

24-602

No. 24A22

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SUPREME COURT OF THE UNITED STATES

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RICHARD RYNN, next friend and parent of MR, a  
minor,

Petitioner

v.

Gregory A McKay, in his official capacity as  
Director of the Arizona Department of Child Safety,  
and personally, et al

Respondents

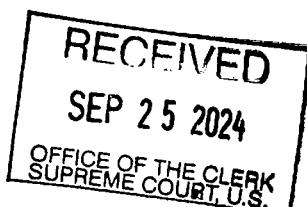
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Petition for a Writ of Certiorari to  
The United States Court of Appeals  
For the Ninth Circuit

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Richard Rynn  
1299 E. Marlin Drive  
Chandler, AZ 85286  
(520)510-6370  
richardrynn@yahoo.com  
Petitioner/Plaintiff Pro Se

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### **Questions Of Issues Presented**

1. Critical contradictions between district court decision *an order from doctor* and state court Division One decision of no doctor order arising case as a basis to vacate and reopen case for fraud.
2. Deprivation of rights under color of law by private companies seizing parents child under direction of the state without obtaining legal custody. (docket 62, Exhibits A-C)
3. Deprivation of Due process court denying the filing of further pleadings and refusing to address critical new evidence of deprivation of rights under color of law and fraud.

### **PARTIES TO PROCEEDING**

State of Arizona, Department of Child Safety, Gregory Mckay, Desert Vista Behavioral Health Center, UHS, Quail Run Behavioral Health, La Frontera Empact

### **DIRECTLY RELATED CASES**

Rynn v Craig Jennings, Et Al Arizona District Court Case No. 2:24-cv-02674-PHX-RM

Quail Run v Richard Rynn Maricopa County Superior Court Case No. LC2017-000316 (10/27/2017)

RYNN v Daniel Washburn, Department of Child Safety U.S. Supreme Court Case No.24A136--pending  
Pinal County Superior Court  
Case No. S1100JD201700116--pending

Rynn v First Transit, Et Al, Ninth Circuit Case No. 23-15869 U.S. Supreme Court  
Case No. 24A17-----pending

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**Petition for writ of Certiorari seeks review  
under Rule 60(b)-(d), 60(d)(3), and 28 U.S.C. § 1651  
to Vacate Injunction from District Court and  
Pinal County Superior court.**

**Opinions Below**

Decisions of Ninth Circuit Court of Appeals  
Denial of rehearing, April. 23, 2024

Ninth Circuit Court of Appeals  
Memorandum, Affirmed Oct..23, 2023

District Court Filed March. 31, 2023  
Order Docket No. 112

**Jurisdiction**

Appellant timely mailed an application for injunction relief to the United States Supreme Court on May 22, 2024. The Supreme Court requested the Appellant to refile the pleadings to comply with court rules on May 29, 2024. Appellant mailed a second application to vacate on June 7, 2024. The Supreme Court clerk informed the appellant on June 11, 2024, that the application to vacate needed to be filed first in the Ninth Circuit. Consequently, Appellant refiled motion

to vacate in the Ninth Circuit and Ninth Circuit refused to answer. Appellant files Application to vacate due to obstruction of justice, Ninth circuit and district court refusal to accept further filings, refusal to review critical new evidence of fraud on the court damaging integrity of the courts. Appellant's rehearing in the Ninth Circuit Court of Appeals was denied on April 23, 2024. Ninth Circuit refuses to rule on Appellants additional filings.

The appellant timely filed application to vacate the injunctions and on September 19, 2024 filed this Application for Certiorari. This court has jurisdiction per 28 U.S. Code § 1253 and 28 U.S.C. § 1651 (All Writs Act) for direct appeal from the denial of vacating the defective custody injunction that was not served, denial of due process rights, and vacating the district court's injunction preventing further briefs on this matter while factual disputes remain unresolved.

This application seeks to vacate injunctions, correct facts of doctor's discharge order in dispute between district court and state courts that voids judgments based on fraud, contradictions between courts factual findings of doctors orders on April 24, 2017, newly discovered evidence, state court omitting doctors discharge order, deprivation of constitutional rights under color of law, abuse of process, insufficient service of process, or stay proceedings until the state case is addressed see pending U.S. Supreme court Case No. 24A136 Re Dependency of M.R. The application was filed in the Ninth Circuit, which declined to respond, citing the case as closed and refusing to accept further filings. This application is now submitted to the United States Supreme Court of Appeals for the Ninth Circuit.

Petitioner Appellant Rynn petitions under Civil Rule 60(b)-(d) and Civil Rule 60(d)(3) and pursuant to Rule 23 for application to vacate void judgments based on

new evidence and grounds of fraud, perjury, abuse of the process, interference in custody, violations of constitutional rights, insufficient service, and insufficient process of service, breach of contract.

Civil Rule 60(b)-(d) and Civil Rule 60(d)(3) supersede all rules of the court and authorizes immediate relief from void judgments, to vacate injunction issued by Arizona District Courts refusal to address new evidence and fraud and refusal to accept further filings from Appellant. This request is based on fraud on the court, necessitating the filing of additional pleadings that were unjustly denied by the Court of Appeals for the Ninth Circuit and the district court (docket 112). The Ninth Circuit failed to respond to Appellants Motion to vacate.

The Ninth Circuit and District Court's decisions have been rendered void based on new evidence and state court decisions from Maricopa County Superior court

Quail Run v Richard Rynn Case No. LC2017-000316

(10/27/2017) Reverse and Remand based on hearsay, that contradict this court's prior rulings, as well as fraud on the court. The U.S. Supreme Court instructed the Appellant to first file for relief in Ninth Circuit court. Ninth Circuit court failed to respond to all of Appellants motions without cause and without addressing merits in violation of due process.

Appellant filed the following motions for relief and notes in Ninth Circuit.

1. Motion to vacate and stay proceedings on June 12, 2024. (Dk 30)
2. Motion to recall the mandate on June 13, 2024. Dk 31
3. Notice on June 21, 2024. (Dk 32)
4. Motion to expedite ruling on June 28, 2024. (Dk 33)
5. Revised application under Rule 60(b)-(d) and 60(d)(3) to vacate void judgments based on fraud, filed on July 29, 2024. (Dk 35)
6. Notice lower court decision voiding this court's decisions due to fraud, state court subpoena to district court John Tuchi and response from John Tuchi.
7. Motion for Clarification filed August 8, 2024

Ninth Circuit failed to correct fraud based on personal knowledge and newly discovered evidence regarding insufficient service of process and lack of personal jurisdiction (docket 62, Exhibits A-C). The defendants defective *ex parte* custody injunction, which was not served to plaintiff renders previous rulings void and necessitates review and vacating of these decisions. Appellant seeks to file additional pleadings for a new trial, based on new evidence and fraud on the court, in accordance with ARS Rule 43.1.

### **Standard of Review**

Three basic categories of decisions are reviewable on appeal, each with its own standard of review:

- Decisions on questions of law are reviewed *de novo*.
- Decisions on questions of fact are reviewed for clear error.
- Decisions on matters of discretion are reviewed for abuse of discretion (*Pierce v. Underwood*, 487 U.S. 552, 558 (1988)).

### **Findings of Fact**

Findings of fact and other “essentially factual” issues are reviewed for clear error (*Husain v. Olympic Airways*, 316 F.3d 829, 835 (9th Cir. 2002)). The Federal Rules of Civil Procedure state that a court of appeals “must set aside” a trial court’s “findings of fact” when they are clearly erroneous (Fed. R. Civ. P. 52(a)(6)).

### **Conclusions of Law**

Conclusions of law are subject to *de novo* review by the appellate court. *De novo* means “from the beginning” or “anew” in Latin, giving no weight to the trial court’s conclusions.

### **Abuse of Discretion**

An issue on which the trial court has discretion will be reviewed for abuse of discretion (*Hernandez v. County of Tulare*, 666 F.3d 631, 636 (9th Cir. 2012)). This standard is often used when the issue concerns the court’s ability to administrate cases and manage its docket. The court reviews the lower court record to determine whether the trial court applied the appropriate standard of review. Reversal is warranted if the court did not address evidence from the appellant, failed to address fraud, due process violations, constitutional rights violations, civil rights violations, interference in custody, abuse of process, and available relief under AZ Rule 60 (b)(1)(2)(3)(6)(d)(1)(3). This court should apply this standard, vacate, reverse, and remand.

## **Constitutional Provisions Involved**

**Rynn's rights under the Fifth and Fourteenth**

**Amendments were violated, along with deprivation of constitutional rights under color of law under Section 242 of Title 18 and violations of Section 1983 of Title 42. These include due process violations, parental rights violations, interference with legal custody, and violations of AZ Rule 65 and Rule 48.**

## **Statement of the Case**

**Petitioner Rynn respectfully submits this application to the Supreme Court to vacate the injunction issued by the Ninth Circuit and District Court refusing to accept further filings on this case.**

**Petitioner initially filed this case in state court, which was transferred to district court (docket 1). The case was previously appealed to the Ninth Circuit and by certiorari to the U.S. Supreme Court. Due to Fraud and**

critical new evidence discovered in 2022 regarding the insufficient service of the April 28, 2017, ex parte custody injunction provides the basis for a new trial.

Petitioner filed a motion for a new trial under Rule 60 in district court based on fraud and new evidence (dockets 110, 108, 109, 111). The district court denied these motions without addressing the fraud and new evidence (docket 112) and issued an injunction preventing further filings on the case.

The Ninth Circuit's failure to address the district court's errors and the unresolved factual disputes requires this court to vacate, reverse, and remand the case for further proceedings.

Appellant appealed to the Ninth Circuit Court of Appeals to correct falsification of facts, vacate the district court's injunction, address the unresolved factual matters of insufficient service of process, fraud,

vacate juvenile case due to fraud or stay proceedings until state case resolved, and remand the case for further proceedings in light of the newly discovered evidence and allegations of fraud on the court. The Ninth Circuit dismissed under summary affirmance and issued an injunction preventing further filings on the case.

**Motion to Reconsider and Vacate Void**

**Judgments Due to Fraud**

The district court erred the threats on April 24, 2017 came from defendant Quail Run not Richard Rynn. see Maricopa Superior court case No. LC2017-000316. Due to the nature of the grossly false accusations on a petition and the engagement of prohibited ex parte communications and the lack of disclosure of the ex parte communications and false accusations by state

DCS failing to serve Appellants to the state juvenile case in violation of due process.

**District court decisions** are rendered void due to reliance on false reports from Quail Run and DCS to Pinal County Superior Court Case No. S1100JD201700116 decisions that are void based on false reports from Quail Run and DCS in direct conflict to Maricopa Superior court decision case No. LC2017-000316 (October 27, 2017), of facts of Fraud of Marcella not returned home as legally and contractually agreed from Quail Run false reports in year 2017 is Grounds for Vacating Judgments and ground for claims of fruad, abuse of process, breach of contract, etc.

Lower courts failed to review evidence from the Maricopa County Superior Court, which dismissed the accusations from Quail Run as false substantiates

claims of fraud before the court and defendants not credible.

The Superior Court's decision in case No. LC2017-000316 (October 27, 2017), which ordered "reverse and remand" and not originating from Richard Rynn. This discrepancy supports this position. As established in *Savord v. Morton*, 235 Ariz. 256, 330 P.3d 1013 ¶ 11 (Ct. App. 2014), the *ex parte* LAWH decision was based on hearsay statements from a third party that were "completely unverified."

The Glendale City Court's *ex parte* decision, dismissed in Superior Court case No. LC2017-000316 was similarly flawed, relying on reports from Quail Run that did not originate from Richard Rynn. Quail Run's reports to the Glendale Court were based on submissions from another party, directly contradicting the false reports provided from the Department of

Child Safety on April 28, 2017 to the juvenile court ex parte without notice until discovered in year 2022. The Memorandum Decision by district court is void due to reliance on false reports from Quail Run and La Frontera in April 2017. The Department of Child Safety was aware of the falsity of these reports from Quail Run and La Frontera but continued to present grossly inaccurate information to the courts in bad faith, without disclosing the truth to Appellant.

The ex parte order issued on April 28, 2017, in Pinal County Superior Court Case No. S1100JD201700116, was granted without notice, without disclosure of the petition of accusations in violation of due process, and was based on grossly false and unverified reports. The order failed to meet the requirements set forth under ARPOP, Rule 38(g).

Consequently, ex parte injunction on April 28, 2017, and subsequent juvenile court decisions

**must be vacated for failing to meet Standard of proof of irreparable injury.** The decisions of courts are void due to reliance on egregiously false accusations from the Defendants, which were not disclosed to plaintiff until 2022 and this fact not addressed on merits. Given the complexity of the fraud involved, an evidentiary hearing is necessary to resolve disputed facts and adjudicate the case on its merits. No discovery or trial has taken place in this matter.

The courts decisions must be vacated due to the profoundly fraudulent nature of the accusations. Disputable facts remain unresolved, including procedural abuse and insufficient service of process from State Defendants in the juvenile case. Additionally, the DCS failed to disclose prohibited ex parte communications with DCS. and juvenile court judge Daniel Washburn on April 28, 2017 thereby undermining its authority to issue judgments in this

matter. Case cannot proceed in light of the severe damage caused by the false accusations against Appellants.

Therefore, it is imperative to vacate the juvenile court's rulings and either reverse, remand, or stay proceedings until the resolution of the state juvenile case. Juvenile case pending in U. S. Supreme Court to vacate based on fraud, perjury, insufficient service of process, lack of legal representation, inadequate representation, and procedural failures.

### **Reasons for Vacating District Court Injunction**

Declaratory relief required to vacate the district court's restrictions on filing further briefs in a case with unresolved factual matters such as fraud and a defective custody injunction (docket 62, Exhibits A-C) due to fraud and insufficient service of process. The court failed to review new evidence of insufficient

service and fraud discovered in 2022, which changes the final judgment and substantiates fraud on the court. Interference with parental rights and custody rights occurred, and the court failed to correct factual flaws in judgments affecting the case, causing a manifest injustice. Judgments tainted by fraud, particularly the April 28, 2017, ex parte custody injunction (docket 62, Exhibits A-C), are not legally enforceable due to insufficient service of process.

**The petition and order granted ex parte on April 28, 2017, was not disclosed to Rynn until discovered in year 2022, violating due process.**

#### **Procedural History of the Case**

The case arose on April 24, 2017, during the discharge of Plaintiff Rynn's daughter, Marcella (M.R.), from Quail Run facility. Defendants Quail Run and La Frontera knowingly and intentionally acted with malice under color of law as state actors by seizing and

imprisoning Marcella, a competent sixteen-year-old, during discharge, thereby interfering with Plaintiff Rynn's custody rights and violating constitutional rights by deprivation of rights under color of law. (docket 110, pages 4-6).

State defendants filed a juvenile court petition on April 28, 2017, based on fraudulent and maliciously false accusations. The April 28, 2017, ex parte order was obtained without notice, violating ARS Rule 65 (b)(1)(A) and Rule 48 requirements for an ex parte order. The April 28, 2017, petition and ex parte order are void due to insufficient process of service and were discovered by Rynn in 2022 during an appeal, violating due process (dockets 108, 109, 110).

The district court denied Plaintiff's motion for a new trial, motion for summary judgment, and motion for recusal without addressing the fraud and new evidence

of insufficient service (docket 112). The Ninth Circuit Court of Appeals denied Plaintiff's opening brief and granted Defendants' motion to dismiss by summary affirmance without addressing the merits of new discovered evidence (Ninth Circuit dockets 6, 8, 10, 12, 13, 14, 15, 16, 17, 18, 19, 20, 21, 22, 23, 25, 26, 27).

### **Legal Standard**

A complaint must include "a short and plain statement of the claim showing that the pleader is entitled to relief" to give the defendant fair notice of the claim and its grounds. While detailed factual allegations are unnecessary, a well-pleaded complaint may proceed even if the facts seem improbable to a savvy judge, and recovery appears remote and unlikely.

### **LEGAL ARGUMENT IN SUPPORT OF VACATING DISTRICT COURT INJUNCTION AND STAY OF PROCEEDINGS PENDING STATE CASE RESOLUTION**

This request arises from Ninth Circuit's failure to address the necessity of vacating the District Court's

injunction in light of new evidence of fraud, and falsification of facts which necessitates additional pleadings. The District Court's refusal to accept further pleadings on this matter has resulted in damaging integrity of court by not correcting falsification of facts. (Docket No. 112).

District Court's denial of a new trial (Docket No. 112), despite the discovery of critical new evidence indicating insufficient service of custody injunction and fraud, constitutes an abuse of discretion. There are significant grounds for a new trial (Docket No. 110).

See *Ulrich v. Butler* case # 09-7660, U.S. Supreme Court, unconstitutional restrictions filing briefs.

**Per Federal Rule 25(4), the clerk must not refuse to accept for filing any paper.**

Fatal errors in judgments necessitate correction. Defendants interfered with legal custody and did not obtain legal custody of Plaintiff's daughter due to the

failure to serve Plaintiff and his daughter. (Docket No. 110, pg. 8 line 11, pg. 7 line 23), providing a basis for a new trial.

#### **DEPRIVATION OF CONSTITUTIONAL RIGHTS UNDER COLOR OF LAW**

The district court decision Richard acted in accordance to doctors orders. Quail Run Doctor ordered Richard to discharge his daughter to take home as contractually agreed and directed by Dr. Tan Fermo of Quail Run, with the discharge order requiring daughter. to return home on April 24, 2017. Additionally, in dispute the Department of Child Safety did not arrive at the Quail Run facility and did not meet with Rynn on April 24, 2017 in relation to 183 claims of deprivation of constitutional rights under color of law as indicated by police report: (doc. 109 pg. 3, filed 3/27/2023) and discharge contract.

**Notably district court failed to make a decision on statement of facts with facts remaining in dispute in violation of due process. (doc. 109 with exhibits)**

See decision August 16, 2018 page 2, lines 3-6

*“was scheduled to be released today, Gelliana*

*and Richard came to the facility to pick her up”*

The Court decisions are unsupported by the evidence, erred in failing to correct the falsification of facts, despite the Appellants' personal knowledge of the disputed issues. The court neglected to address the core claims underlying the Appellants' lawsuit, including assault, false imprisonment, and interference with custody, all occurring under the color of law during a doctor-ordered discharge. These actions resulted in the deprivation of constitutional rights and the breach of a written contractual agreement. Specifically, the court referenced a juvenile court case without providing a factual basis, clarity, specific names, or dates, and

without acknowledging that Rynn was not served notice of the juvenile case. The defendant, Quail Run, conspired with La Frontera to initiate a court injunction, while the state commenced an *ex parte* juvenile court case involving only one party and without providing notice to Rynn. The injunction obtained by Quail Run was ultimately reversed and remanded based on fraud.

The defendant state failed to serve the Appellant and did not disclose the basis for the juvenile court case, which lacked jurisdiction over Rynn. Rynn only became aware of this prohibited *ex parte* communication and *ex parte* juvenile court petition in January 2022, upon reviewing the juvenile court docket. The juvenile case was baseless, relying on the false claim of "*no discharge date*," despite the fact that Appellants daughter discharge was confirmed by the district court's decision on August 16, 2018. (doc. 109 pg. 1-10, with exhibits)

**Critical contradictions between district court decision August 16, 2018, and state Division One court's decision on July 18, 2024 of facts arising case is a basis to vacate and reopen case for fraud.**

A critical contradiction exists between the District Court's decision:

*“went to retrieve (pick daughter up) M.R., who was under an order from her doctor to be discharged. At the discharge meeting “*  
*(Dr. Tan Fermo of Quail Run ordered M.R. to be discharged home),*

and the Arizona Court of Appeals Division One Case No: 1 CA- CV 23-0392 July 18, 2024 Decision which stated:

*“attempted to remove her despite being warned it was not safe for her to leave”, (due to no discharge date).*

Notably, Division One failed to identify any individual responsible for making these false accusations.

The state court is basing decision on Richard not supposed to remove his daughter in contradiction to

district court basing decision on doctor ordered Richard to remove his daughter substantiating deceit, malicious conduct, and fraud on the court requiring vacate and remand for further proceeding and an evidentiary hearing to resolve critical disputable facts.

Court failed to correct the fact that the state Department of Child Safety (DCS) did not arrive to the Quail Run facility on April 24, 2017. The court's failure to recognize that the individual was a private actor operating under the color of law constitutes a significant error, which invalidates the District Court's decisions.

The Defendants did not obtain legal custody of the Appellants daughter due to the actions of Quail Run and La Frontera on April 24, 2017. These entities, acting under the color of law on behalf of the state, wrongfully seized the Appellant's daughter, thereby

depriving the Appellant of constitutional rights, including liberty and custody rights.

The actions taken by Quail Run and La Frontera, based on a phone call from the state, were without legal cause or proper custody authorization. As the Department of Child Safety did not arrive at the Quail Run facility on April 24, 2017, the Defendants' actions were without legal justification and resulted in the deprivation of the Appellant's rights under color of law. (Docket No. 110, pg. 7 pg. 2 line 7, Docket No. 110, pg. 8 line 11, pg. 7 line 23).

New critical evidence discovered in 2022 (Docket No. 109, pg. 10 line 4-10) indicates DCS failed to disclose false accusations of "*no discharge date*" and failed to serve Rynn with a summons or a complaint in juvenile court action (Docket No. 62, Ex. A-C), in violation of due process and per Rule 65 (4) (2) (Docket No. 110, pg.

13 line 1-5, pg. 6) and Federal Rule 12 (4)(b). The constitutional challenges to the judgments have not been addressed. Defendants do not dispute that the judgments are void due to fatal errors requiring correction through a motion for a new trial, which was denied without an evidentiary hearing, thereby harming the integrity of the court. See *Beltran v. Santa Clara County*, 514 F.3d 906 (9th Cir. 2008).

Appellant introduced critical new facts substantiating void judgments from critical new evidence of fraud and insufficient service of the April 28, 2017 ex parte order, discovered in year 2022, which were not available earlier in 2018 during the commencement of proceedings. This substantiates a failure to follow due process requirements necessary to obtain legal custody and an unfair trial. The court's failure to address critical new evidence that judgments obtained by

Defendants are void due to their failure to serve Plaintiff and daughter (Docket No. 62, Ex. A-C).

State Defendants' failure to disclose to District Court or Plaintiff that they failed to serve Plaintiff and Plaintiff's daughter constitutes abuse of process, substantiating fraud, interference in legal custody of Plaintiff's daughter, causing prejudicial harm to Plaintiff, and damaging integrity of the court.

Defendants' failure to disclose state Defendants' violation of Rule 65 (4) (2) and the violation of due process required for a fair trial (Docket No. 110, pg. 13 line 1-5, 19-20; Docket No. 109, pg. 7-9, with exhibits).

1. Not addressed DCS non-compliance with service requirements, specifically its failure to serve the ex parte judgment issued on April 28, 2017, as well as the failure to serve the Plaintiff with the April 28, 2017 petition and juvenile court summons, in

violation of Rule 65(4)(2). (Docket No. 110, pg. 12-line 24-25, pg. 12 line 8-9, pg. 13 line 21-22).

2. Plaintiff did not receive notice of the juvenile court's April 28, 2017 ex parte judgment until year 2022. Plaintiff is not bound by any judgment from juvenile court due to lack of notice in violation of Rule 65 (4) (2) (Docket No. 110, pg. 12 line 8-9, pg. 13 line 21-22; Docket No. 110, pg. 13 line 1-5; Docket No. 62, Ex. A-C).

*Rule 65 (4) (2) states that the order binds only those who receive actual notice of it by personal service.*

Defendants' liability extends beyond merely phoning DCS with false reports of "no discharge date" and "refusal to permit treatment center" (Docket No. 109, pg. 8; Docket No. 110, pg. 6). On April 24, 2017, while knowing Plaintiff's daughter was contractually required to be discharged to Plaintiff's home on April 24, 2017 but instead daughter imprisoned, assaulted

UNDER COLOR OF LAW by private actors Quail Run and La Frontera from a phone call from and for the state in violation of Quail Run's contractual agreement that stated Plaintiff daughter "*discharged*", "*Parents contributed to goals/plan*" (Docket No. 109, pg. 7), substantiating fraud. Defendants acted with malice, depriving Appellant of constitutional rights under color of law, interfering in custody, imprisoning and drugging Appellants daughter.

Evidence of the Quail Run contract with Appellant requiring M.R. to return home was excluded by the State Department of Child Safety in violation of the Brady Rule. The state did not disclose the Quail Run April 20, 2017, contract requiring M.R. to return home on April 24, 2017. This non-disclosure violated Rynn's due process rights to evidence disclosure, as established in *Giglio v. United States*, 405 U.S. 150 (1972).

**Duty.** Plaintiff proves defendants contractually owed *duty of care* requiring daughter M.R. to return home on April 24, 2017 after a seven day stay at Quail Run facility.

*A duty of care arises when the law recognizes a relationship between the plaintiff and defendant requiring the defendant to exercise a certain standard of care so as to avoid harming the plaintiff. The applicable standard of care is the degree of care that a "reasonable person" would exercise under the circumstances.*

*Plaintiff(s) claim under section 1983, a person subjected the plaintiff to conduct that occurred under color of state law, and this conduct deprived the plaintiff of rights, privileges, or immunities guaranteed under federal law or the U.S. Constitution. Every person who, under color of any statute, ordinance, regulation, custom, or usage, of any State or Territory or the District of Columbia, subjects, or causes to be subjected, any citizen of the United States or other person within the jurisdiction thereof to the deprivation of any rights, privileges, or immunities secured by the Constitution and laws, shall be liable to the party injured in an action at law,*

Defendants violated Plaintiffs rights of Due Process, there has been a deprivation of the Plaintiff's liberty, custody and (2) the procedures used by the government to remedy the deprivation were constitutionally

inadequate. False reports about a discharge date do not constitute abuse or neglect and are not a reporting requirement under Arizona law. A.R.S. § 13-3620 (J) and 8-805. Plaintiff adequately distinguishes between Defendants in terms of their unlawful and unconstitutional conduct. Under A.R.S. §§ 13-3620(J) and 8-805, the Complaint contains sufficient facts from which the Court can plausibly infer that Defendants acted with malice and abused Plaintiff's daughter M.R.

Under 42 U.S.C. § 1983, the Complaint's allegations are sufficient to show Quail Run and EMPACT were state actors, as required to sustain a § 1983 claim against them.

Regarding punitive damages, the Complaint contains factual allegations from which the Court can plausibly infer Defendants acted with the requisite evil mind by falsely accusing of no discharge date.

### **Immunity Under A.R.S. §§ 13-3620 and 8-805**

Arizona law provides that a person who knowingly makes false reports to DCS, knowing that a minor has not been the subject of physical abuse or neglect, is not immune from civil or criminal liability for such actions when they acted with malice and abused Plaintiff's daughter M.R.

Plaintiff's allegations are sufficient to show that Quail Run, La Frontera, and defendant state DCS are not immune from Plaintiff's claims. Plaintiff's claims substantiate sufficient facts from which the Court can plausibly infer that Quail Run, La Frontera, and DCS acted with malice and intentionally lied about "*no discharge date*," "*refusal to permit treatment center to allow for maximum treatment*," and abused Plaintiff's daughter M.R. (A.R.S. §§ 13-3620(J); 8-805). These actions interfered with Plaintiff's custody and parental rights to Plaintiff's daughter. The Complaint contains

factual allegations forming the basis of claims against all Defendants for refusing to discharge Plaintiff's daughter to Plaintiff's home on April 24, 2017, as legally and contractually required (Docket No. 109, pg. 7-9 line 12-17).

Plaintiff substantiates claims under § 1983:

"Action under § 1983, plaintiff shows (1) that the conduct complained of was committed by a person acting under color of state law, and (2) that the conduct deprived the plaintiff of a constitutional right."

Plaintiff's allegations are sufficient to show that Quail Run and La Frontera Empact were state actors, as required to sustain a § 1983 claim against them and DCS.

#### Punitive Damages

The Complaint adequately states a prayer for punitive damages.

*Under Arizona law, punitive damages are awardable "a reasonable jury could find the requisite evil mind by clear and convincing evidence." In determining whether a defendant exhibited an "evil mind," courts consider "the nature of the defendant's conduct, including the reprehensibility of the conduct and the severity of the harm likely to result, as well as the harm that has occurred, the duration of the misconduct, the degree of*

*defendant's awareness of the harm or risk of harm, and any concealment of it."*

*Under a § 1983 claim, "a jury may be permitted to assess punitive damages when the defendant's conduct is shown to be motivated by evil motive or intent, or when it involves reckless or callous indifference to the federally protected rights of others." Smith v. Wade, 461 U.S. 30, 56 (1983).*

The allegations in the Complaint regarding punitive damages are adequate, as there are factual allegations demonstrating that Defendants acted with the requisite evil mind. Defendants' liability extends beyond phoning DCS with outrageous false reports of "no discharge date" and "refusal to permit treatment center" (Docket No. 109, pg. 8), contradicting the contractual requirement for Plaintiff's daughter's discharge to Plaintiff's home on April 24, 2017, and Quail Run's written contractual signed agreement stating "Parents Rynn contributed to goals/plan" (Docket No. 109)

See cases below,

RYNN V ARIZONA DEPARTMENT OF CHILD  
SAFETY United States Supreme court Case  
No.24A136-----pending  
Pinal County Superior Court Case No.  
S1100JD201700116- pending

### **Discovery Rule**

*The discovery rule is perhaps the most common exception to the statute of limitations, in Arizona and elsewhere. Under the discovery rule, a plaintiff's statute of limitations deadline will be extended if they are not aware of the injuries they suffered due to the defendant's fault, and they could not have reasonably discovered the injury.*

Appellant has six years to bring claims based on the breach of Quail Run written contract failing to discharge Marcella home on April 24, 2017.

*"Under the discovery rule, ... a cause of action does not accrue until the plaintiff knows or with reasonable diligence should know the facts underlying the cause [of action]." Doe v. Roe, 191 Ariz. 313, ¶ 29, 955 P.2d 951, 960 (App. 1998); see also Walk v. Ring, 202 Ariz. 310, 316, ¶ 22, 44 P.3d 990, 996 (2002); Little v. State, 225 Ariz. 466, ¶ 9, 240 P.3d 861, 864 (App. 2010).*

*Court must relieve a party from a judgment when, by fraud on the court, the other party has prevented a real contest before the court or has committed some intentional act or conduct that has prevented the unsuccessful party from having a fair submission of the controversy. See Alvarado v. Thomson, 240 Ariz. 12, 16-17 ¶¶ 17-23 (App. 2016). Fraud on the court "vitiates*

*everything it touches*" *Damiano v. Damiano*, 83 Ariz. 366, 369 (1958), and is "the most egregious conduct involving a corruption of the judicial process itself[.]" *Lake v. Bonham*, 148 Ariz. 599, 601 (App. 1986).

Courts therefore have inherent authority to take corrective measures at any time when a party commits or attempts to commit fraud upon them. See *Green v. Lisa Frank, Inc.*, 221 Ariz. 138, 151 ¶ 35 (App. 2009); *McNeil v. Hoskyns*, 236 Ariz. 173, 177 ¶ 15 (App. 2014) ("A judgment resulting from fraud on the court may be set aside by motion or by independent action."). Courts have this authority even in cases addressing parentage and adoption. See *Alvarado*, 240 Ariz. at 16–17 ¶¶ 17–23 (parentage); *In the Matter of the Adoption of Hadtrath*, 121 Ariz. 606, 610 (1979) (adoption). ¶12 The same is true regarding void judgments. Courts have inherent power to vacate void judgments for lack of jurisdiction over the parties. *Preston v. Denkins*, 94 Ariz. 214, 219 (1963). The right to hear such challenges "does not depend upon rules of the court or statute."

If a judgment is void for lack of jurisdiction, a court has no discretion but to vacate it. *Id.* ¶13 Because courts have inherent power to consider vacating judgments for fraud on the court and lack of jurisdiction, Motions "shall conform to the requirements of [Civil] Rule 60(b)-(d)." And Civil Rule 60 "does not limit the court's power to set aside a judgment for fraud on the court," Civil Rule 60(d)(3), recognizing the court's inherent authority to hear such a motion at any time. (ID 483)

Courts routinely consider motions to set aside judgments for fraud on the court without regard to any time limit. See *Rogone v. Correia*, 236 Ariz. 43, 48 ¶ 11 (App. 2014) JAKE V., Real Party in Interest. No. 1 CA-SA 21-0248 FILED 3-31-2022

District courts not permitted under Federal Rule of Civil Procedure 56(f)(2) to grant a dismissal judgment on grounds not raised by Plaintiff. Plaintiff must be given notice and an opportunity to respond. District court cannot just spring a new theory with a vague non-descriptive theory of Plaintiff complaint and end case without giving Plaintiff a chance to come forward with relevant evidence and argument on that point.

(Dk. 71) (dk. 112 pg. 1-2)

District court did not inform Plaintiff that it intended to grant a dismissal judgment on a basis that was not raised, and Plaintiff prejudiced by the lack of notice and opportunity to respond. (dk.112 pg. 1-2) *Oldham v. O.K. Farms, Inc.*, No. 16-7069 (10th Cir. Sept. 25, 2017).

It is "manifestly unjust" for district court to issue a ruling (dk. 112) without first reviewing new evidence that contradicts District courts judgement. (Dk. 71)

## Rule 52 (a) FINDINGS AND CONCLUSIONS.

(1) *In General.* In action tried on the facts without a jury court must find the facts specially and state its conclusions of law separately

(5) *Questioning the Evidentiary Support.* Plaintiff may later question the sufficiency of the evidence supporting the findings, Plaintiff may object to them, and move to amend the findings.

(6) *Setting Aside the Findings.* Findings of fact, whether based on oral or other evidence, must be set aside when clearly erroneous.

Appellant provides a basis to amend based on new discovered evidence of fraud.

*ARS Rule 15 When an issue not raised by the pleadings is tried by the parties' express or implied consent, it must be treated in all respects as if raised in the pleadings.*

*A complaint must include "only 'a short and plain statement of claim showing that pleader is entitled to relief,' in order to 'give defendant fair notice of what the claim is and grounds upon which it rests.*

*While complaint attacked by a Rule 12(b)(6) motion does not need detailed factual allegations, well-pleaded complaint may proceed even if it strikes a savvy judge that actual proof of those facts is improbable, and that 'recovery is very remote and unlikely."*

## Reasons For Granting Certiorari

Appellant provided a basis for liability based on fraud and new discovered evidence that was not reviewed by the court

substantiating a basis for vacating court decisions and correcting contradictions between district court discharge and state courts critical factual omission of doctors ordered discharge affecting integrity of courts.

### **Conclusion**

Appellant respectfully requests declaratory relief to vacate District Court's injunction and Pinal County Superior Court Case No. S1100JD201700116 for abuse of process and fraud. Additionally, Appellant seeks permission to file further briefs on this matter, citing fraud and the need to review critical newly discovered evidence on the merits. Appellant is rightfully owed compensation for damages for violation of constitutional rights and requests court to reverse and remand the case for further briefing.

**RESPECTFULLY SUBMITTED**

this 20<sup>th</sup> day of September 2024



Richard Rynn