONDENT(S)
EIGHTH JUDICIAL COURT OF NEVADA
ON PETITION FOR A WRIT OF CERTIORARI TO

Nevada Supreme Court
(NAME OF COURT THAT LAST RULED ON MERITS OF YOUR CASE)

PETITION FOR WRIT OF CERTIORARI

Andrew LaChaux
(Your Name)

330 S. Casino Center Blvd
(Address)

Las Vegas, Nv. 89101
(City, State, Zip Code)

N/A
(Phone Number)

QUESTIONS PRESENTED

1. Per Amendment 14 of the United States Constitution, were the Constitutional rights of equal protection of the laws due to the Petitioner violated?
2. Did the Eighth Judicial Court and Clark County Department of Family Services render a ruling which actually is not entitled to full faith and recognition?
3. Did the State of Nevada lack Subject Matter Jurisdiction according to NRS 125A.085, NRS. 125A.065 and the UCCJEA?
4. How can the family courts across the nation avoid making major mistakes dealing with custody and jurisdiction matters in the future?
5. Per Article 5 & 6 should it be necessary to have congress establish an ACT (ACWA) African Child Welfare ACT to better protect all African Children, descendants of African slaves?

Crítel Questions Presented

6. Should Amendment 6 of the United States Constitution be amended to make it a right to have assistance of counsel for defense in custody and jurisdiction proceedings?
7. Dealing with priceless child custody and jurisdiction litigation, would it better serve all American families if they had a right to Assistance of Counsel?
8. When a trial court, family division, demonstrates failure to perform judicial office fairly and impartially by way of erroneous mistake, prejudice, bias or partiality, what is the most reasonable remedy?
9. Should discretionary appointment of counsel in Child Custody proceedings be changed from discretionary to National Law?
10. How do we avoid severe, unfair procedural due process, if in fact we have equal protection of the laws in our 14th Amendment of the United State Constitution?

LIST OF PARTIES

ALL parties do not appear in the caption of the case on the cover page. A list of all parties to the proceeding in the court whose judgment is the subject of this petition is as follows:

Honorable Frank P. Sullivan ^{FEB. 2023} (retired 2/23)
Honorable David S. Gibson Jr.
Eighth Judicial District Court of The State of
Nevada, In And For The County of Clark,
Department of Family Services, Real Party in Interest

RELATED CASES

D-15-521477-R	District Court
86436	Nevada Supreme Court
88047	Nevada Supreme Court
71104	Nevada Supreme Court

TABLE OF AUTHORITIES CITED

	PAGE NUMBER
SWAN V. SWAN	(5,6,8)
STATE INDUS. INS. SYSTEM V. SLEEPER	(5,8)
MESSNER V. DISTRICT COURT	(5,8,11,12)
SOLIS-RAMIREZ V. EIGHTH JUDICIAL DIST.	(6,7)
HICKEY V. DISTRICT COURT	(6,7,8)
GOICCECHEA V. FOURTH JUDICIAL DIST.	(7)
SHISLER V. SANFER SPORT CARS, INC.	(8)
ABELLEIRA V. DISTRICT COURT OF APPEAL	(8)
CRISWELL V. CRISWELL	(10)
SMITH V. DAY	(10)
SIMON V. McCURE	(10)
RITER V. DOUGLAS	(13,14)
FRIEDMAN V. EIGHTH JUDICIAL DIST COURT NV	(4,5,6,7,8,9,10,11,12,15,16)
FRIEDMAN V. EIGHTH JUDICIAL DIST COURT OF NEV, 127 NEV 842 264 P 3d 1161, 127 NEV Adv Rep 75, 2011 NEV LEXIS 90 (NEV. 2011)	

SMITH V. DAY, CASE NO 46036, unpublished Order of
Reversal and Remand, filed February 13, 2007

CRISWELL V. CRISWELL, NO D-07-385805, Nevada
Supreme Court No. 51632 (dismissed after appellate
settlement conference)

SIMON V. McCLURE, No 50740, (10)
unpublished Order of Remand, December 16, 2009

STATUTES AND RULES

NRS 125a.085	(3B, 4, 5, 9, 11, 15)
NRS 125a.065	(3B, 4, 5, 11, 12, 15)
NRS 34.160	(6, 7, 10,)
NRS 34.320	(6)
NRS 34.330	(6)
NRS 125a.315 1(a)	

TABLE OF CONTENTS

OPINIONS BELOW	1
JURISDICTION.....	2
CONSTITUTIONAL AND STATUTORY PROVISIONS INVOLVED	3, 3A, 3B
STATEMENT OF THE CASE	4
REASONS FOR GRANTING THE WRIT	11
CONCLUSION.....	16

INDEX TO APPENDICES

APPENDIX A
ORDER DENYING PETITION FOR WRIT OF MANDAMUS OR PROHIBITION (Filed MAR 29 2024)
APPENDIX B
AMENDED ORDER DENYING PETITION FOR WRIT OF MANDAMUS OR PROHIBITION (Filed MAY 13 2024)
APPENDIX C
ORDER DENYING REHEARING (Filed MAY 14 2024)
APPENDIX D
ORDER DENYING EN BANC RECONSIDERATION (Filed JUN 18 2024)
APPENDIX E
ORDER GRANTING MOTION (Filed JUL 8 2024)
APPENDIX F

IN THE
SUPREME COURT OF THE UNITED STATES

PETITION FOR WRIT OF CERTIORARI

Petitioner respectfully prays that a writ of certiorari issue to review the judgment below.

OPINIONS BELOW

☐ For cases from **federal courts**:

The opinion of the United States court of appeals appears at Appendix _____ to the petition and is

☐ reported at _____; or,
☐ has been designated for publication but is not yet reported; or,
☐ is unpublished.

The opinion of the United States district court appears at Appendix _____ to the petition and is

☐ reported at _____; or,
☐ has been designated for publication but is not yet reported; or,
☐ is unpublished.

☒ For cases from **state courts**:

The opinion of the highest state court to review the merits appears at Appendix _____ to the petition and is

☐ reported at _____; or,
☐ has been designated for publication but is not yet reported; or,
☐ is unpublished.

The opinion of the Nevada Supreme Court court appears at Appendix A to the petition and is

☐ reported at _____; or,
☐ has been designated for publication but is not yet reported; or,
☒ is unpublished.

JURISDICTION

☐ For cases from **federal courts**:

The date on which the United States Court of Appeals decided my case was _____.

☐ No petition for rehearing was timely filed in my case.

☐ A timely petition for rehearing was denied by the United States Court of Appeals on the following date: _____, and a copy of the order denying rehearing appears at Appendix _____.

☐ An extension of time to file the petition for a writ of certiorari was granted to and including _____ (date) on _____ (date) in Application No. ____ A ____.

The jurisdiction of this Court is invoked under 28 U. S. C. § 1254(1).

☒ For cases from **state courts**:

The date on which the highest state court decided my case was _____
A copy of that decision appears at Appendix A. 5/13/21 MAY 13, 2024 (J.C.)

☒ A timely petition for rehearing was thereafter denied on the following date: 6/18/24
(J.L.) JUNE 18, 2024, and a copy of the order denying rehearing appears at Appendix B.

☐ An extension of time to file the petition for a writ of certiorari was granted to and including _____ (date) on _____ (date) in Application No. ____ A ____.

* SEE APPENDIX E

The jurisdiction of this Court is invoked under 28 U. S. C. § 1257(a).

CONSTITUTIONAL AND STATUTORY PROVISIONS INVOLVED

CONSTITUTION OF THE UNITED STATES

AMENDMENT 14

ALL persons born or naturalized in the United States and subject to the jurisdiction thereof, are citizens of the United States and of the state wherein they reside, No state shall abridge the privileges or immunities of citizens of the United States; nor shall any state deprive any person of life, liberty or property, without due process of law, nor deny any person within its jurisdiction the equal protection of the laws,

ARTICLE 6

The Constitution, and the laws of the United States, which shall be made in pursuance thereof, and all treaties made, or which shall be made, under the authority of the United States, shall be the Supreme Law of the land, and the judges in every state shall bound thereby anything in the Constitution or laws of any state to the contrary notwithstanding.

ARTICLE 5

The Congress, whenever two-thirds of both houses shall deem it necessary, shall propose amendments to this Constitution, or, on the application of the legislatures of two-thirds of the several states, shall call a convention for proposing amendments, which, in either case, shall be valid to all intents and purposes, as part of this Constitution, when ratified by the legislatures of three-fourths of the several states, or by conventions in three-fourths thereof, as the one or the other mode of ratification may be proposed by the Congress; provided that no amendment which may be made prior to the year one thousand eight hundred and eight shall in any manner affect the first and fourth clauses in the ninth section of the first Article; and that no state, without its consent, shall be deprived of its equal Suffrage in the Senate.

AMENDMENT 6

In all criminal prosecutions, the accused shall enjoy the right to a speedy trial, by an impartial jury of the state and district wherein the crime shall have been committed, which district shall have been previously ascertained

Con'td (3A)

by law, and to be informed of the nature and cause of the accusation; to be confronted with the witnesses against him; to have compulsory process for obtaining witnesses in his favor, and to have the Assistance of Counsel for his defense.

NEVADA REVISED STATUTES

NRS 125.085 "Home State" defined.

The state in which a child lived with a parent or a person acting as a parent for at least 6 consecutive months, including any temporary absence from the state, immediately before the commencement of a child custody proceeding.

NRS 125.065 "Commencement"

The filing of the first pleading in a proceeding. (a motion)

STATEMENT OF THE CASE

This is an action that involves Jurisdiction per the Uniform Child Custody Jurisdiction Act (UCCJEA). The UCCJEA has been adopted by both Nevada and California. In this matter there was never a relevant proceeding for purposes of "Home State" determination. According to Nevada Revised Statute (NRS), (NRS 125a.085) "Home State" defined, "Home State" means: (1.) The state in which a child lived with a parent or a person acting as a parent for at least 6 consecutive months, including any temporary absence from the state, immediately before the commencement of a child custody proceeding. (NRS 125a.065) "Commencement" defined, Commencement means: The filing of the first pleading in a proceeding. (a motion). The Petitioner JONDREW LACHAUX, the mother and the children in this matter was away from Nevada from June of 2014 until March 26, 2015. Three of the oldest children never returned to Nevada during that time. (Please see ④ FRIEDMAN V. EIGHTH JUDGE)

(Please see FRIEDMAN v. S., EIGHTH JUDICIAL DIST CT NV)

The parents however did make a trip back to Nevada in October for a scheduled medical appointment, then they went right back to California. The Department of family services was fully aware of this 8 month period, but yet the Department of Family services or their counsel, the Clark County District Attorney, never mentioned in court, on the record or in any writs that this matter may have jurisdiction issues. So on 4/15/15, the commencement date of the proceedings, both NRS 125a.085 and NRS 125a.065 should have been applied. The test for jurisdiction is applicable at the commencement of the custody proceeding and a court either has continuing exclusive jurisdiction, or it doesn't. Since the children and the parents were living in California for over 6 months, the only proper state for the filing of the custody action should have been California and not Nevada. Under the clear terms of the law, the lower court has rendered rulings which are not entitled to

(Please see FRIEDMAN vs. EIGHTH JUDICIAL DIST CT NV)
full faith and credit recognition here or elsewhere. The Petitioner did file a writ of Mandamus and prohibition first with the lower court, then with the Nevada Supreme Court. Both were not granted causing the severely deteriorating relationships between the children and the Father to continue. This Honorable Supreme Court now has jurisdiction over the extraordinary remedies of writs of Mandamus, Prohibition and Certiorari. This Honorable court has jurisdiction to issue a Writ of Certiorari, allowing the writ of mandamus to compel the district to perform a required act, or to refrain from performing a prohibited act, such as one beyond its subject matter jurisdiction. Specifically, "A writ of Mandamus is available to compel the performance of an act which the law requires as a duty, resulting from an office, trust or station, or to control an arbitrary or capricious exercise of discretion. It is the appropriate remedy to compel performance of a judicial act. (NRS 34.320)

It's counterpart, a writ of prohibition, acts to prevent a court from transcending the limitation of its jurisdiction. Both writs are to be issued when there is no plain, speedy and adequate remedy in the ordinary course of law. The Petitioner has no plain, speedy and (NRS 34.160) adequate remedy at this time. The UCCJEA regulates subject matter jurisdiction. Subject Matter jurisdiction refers to a subject as to which a court either does, or does not, have jurisdiction to hear depending entirely on something external to the case before it. If the external thing is lacking, then there is "a jurisdictional defect of the fundamental type, where there is an absence of power to hear or determine the case."

Solis-Ramirez v. Eighth Judicial Dist. Court ex rel. County of Clark, 112 Nev. 344, 913 P.2d 1293 (1996)

Goi coechea v. Fourth Judicial Dist. Court ex re. County of Elko, 96 Nev. 287, 607 P.2d 1140 (1980)

Hickey v. District Court, 105 Nev.
729, 782 P.2d 1336 (1989)
NRS 34.160; NRS 34.330

Swan v. Swan 106 Nev. 464,
796 P.2d 221 (1990)

State Indus. Ins. System v. Sleeper,
100 Nev. 267, 269, 679 P.2d 1273,
1274 (1984) and Shisler v. Sanfer
Sport Cars, Inc., 83 Cal. Rptr. 3d 771,
775 (Ct. App. 2008) (quoting
Abelleira v. District Court of Appeal,
Third District, 109 P.2d 942, 947
(Cal. 1941))

In Nevada, jurisdiction is tested at the
moment that an "action" or "proceeding"
(a motion) is filed. This is noted in the
relevant statutes and appears to be the
uniform rule in the United States. The rule
is made clear by the simple statement in
the Official comments to the UCCJEA:
"Jurisdiction is a snapshot taken at the
moment of filing the motion, in this

case the filing date was 4/14/15 followed by the hearing date of 4/15/15. Everyone had lived in California for over 6 months, although the mother was under a lease with a home in North Las Vegas, the Father and her both went to California with plans to move to California. So we can't use a significant connection in this matter. Per the statute (NRS 125A.085), the RESPONDENTS cannot create subject matter jurisdiction when it does not exist. Due to the courts actions and rulings, it entertained custody, termination of parental rights, and adoption proceedings even though they did not have jurisdiction, is undefensible as a matter of law. The lower court clearly lacked subject matter jurisdiction to hear any such motions or entertain any custodial orders. Petitioner, should not have had to lose contact with the most precious relationships and suffer severe unfair procedural due process. As a result, Petitioner has spent the last 8 years fighting to be reunited with his amazing children. Upon the filing of the first Writ of Mandamus and Prohibition, the trial judge Frank

Sullivan retired from the bench. The new judge David Gibson Jr. never gave the Petitioner a chance to speak during a video hearing of the first writ of mandamus and prohibition. Petitioner then filed the same writ directly to the Nevada Supreme Court in which the writ was not granted. The Nevada Supreme Court did not even order a copy of the requested, March 29, 2023 hearing. The filing date of that Writ of Mandamus and Prohibition was 2/8/2023 4:50pm. On 2/8/2024 Petitioner filed the direct writ of Mandamus and Prohibition to the Nevada Supreme Court per NRS 34.160, NRS 34.320 and NRS 34.330. This process has resulted in multiple appeals that should have never been necessary. See Smith v. Day, Case No. 46036, unpublished Order of Reversal and Remand, filed February 13, 2009; ~~Ch~~ Criswell v. Criswell, No. D-07-385 805, Nevada Supreme Court NO. 51632 (dismissed after appellate settlement conference); Simon v. McClure, No. 50740, unpublished Order of Remand, December 16, 2009.

REASONS FOR GRANTING THE PETITION

As a call for the Honorable United States Supreme Court to exercise the Honorable Courts Supervisory power, by granting this Petition the Honorable Supreme Court will allow the healing process to start with these severely deteriorating relationships between the children and their Father. Per the Nevada law and the rule of the UCCJEA, this Petition being granted will stop and avoid any future matters with this controversy. NRS 125a.085 "Home State" defined and NRS 125a.065 "Commencement" are the two main factors as to applying the relevant facts at the moment of the statutory test. It's not the Petitioner's fault that these facts were overlooked, the Respondents clearly had knowledge of the time frame and the law. Yet, they decided not to mention anything relating to NRS 125a.085, however, the Father doing all that he can without counsel, did in fact discover that the lower court for sure lacked subject matter jurisdiction to hear any motions or enter any custodial orders. Granting this petition will expose how respondents just saw financial gain due to the number

of children in this matter. Respondents were given too much power and caused much damage. They, the Respondents should have held a relevant proceeding for purposes of Home State determination, but they did not. On April 15, 2024, Respondents made the ultimate decision to destroy the relationships between the children and the parents. The lower Nevada Court erred in asserting jurisdiction, by the Honorable Supreme Court of the United States granting this petition, all parties can be held accountable for breaking up these amazing children from their siblings, family and parents. If this petition is granted it will demonstrate to the nation that regardless of the lack of counsel, assistance of counsel, which has allowed the Petitioner to be disadvantaged in this matter, the fact that the judicial system can and will work as long as you stay the course to present your facts will speak volumes to the American people. Petitioner prays for the conscience of this Honorable Court of the United States to finally resolve this sensitive matter with

common standards of decency and fairness. During this process, the Father did mention to the Trial Judge Frank P. Sullivan that he had a connection to two tribes, due to lost of family records in the south, Petitioner was unable to have his children protected under (ICWA) Indian Child Welfare Act, which now magnifies a major point, Petitioner is of African descent, A descendant of African slaves. Petitioner's Maternal Grand Father is from the MONTE VERDI FAMILY SLAVES in Texas. If this Petition is granted, it could be used to foster a well needed ACT, "African Children Welfare ACT" that could establish better protections for families across this great nation. Due to slavery African families were separated at very high rates, this country could use "A CWA" to keep children, descendants of slaves from being separated by the Family Court Systems in America. At least try to keep children with their blood family. In addition, As to (Amendment 6) of our United States Constitution, See

Ritter v. Douglas, the provision expressly gives the legislature the full power and authority to alter or reform the law (ART. 5) whenever in their judgement the public good may require it. (Amendment 6) should include the right to have assistance of counsel for family court matters as well. All American families of ~~today~~ today and the future deserve this ultimate protection to be guaranteed by our United States Constitution. Uniformity among all of ~~the~~ the United States dealing with family court matters will result in a grand achievement for the United States Supreme Court. and for the people, the citizens of this country. I miss all of my children so much, I have faith in America, I have faith that soon, they will be able to run and hug me, one day soon. This writ should be granted now to serve the best interest of all of my children in this matter. I LOVE all of my children too much not to keep this litigation process moving forward effectively. Article 5, Article 6, and Amendment 6 could and would **save** this Nations Family

Court system and many future families the stress and waste of court resources by making it a right to have effective assistance of counsel for all family court matters associated with custody of children and jurisdiction. This writ should be granted to pay homage to all of my African Slave descendants and all of the African slave families that were separated and never united again. This writ should be granted to illuminate the injury and injustice to my family. This writ should be granted to gather all of my amazing children in union to correct the unforeseeable, that has been a major mistake, caused by the Department of Family Services of Clark County, Nevada. This writ of Certiorari should be granted so that all aggrieved parties could be protected under the equal protection of the laws, the 14th Amendment of our United States Constitution. In this matter, Petitioner was not equally protected under Nevada's Revised Statutes, NRS 125a.085 and NRS 125a.065. This Petition should be granted.

CONCLUSION

The District Court's actions that it entertained, custody, termination of parental rights, adoption proceedings and all associated motions even though both the children and the parents had lived in California for over 6 months is indefensible as a matter of law. The lower court lacked subject matter jurisdiction to hear any such motions or enter custodial orders pursuant to NRS 125a.085, NRS 125a.065. The UCCJEA prioritizes "Home State" jurisdiction. Wherefore, Petitioner, JONDERU LACHAUX request that a writ of Certiorari issue and be granted. Petitioner, PRAY's for relief.

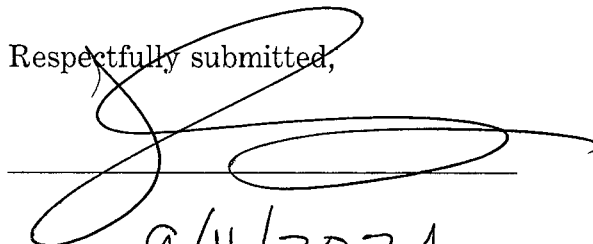
Respectfully submitted,

Date: 9/11/2024

CONCLUSION

The petition for a writ of certiorari should be granted.

Respectfully submitted,

A large, stylized handwritten signature in black ink, written over a horizontal line.

Date: 9/11/2024