



No. 24-004

IN THE
SUPREME COURT OF THE UNITED STATES

Joseph Rued,
Petitioner

v.

Catrina Rued,
Respondent

On Petition for Writ of Certiorari
to the Minnesota Court of Appeals

PETITION FOR WRIT OF CERTIORARI

Joseph Daryll Rued
9007 Avila Cove
Eden Prairie, MN 55347
(239) 276-4056
ruejoseph@yahoo.com
Pro Se Petitioner

QUESTION PRESENTED

This case implicates fundamental protected rights including custody rights of natural parents. The Minnesota Judiciary has knowingly sustained reliance upon admittedly falsified conclusions of child welfare investigations by actors under color of state law to summarily determine Father's reports of Son's abuse were false in support of deprivations of Father's and Son's rights, deliberately suppressing evidence of deposition admissions of such falsified investigation outcomes while also preventing Father from calling the investigator as a witness. In later proceedings, Father submitted the deposition admissions of the perjurious investigation conclusions continuously relied upon to deprive custody and other protected rights—these repeatedly presented federal issues related to sustaining orders based upon admitted perjury through violations of due process are unreached through repeated misapplication of judicial doctrines in supersession of the United States Constitution and the Supreme Court of Minnesota has determined that it has discretion to take action that sustains such Constitutionally prohibited actions.

THE QUESTION PRESENTED IS:

Do state courts have discretion to misapply judicial doctrine in supersession of clear Constitutional requirements under U.S. Const. Amend. XIV §1, rendering such Constitutional guarantees mere brutum fulmen?

PARTIES TO THE PROCEEDING

Petitioner is Joseph D. Rued, a person and father.

Respondent is Catrina M. Rued, a person and mother.

STATEMENT OF RELATED PROCEEDINGS

- *Joseph D. Rued v. Catrina M. Rued*, Supreme Court of the United States No. 22-702
- *In Re the Marriage of Catrina Rued and Joseph Rued*, Minnesota Court of Appeals Nos. A21-0798; A21-1064; A22-0812; A23-0715
- *Joseph Daryll Rued and on Behalf of minor child W.O.R and Catrina Marie Rued, et al*, Minnesota Court of Appeals No. A22-0593
- *Joseph Daryll Rued and on Behalf of minor child W.O.R and Catrina Marie Rued, et al*, Minnesota Court No. 70-FA-21-13336
- *In Re the Marriage of Catrina Rued and Joseph Rued*, Minnesota Court No. 27-FA-16-6330

Related Cases

- *Joseph Rued, et al v. Jaykumar Jayswal, et al*,
Minnesota District Court No. 24-CV-1763
- *Joseph Rued, et al v. Natalie Hudson, et al*,
Minnesota District Court No. 24-CV-2437
- *Joseph Rued, et al v. Natalie Hudson, et al*,
Minnesota District Court No. 24-CV-3409
- *Joseph Rued, also o/b/o W.O.R., a minor child
v. Charles Webber* Scott County District Court
No. 70-CV-24-7810
- *Joseph Rued, also o/b/o W.O.R., a minor child
v. Catrina Rued, et al* Scott County District
Court No. 70-CV-24-4238
- *Joseph Rued, also o/b/o W.O.R., a minor child
v. Catrina Rued, et al* Hennepin County
District Court No. 27-CV-24-5845; Minnesota
District Court No. 24-CV-3662 (JWB/DJF)
- *Joseph Rued, et al v. Charlene Hatcher, et al*,
Minnesota District Court No. 23-CV-02685
- *Joseph Rued, et al v. Charlene Hatcher, et al*,
Eighth Circuit Court of Appeals No. 23-CV-
03092
- *Joseph Rued, et al v. Charlene Hatcher, et al*,
Supreme Court of the United States No. 23-986

- *Joseph Rued, et al v. Charlene Hatcher, et al, et al.* Supreme Court of the United States No. 23A829
- *Joseph Rued v. Commissioner of Human Services*, Minnesota Supreme Court and Minnesota Court of Appeals No. A22-1420
- *Joseph Rued v. Commissioner of Human Services*, Minnesota Court No. 70-CV-22-7318
- *In Re Joseph Rued, Petitioner* Minnesota Court of Appeals No. A23-0044; A23-1754; A24-0759; A24-0982
- *In Re Joseph Rued, Petitioner* Minnesota Supreme Court No. A23-1754; A23-1755; A23-1936; A24-0719 A24-0759; A24-0982
- *In Re Petitioners Scott Rued and Joseph Rued, In Re Complaint Against 041423, A Minnesota Attorney*, Minnesota Supreme Court No. A23-1004
- *In Re Complaint Against 041423, A Minnesota Attorney*, Minnesota Supreme Court No. A23-0614
- *In the Matter of the Welfare of the Children of: Catrina M. Rued and Joseph D. Rued*, Minnesota Court No. 27-JV-18-5395

TABLE OF CONTENTS

QUESTIONS PRESENTED	i
PARTIES TO THE PROCEEDING	ii
STATEMENT OF RELATED PROCEEDINGS	iii
TABLE OF AUTHORITIES	viii
OPINIONS BELOW	1
JURISDICTION	1
CONSTITUTIONAL AND STATUTORY PROVISIONS INVOLVED	1
STATEMENT OF THE CASE: ARGUMENT AND FACT	2
REASONS FOR GRANTING THE PETITION.....	9
I. THE SUPREMACY CLAUSE REQUIRES APPLICATION OF LAW TO CONFORM TO THE DEMANDS OF THE UNITED STATES CONSTITUTION AND DISCRETION TO NEGATE SUCH THROUGH MISAPPLICATION OF JUDICIAL DOCTRINE IN SUPERSESSION OF CONSTITUTIONAL REQUIREMENTS DOES NOT EXIST FOR STATE JUDICIAL OFFICERS	9
CONCLUSION.....	18
APPENDIX	
Appendix A	
Judgement, Minnesota Supreme Court No A23- 1444; A23-1467 (August 7, 2024)	- 1 -
Appendix B	
Judgement, Minnesota Supreme Court No A23-	

1235 (August 7, 2024)	3 -
Appendix C	
Order, Minnesota Supreme Court No A23-1444; A23-1467 (August 6, 2024)	5 -
Appendix D	
Order, Minnesota Supreme Court No A23-1235 (August 6, 2024)	6 -
Appendix E	
Order, Minnesota Court of Appeals No. A23- 1444; A23-1467 (April 29, 2024)	7 -
Appendix F	
Order, Minnesota Court of Appeals No. A23- 1235 (April 29, 2024)	13 -
Appendix G	
Petitioner's Petition for Further Review, Minnesota Supreme Court No. A23-1444; A23- 1467; A23-1235 (May 24, 2024)	18 -

TABLE OF AUTHORITIES

CASES

<i>Albright v. Oliver</i> , 510 U.S. 266 (1994)	11, 20
<i>Arizona v. California</i> , 460 U.S. 605, 618, 103 S.Ct. 1382, 1391, 75 L.Ed.2d 318 (1983)	15
<i>Armstrong v. Exceptional Child Ctr., Inc.</i> , 135 S. Ct. 1378, 1383 (2015)	9
<i>Bell v. Burson</i> , 402 U.S. 535 (1971)	7

<i>Brown v. Mississippi</i> , 297 U.S. 278 (1936)	12
<i>Cooper v. Aaron</i> , 358 U.S. 1 (U.S. 1958)	10
<i>Cohens v. Virginia</i> , 19 U.S. 264, 403 (1821)	24-25
<i>Douglas v. Buder</i> , 412 U.S. 430 (1973)	7
<i>Drope v. Missouri</i> , 420 U.S. 162, 172 (1975)	21
<i>Estelle v. Williams</i> , 425 U.S. 501, 502 (1976)	21
<i>Ginsberg v. Williams</i> , 135 N.W.2d 213 (Minn. 1965)	7
<i>Halloran v. Blue and White Liberty Cab Co. Inc.</i> , 253 Minn. 436, 442 (Minn. 1958)	23
<i>Hauser v. Mealey</i> , 263 N.W.2d 803, 806 (Minn. 1978)	15
<i>Joint AntiFascist Committee v. McGrath</i> , 341 U.S. 123, 171 and 161 (1951)	12
<i>Kaiser v. Northern, States Power Co.</i> , 353 N.W.2d 899, 902 (Minn. 1984)	15
<i>Lassiter v. Department of Social Services</i> , 452 U.S. 18, 27 (1981)	20, 21

<i>Little Earth of United Tribes, Inc. v. Department of Housing</i> , 807 F.2d 1433, 1438 (8th Cir. 1986)	15
<i>Marbury v. Madison</i> , 5 U.S. 137, 162 (1803)	26, 27
<i>May v. Anderson</i> , 345 U.S. 528, 532 (1953)	20
<i>Matter of Welfare of M.D.O.</i> , 462 N.W.2d 370, 375 (Minn. 1990)	15
<i>Mattson v. Underwriters at Lloyds of London</i> , 414 N.W.2d 717, 719-20 (Minn. 1987)	15
<i>Merrell Dow Pharms. Inc. v. Thompson</i> , 478 U.S. 804, 827 (1986)	23, 24
<i>Missouri v. Fiske</i> , 290 U.S. 18, 27 (1933)	10, 11
<i>Napue v. Illinois</i> , 360 U.S. 264 (1959)	11
<i>Owen v. City of Independence</i> , 445 U.S. 622, 649 (1980)	11
<i>Parklane Hosiery Co. v. Shore</i> , 439 U.S. 322, 343 (1979)	27, 28
<i>Santosky v. Kramer</i> , 455 U.S. 745 (1982)	4
<i>Screws v. United States</i> , 325 U.S. 91, 97 (1945)	18, 20

<i>Shelley v. Kraemer</i> , 334 U.S. 1, 14-19 (1948)	9,10
<i>State v. Flowers</i> , 986 N.W.2d 686, 695 (Minn. 2023)	7
<i>State v. Sax</i> , 42 N.W.2d (Minn. 1950)	6, 7
<i>State v. Turner</i> , 550 N.W.2d 622, 626 (Minn. 1996)	7
<i>United States v. Agurs</i> , 427 U.S. 97, 103, and n. 8 (1976)	11
<i>United States v. Alvarez</i> , 132 S. Ct. 2537, 2546 (2012)	22
<i>United States v. Bianchi Co.</i> , 373 U.S. 709, 720 (1963)	14
<i>United States v. Dunnigan</i> , 507 U.S. 87, 97, 113 S.Ct. 1111, 122 L.Ed.2d 445 (1993)	22
<i>United States v. Lee</i> , 106 U.S. 196, 220 (1882)	25, 26
<i>United States v. Stanley</i> , 109 U.S. 3, 11 (1883)	13
<i>Vanhorne v. Dorrance</i> , 2 U.S. 304, 308 (1795)	21, 22
<i>Zinerman v. Burch</i> ,	

494 U.S. 113, 148 (1990)	12, 13
--------------------------------	--------

CONSTITUTIONS

U.S. Const. Art. VI § 2	1, 3, 8, 9, 10, 11, 13, 16, 25
-------------------------------	--------------------------------

U.S. Const. Art. VI § 3	2, 10
-------------------------------	-------

U.S. Const. Amend. XIV § 1.....	2, 7, 8, 9, 10, 11, 14, 16, 17, 19, 20, 21
---------------------------------	---

HISTORICAL PAPERS

<i>The Writings of Thomas Jefferson</i> , 71 (Washington ed. 1861)	27, 28
---	--------

CONGRESSIONAL ACTS

28 U.S.C. § 1257(a).....	1
--------------------------	---

28 U.S.C. § 1331	24
------------------------	----

U.S. SUPREME COURT RULES

Rule 12.4.....	1
----------------	---

OPINIONS BELOW

The Orders below are of the Minnesota Court of Appeals in *Joseph Rued v. Catrina Rued* A23-1444; A23-1467; and A23-1235 which are included in the Appendix ("App.") (App.-7; App.-13-), which were petitioned for further review (App.-18-) and denied by the Supreme Court of Minnesota (App.-5; App.-6-).

JURISDICTION

Petitioner timely filed for discretionary review in *Joseph Rued v. Catrina Rued* A23-1444; A23-1467; and A23-1235, which was denied with Judgement entered August 7, 2024 (App.-1- and App.-3-). This petition for writ of certiorari was timely filed within ninety days of denial of the petition for further review and returned undocketed by the Clerk of Court with instruction to refile after corrections within 60 days of October 23, 2024 for which this petition is timely corrected and refiled. The jurisdiction of this Court is invoked under 28 U.S.C. § 1257(a) and U.S. Supreme Court Rule 12.4 for review of multiple orders from the same court.

CONSTITUTIONAL AND STATUTORY PROVISIONS

U.S. Const. Art. VI § 2, 3

This 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 be bound thereby, any Thing in the Constitution or Laws of any State to the Contrary notwithstanding.

The Senators and Representatives before mentioned, and the Members of the several State Legislatures, and all executive and judicial Officers, both of the United States and of the several States, shall be bound by Oath or Affirmation, to support this Constitution.

U.S. Const. Amend. XIV § 1

nor shall any State deprive any person of life, liberty, or property, without due process of law; nor deny to any person within its jurisdiction the equal protection of the laws.

STATEMENT OF THE CASE: ARGUMENT AND FACT

In a child custody proceeding, the state court relied upon child welfare investigations concluded with a child in need of protections or services petition ("CHIPS Petition") that relied upon input from a number of sources all of which are at issue in *Rued, et al v. Jayswal, et al* 24-CV-1763 (JRT/TNL) and none of which have been produced as witnesses while the subjection of such to cross-examination was prevented from entering the record of the initial trial proceeding all subsequent proceedings rely upon, including with respect to applications of judicial doctrines attempting to support not reaching federal claims that have never been reached or allowed to be litigated all of which remain un-reached by any court at every possible venue in the state and country, to remove custody from Joseph Rued, Father, of his minor child ("W.O.R.") or sustain the same.

The CHIPS Petition was adjudicated and dismissed in juvenile court returning custody of

W.O.R. to Father prior to the initial custody trial. Also prior to the custody trial, Father, pursuant to court order, deposed the child welfare investigator that signed the CHIPS Petition who admitted the CHIPS Petition's material claims, which have been relied upon to determine both Father's and W.O.R.'s reports of maltreatment are false, are untrue in deposition. After reviewing such deposition admissions, the custody trial court prohibited Father from calling the signer of the CHIPS Petition as a witness and refused to admit the deposition containing the admissions that the material claims of the CHIPS Petition are untrue. Then, absent any witness testimony in support, the initial trial court relied upon such falsified investigation conclusions of the CHIPS Petition to deprive custody from Father and to isolate the minor child where the minor child has repeatedly reported and exhibited suffering maltreatment and abuse.

On direct initial appeal, the Minnesota Court of Appeals opined that due process violations were harmless explicitly relying upon the admittedly falsified, perjurious CHIPS Petition and other frauds at issue in *Rued, et al v. Jayswal, et al* 24-CV-1763 (JRT/TNL) that were also raised as such in these proceedings petitioned here and remain unreached due to varying unlawful applications of judicial doctrines in violation of the requirements of the Supremacy Clause upon federal and state actions, ranging from Rooker-Feldman application to ongoing state court proceedings related to unreached and independent federal claims in federal court (see *Joseph Rued, et al v. Charlene Hatcher, et al*, Supreme Court of the United States No. 23-986 and *Joseph Rued, et al v. Charlene Hatcher, et al, et al*. Supreme Court of the United States No. 23A829) to unjustifiable assertions

of relitigating applied to subsequent proceedings in state court related to these unreached federal claims that have never been provided any full and fair opportunity to litigate or even acknowledged. The federal claims at issue here are exceptionally easy to demonstrate to be clear frauds and/or absent any reasonable basis from the face of the current records, including substantial admitted frauds and admissions of the same under oath, none of which have ever been reached by any judicial body in the state and country, all relied upon to deprive rights far more precious than any property right (*Santosky v. Kramer*, 455 U.S. 745 (1982)) of Father and perpetrate and sustain substantial abuses and abuses of law against W.O.R., including unlawful confinement, for multiple years.

The Constitutional deprivations and violations of law stemming from this falsified CHIPS Petition and numerous Minnesota Judicial Officers' constitutionally prohibited reliance upon such admitted frauds and perjuries are overwhelming, abusive, and tragic. What is at issue in this Petition are specific applications of law related to Father's attempts to address these ongoing Constitutional abuses and deprivations in state court.

Father submitted all of the evidence required to demonstrate that the state courts have no reasonable basis to continue to unlawfully sustain reliance on the admitted perjuries and frauds in child welfare investigations and all other frauds related thereto. This evidence has never been reached or acknowledged and the state courts continued declining to reach these federal claims fraudulently claiming such issues had been reached in a proceeding in which the evidence supporting the federal claims at issue was suppressed and excluded from the record, despite Father

submitting such evidence and attempting to call such perpetrators of frauds in child welfare investigations for W.O.R. as witnesses. Available due process violations in the initial proceeding were appealed through this Court without any further opinion beyond the Minnesota Court of Appeals claiming due process violations were harmless in explicit reliance upon the fraudulent CHIPS Petition and other frauds at issue in *Rued, et al v. Jayswal, et al* 24-CV-1763 (JRT/TNL).

On appeals in *In Re the Marriage of Catrina Rued and Joseph Rued*, Minnesota Court of Appeals Nos. A23-1235; A23-1444; A23-1467, and through extraordinary writ in *In Re Joseph Rued*, Petitioner, Minnesota Supreme Court No. A24-0719, after submitting all of the unreached evidence in state district court, Father sought to set aside the judgements for fraud and/or address the ongoing, unreached Constitutional deprivations and violations of the initial custody trial orders all subsequent state proceedings fundamentally and explicitly rely upon. Such federal claims were not reached by the Minnesota Court of Appeals through application of law-of-the-case doctrine applied, fundamentally, to the initial trial proceeding, which was appealed through this Court. This means that discretionary review was sought mitigating any blanket application of such doctrine unless these federal claims had been reached at trial or decided on appeal. Yet, the Minnesota Judiciary asserts such federal claims were fundamentally decided in initial trial and on initial direct appeal when the evidence supporting these federal claims was not in any of the records fundamentally relied upon due to flagrant violations of due process, and, accordingly, these federal claims definitionally could not have been reached or decided

in such case or appeal or any proceedings relying upon the same.

Despite the fact that the Constitutional claims at issue in these underlying proceedings and the fundamental reliance upon the perjurious conclusions of child welfare investigations have never been reached or even acknowledged, the Minnesota Court of Appeals applied law-of-the-case to continue to not reach Petitioner's federal claims and sustain Constitutionally prohibited action. Petitioner petitions such application of law-of-the-case to unreached federal claims prevented from being litigated in the case law-of-the-case is fundamentally applied to through clear violations of procedural due process continuing to sustain reliance upon what was admitted under oath to be perjury before the initial trial even began. Father petitioned for further state court review raising these federal issues (App.-18- to -25-), which was denied (App.-5- and -6-).

Seeking to address the same issues related to Constitutional deprivations and violations, once the Minnesota Court of Appeals, again, declined to reach such issues, Petitioner, again, also sought a writ of prohibition at the Supreme Court of Minnesota directed to the Minnesota Court of Appeals and Hennepin and Scott County District Courts prohibiting such courts from sustaining reliance upon the admitted perjury of child welfare investigations to deprive Father's protected custody rights, among numerous other issues and violations of state and federal law.

The Minnesota Supreme Court has held "[t]he exclusion of competent and relevant evidence on the ground that the trial court was in possession of the

evidence but it was not in the record, is not due process, and an order based thereon cannot be sustained.” *State v. Sax*, 42 N.W.2d (Minn. 1950). This Court has similarly held with relevance here related to the Minnesota Judiciary sustaining reliance upon child welfare investigations where Father was prohibited from calling the investigator fundamentally relied upon as a witness and the deposition admissions of the same that such child welfare investigations were fraudulently concluded were excluded from the record:

The hearing required by the Due Process Clause must be ‘meaningful’...It is a proposition which hardly seems to need explication that a hearing which excludes consideration of an element essential to the decision...does not meet this standard. *Bell v. Burson*, 402 U.S. 535, 542 (U.S. 1971).

Orders fundamentally relying upon admitted perjury, as the case has remained here for many years, are “so totally devoid of evidentiary support as to be invalid under the Due Process Clause of the Fourteenth Amendment” (*Douglas v. Buder*, 412 U.S. 430, 432 (U.S. 1973)).

In *State v. Flowers*, 986 N.W.2d 686, 695 (Minn. 2023), the Minnesota Supreme Court held that “a writ of prohibition may issue ‘to correct an error of law in the lower court where no other adequate remedy is available to the petitioner and enforcement of the trial court’s order would result in irremediable harm[.]’” citing *State v. Turner*, 550 N.W.2d 622, 626 (Minn. 1996). In *Ginsberg v. Williams*, 135 N.W.2d 213 (Minn. 1965), the Minnesota Supreme Court held that “Prohibition lies to restrain a court from exceeding its powers in a matter over which it has jurisdiction when

there is no other speedy or adequate remedy available." Courts explicitly violating Constitutions and other laws not only results in illegality which is clear error and orders thereon cannot be sustained, under law, but such is also plainly addressable under extraordinary writ given state holdings. That rights far more precious than any property right are unlawfully deprived for many years while state child maltreatment laws are violated by the Minnesota Judiciary and Father and W.O.R. are unlawfully confined, fundamentally based upon finding admitted perjury to be true, results in extraordinary and irreparable harms is clear. When such actions by the State are also violations of Constitution, such actions lie beyond any authorizable judicial power, under Constitution, irrespective of subject-matter jurisdiction existence.

Father petitioned for a writ of prohibition on such grounds and the Minnesota Supreme Court determined through its exercised discretion that it had discretion to deny issuance of a writ here to cause the Minnesota Court of Appeals and multiple state district courts to cease relying upon admitted perjury to sustain deprivations of Father's and W.O.R.'s protected rights, including rights to fair trials, despite such resulting in sustaining action prohibited by the fourteenth amendment. On petition for rehearing, Father raised such issues and identified that elevation of non-Constitutional considerations, which includes any non-Constitutional considerations, above Constitutional requirements in application of law as the Minnesota Supreme Court has actualized in denying such Petition for Writ of Prohibition, is prohibited by the Supremacy Clause, which was denied and is elsewhere petitioned for review.

REASONS FOR GRANTING THE PETITION

I. THE SUPREMACY CLAUSE REQUIRES APPLICATION OF LAW TO CONFORM TO THE DEMANDS OF THE UNITED STATES CONSTITUTION AND DISCRETION TO NEGATE SUCH REQUIREMENTS THROUGH MISAPPLICATION OF JUDICIAL DOCTRINES IN SUPERSESSION OF CONSTITUTIONAL REQUIREMENTS DOES NOT EXIST FOR STATE JUDICIAL OFFICERS.

It is apparent that [the Supremacy] Clause creates a rule of decision: Courts “shall” regard the “Constitution,” and all laws “made in Pursuance thereof,” as “the supreme Law of the Land.” *Armstrong v. Exceptional Child Ctr., Inc.*, 135 S. Ct. 1378, 1383 (2015).

That the Supremacy Clause and Demands of U.S. Const. Amend. XIV § 1 apply to state judicial action is not reasonably debatable:

That the action of state courts and judicial officers in their official capacities is to be regarded as action of the State within the meaning of the Fourteenth Amendment, is a proposition which has long been established by decisions of this Court[, and...]it is doubtless true that a State may act through different agencies, — either by its legislative, its executive, or its judicial authorities; and the prohibitions of the amendment extend to all action of the State denying equal protection of the laws, whether it be action by one of these agencies or by another.” [T]he Court observed: “A State acts by its legislative, its executive, or its judicial authorities. It can act in no other

way." [T]his Court pointed out that the Amendment makes void "State action of every kind" which is inconsistent with the guaranties therein contained, and extends to manifestations of "State authority in the shape of laws, customs, or judicial or executive proceedings[.]"... employing [such language] no less than eighteen times... *Shelley v. Kraemer*, 334 U.S. 1, 14-15 (1948).

Application of judicial doctrine resulting in obviating the demands of the fourteenth amendment or sustaining violations of the same results in action that is non-conforming to and prohibited by the United States Constitution:

Article VI of the Constitution makes the Constitution the supreme law of the land...makes it of binding effect on the States, "any Thing in the constitution and laws of any state to the Contrary notwithstanding." Every state...executive and judicial officer is solemnly committed by oath taken pursuant to article VI, cl.3 to support the Constitution...No state...executive or judicial officer can war against the Constitution without violating his solemn oath to support it. *Cooper v. Aaron*, 358 U.S. 1 (U.S. 1958).

Judicial action in violation of clear Constitutional requirements, like Constitutional Supremacy, is beyond authorizable judicial power under the Constitution, just as much so as subject-matter jurisdiction not existing:

The exercise of the judicial power cannot be protected by judicial action which the Constitution specifically provides is beyond the

judicial power. *Missouri v. Fiske*, 290 U.S. 18, 27 (1933).

And fundamental principles required under the Constitution and Constitutional Supremacy are the same irrespective of the form of government action or the government agents acting:

[The Constitution's] dictates are absolute and imperative. *Owen v. City of Independence*, 445 U.S. 622, 649 (1980).

Here, when protected rights are deprived through reliance upon admitted perjury and other clear frauds that were prevented from being exposed as such through clear violations of the fourteenth amendment appealed through this Court, sustaining reliance upon such fraud when the evidence that such is fraud and perjury is now in the record, as the case is here; through application of any judicial doctrine or any other assertion to sustain reliance upon admitted perjury to sustain deprivations of protected rights is Constitutionally prohibited under the fourteenth amendment:

[T]he Due Process Clause is violated by the knowing use of perjured testimony or the deliberate suppression of evidence favorable to the accused. See, e.g., *United States v. Agurs*, 427 U.S. 97, 103, and n. 8 (1976) (citing cases);...*Napue v. Illinois*, 360 U.S. 264 (1959) (failure of State to correct testimony known to be false violates due process)[.] *Albright v. Oliver*, 510 U.S. 266, 299 (1994).

Fourteenth Amendment requirements do not dissolve in civil settings:

[Human beings] being what [they are] cannot safely be trusted with complete immunity from outward responsibility in depriving others of their rights...such is the conviction underlying our Bill of Rights...No better instrument has been devised for arriving at truth than to give a person in jeopardy of serious loss notice of the case against him and opportunity to meet it. *Joint AntiFascist Committee v. McGrath*, 341 U.S. 123, 171 and 161 (1951).

Basic tenants of fundamental fairness and procedural process due are imposed by the United States Constitution for government action depriving protected rights:

The due process clause requires [that state action...shall be consistent with the fundamental principles of liberty and justice which lie at the base of all our civil and political institutions. *Brown v. Mississippi*, 297 U.S. 278 (1936).

Having established procedures to remedy departures from established requirements under the Constitution does not absolve such procedures, themselves, from the requirements of fundamental fairness and dictates of the Constitution which would render meaningfulness of such procedures null with respect to the established intent of such:

[T]he procedural component of the Due Process Clause requires the State to formulate procedural safeguards and adequate post-deprivation process sufficient to satisfy the dictates of fundamental fairness and the Due Process Clause...State officials...must discharge the duty to establish sufficient pre-

deprivation procedures, as well as adequate post-deprivation remedies to provide process in the event of wrongful departures from established state practice. The doctrines together define the procedural measures that fundamental fairness and the Constitution demand of the State. *Zinerman v. Burch*, 494 U.S. 113, 148 (1990).

Application of judicial doctrine to not reach such issues that have been systematically prevented from being litigated or reached by the Minnesota State Judiciary does not do away with Constitutional requirements and such applications of law are prohibited by the Supremacy Clause because judicial doctrine in any such application is then determined by a state court to be superior to the requirements of the Constitution, which is what has occurred in this case. Such action is unlawful under federal law binding upon any state action depriving protected rights, as here, and void under the United States Constitution:

It is State action of a particular character that is prohibited[,...]void[ing] all State legislation, and **State action of every kind**, which impairs the privileges and immunities of citizens of the United States, or which injures them in life, liberty or property without due process of law, or which denies to any of them the equal protection of the laws. (**Emphasis added**) *United States v. Stanley*, 109 U.S. 3, 11 (1883).

Here, Father's rights far more precious than any property right are deprived on the basis of judicial determinations relying upon claims of actors under color of state law for which no witness testimony has

been allowed and that are admittedly fraudulent and perjurious. In addition to obvious procedural violations, the state is relying, fundamentally, upon admitted fraud and perjury to deprive Father's protected rights, resulting in clear substantive violations of due process. Any and all of this are well beyond what is acceptable or lawful for such government action under the United States Constitution and amply sufficient to accurately characterize such proceedings open shams. The holdings of this Court generate functional equivalence for due process for state and federal action under federal Constitution, and the following is equally applicable to this case and any case in which protected rights necessitating due process are implicated:

When the [decision maker] relies on evidence that the claimant has no chance to refute, the [proceeding] becomes infected with a procedure that lacks that fundamental fairness the citizen expects from his Government. *United States v. Bianchi Co.*, 373 U.S. 709, 720 (1963).

Applying law-of-the-case doctrine to Constitutional claims that have never been allowed to be litigated due to clear violations of due process, makes the application of the doctrine clearly incompatible with requirements of the United States Constitution binding upon any state action depriving protected rights, as here. Given that such application is also clearly contrary to state and federal law holdings regarding the doctrine itself, which, itself, properly applied, does not violate the requirements of the United States Constitution, such application is also an equal protections violation under the fourteenth amendment given such is applied

differently to sufficiently similarly situated individuals given the controlling caselaw of the State:

The "law of the case" doctrine commonly applies to issues decided in earlier stages of the same case. *Little Earth of United Tribes, Inc. v. Department of Housing*, 807 F.2d 1433, 1438 (8th Cir. 1986); see *Mattson v. Underwriters at Lloyds of London*, 414 N.W.2d 717, 719-20 (Minn. 1987). The doctrine provides that "when a court decides upon a rule of law, that decision should continue to govern the same issues in subsequent stages in the same case." *Arizona v. California*, 460 U.S. 605, 618, 103 S.Ct. 1382, 1391, 75 L.Ed.2d 318 (1983)[]. By contrast, issue preclusion or collateral estoppel operates to prevent relitigation of matters where (1) the issue is identical to one in a prior adjudication, (2) there was a final judgment on the merits, (3) the estopped party was a party in the prior case, and (4) **there was a full and fair opportunity to be heard on the issue.** *Kaiser v. Northern, States Power Co.*, 353 N.W.2d 899, 902 (Minn. 1984); *Hauser v. Mealey*, 263 N.W.2d 803, 806 (Minn. 1978); see also Restatement (Second) of Judgments § 27 (1982...**Neither issue preclusion nor "law of the case" applies where the issue has not yet been litigated or decided at trial or on appeal. (Emphasis added)** *Matter of Welfare of M.D.O.*, 462 N.W.2d 370, 375 (Minn. 1990).

Here, the Minnesota Court of Appeals is claiming that relying on initial proceedings that rely upon admitted perjury when such admissions were prevented from being included in the records originally

relying upon such admitted perjury and discretionary review was sought related to the lack of process due in the original proceeding relied upon is sufficient to apply law-of-the-case to sustain reliance upon what the record now clearly demonstrates is admitted and unreached perjury and fraud of the State and other actors under color of state law's conclusions to child welfare investigations for W.O.R., the falsification of which is inherently violative of the fourteenth amendment and endangering to any child subjected to such falsified conclusions regarding abuse by actors under color of state law, under state law, as such clearly also is to W.O.R. here for more than half a decade.

There is no doubt that application of law-of-the-case to the evidence and issues in this case are fundamentally incompatible with the requirements of the United States Constitution in numerous respects, including elevating the application of the doctrine itself above the United States Constitution inherently incompatible with the dictates of the Supremacy Clause. Law-of-the-case cannot be applied to prior orders that could not or did not reach the evidence that federal claims are based upon because such evidence supporting federal claims was unlawfully excluded from the initial trial record despite the frauds and perjury itself being relied upon by initial proceedings as essential and determinative to deprive rights far more precious than property rights, which all following orders fundamentally rely upon, and still maintain recognizable conformity with the requirements of the United States Constitution. Yet, such is precisely what has occurred here, causing ongoing deprivations and abuses by the State and other actors under color of state law for over half a decade, abusing a child.

Under our law, application of law-of-the-case can be no more proper in this case, and any case in which Constitutionally protected rights are at issue, than applying any other preclusion doctrine when there has not been a full and fair opportunity to litigate the material or fundamental issues because U.S. Const. Amend. XIV overrides the attempt to preclude reaching such issues through an application of law-of-the-case given that a full and fair opportunity to litigate the issues is mandated under the U.S. Constitution, which misapplication of law-of-the-case here denies. Absent full and fair opportunity to litigate the issues, which has not occurred here, application of law-of-the-case, when discretionary review was sought and unprovided, is clearly unconstitutional due to plainly being violative of due process.

Constitutional demands are binding upon state action of every kind that deprives citizens of life, liberty, or property and all state action undertaken in violation of fourteenth amendment requirements or to sustain the same is void under the United States Constitution, as this determination by the Minnesota Court of Appeals that such court has discretion to take action sustaining clear violations of the fourteenth amendment here is, under Constitution, elevating judicial doctrine in supersession of Constitutional requirements. Violations of law from the bench are inherently prohibited by separations of powers, as is obvious due to the definitionally legislative effect of application of law that alters law or Constitution and this Court has also held for over a century. Such is in addition to evident equal protections violations through any judicial action that violates law, and the inherent violations of Constitution by the Minnesota

Court of Appeals here are even more extreme than generally violating state law, which is also occurring, because such is the amalgamation of federal legislative authority along with the same from thirty-eight states, not just Minnesota, into the hands of appointed judicial officers to alter the United States Constitution in application of law:

Albeit this is the case, we can see no reason for saying that we may now hold that the right exists to continue a practice which is inconsistent with the Constitution, since its exercise in the very nature of things amounts to a refusal by the judicial power to perform a duty resting upon it and, as a consequence thereof, to an interference with both the legislative and executive authority as fixed by the Constitution. *Ex Parte United States*, 242 U.S. 27, 51 (1916).

In sum, sustaining violations of the United States Constitution is prohibited by law no matter who or what does so—sustaining violations of the United States Constitution cannot be, in direct effect, laundered or otherwise justified under law.

CONCLUSION

[D]ue process requires that "no change in ancient procedure can be made which disregards those fundamental principles, to be ascertained from time to time by judicial action, which have relation to process of law and protect the citizen in his private right, and guard him against the arbitrary action of government." *Screws v. United States*, 325 U.S. 91, 95 (1945).

These Minnesota State Judicial Officers plainly understand that due process has been and is being flagrantly violated in this case for many years—the Constitution is openly violated and, accordingly, is not in effect and of no perceivable consequence in these cases. The fact that this State action is abusing a child is violative not of only of just the Constitution but also Natural Law.

A judicial body must adhere to the Constitution for the Constitution to be in effect in any specific instance—absent such, the Constitution is plainly not in effect, which is something no person, body, or even this Court has lawful authority to effect. Absent this Court affirming that the Constitution is in effect and superior to any ‘Thing’ in any state law these proceedings will remain unlawful. The attention of this Court is required for Constitutional preservation in such proceedings as these, and a considerably crafted opinion on these issues, foundational as any for citizens’ rights, may be as positively impactful as any opinion this Court could issue for United States Citizens’ Constitutional rights, positively affecting the lives and welfare of vast numbers of citizens, especially children, in this country, given so many Americans interact with the judicial system in such settings, which are of paramount importance for their and their children’s lives and/or welfare. Nothing bad can come from following the dictates of the fourteenth amendment and disaster and tyranny usually follows the inverse, which is what routinely occurs in these settings affecting our most vulnerable and those most deserving of law and protection, which are our children, when protections and demands of the Constitution are unfound, as here.

Affirming what the fourteenth amendment says and that, of course, the fourteenth amendment applies whenever the state deprives protected rights, the violation of which is a violation of the United States Constitution, and that this, of course, includes civil child welfare and family law settings is desperately needed in this case and across the country for the liberty and welfare of Petitioner and W.O.R. and Americans and their children across the country given that State Judiciaries are behaving as if this Court has never said as much, and, accordingly, such judiciaries do not have to follow the Constitution in such settings, despite the fact that what this Court has said makes plain that if the State is going to deprive protected rights it must conform with the dictates of due process, including in civil settings:

Rights far more precious to [Petitioner] than property rights will be cut off if [he] is to be bound by the [Minnesota] award of custody. *May v. Anderson*, 345 U.S. 528, 532 (1953).

He who defies a decision interpreting the Constitution knows precisely what he is doing. *Screws v. United States*, 325 U.S. 91, 104 (1945).

The protections of substantive due process have, for the most part, been accorded to matters relating to marriage, family, procreation, and the right to bodily integrity. *Albright v. Oliver*, 510 U.S. 266, 271 (1994).

Since the State has an urgent interest in the welfare of the child, it shares the parent's interest in an accurate and just decision.

Lassiter v. Department of Social Services, 452 U.S. 18, 27 (1981).

The right to a fair trial is a fundamental liberty secured by the Fourteenth Amendment. *Drope v. Missouri*, 420 U.S. 162, 172 (1975). *Estelle v. Williams*, 425 U.S. 501, 502 (1976).

All government action is subject to the Constitution and, in all of this litigation, the consistent threads from the government are open and flagrant violations of clear Constitutional requirements, despite such being established since the eighteenth century to be fundamentally requisite for any such action to be lawful, anything otherwise being prohibited by the Constitution and, thus, also law:

What is a Constitution? It is the form of government, delineated by the mighty hand of the people, in which certain first principles of fundamental laws are established. The Constitution is certain and fixed; it contains the permanent will of the people, and is the supreme law of the land; it is paramount to the power of the Legislature [or Judiciary], and can be revoked or altered only by the authority that made it. The life-giving principle and the death-doing stroke must proceed from the same hand. What are Legislatures [or Judicial bodies]? Creatures of the Constitution; they owe their existence to the Constitution: they derive their powers from the Constitution: It is their commission; and, therefore, all their acts must be conformable to it, or else they will be void. The Constitution is the work or will of the People themselves, in their original, sovereign,

and unlimited capacity. Law [and its interpretation and application] is the work or will of the Legislature [and Judicial bodies] in their derivative and subordinate capacity. The one is the work of the Creator, and the other[s] of the Creature[s]. The Constitution fixes limits to the exercise of legislative [and judicial] authorit[ies], and prescribes the orbits within which [such] must move. In short,...the Constitution is the [center] of the political system, around which all Legislative, Executive[,] and Judicial bodies must revolve. Whatever may be the case in other countries, yet in this there can be no doubt, that every act of the Legislature [or Judicial bodies], repugnant to the Constitution, is absolutely void. *Vanhorne v. Dorrance*, 2 U.S. 304, 308 (1795).

It is not difficult to understand how and why this is happening in this case—judicial officers are protecting themselves and their governments at the expense of the United States Constitution, flagrantly abusing citizens and children in doing so. Absent judicial integrity, the Constitution does not exist for the citizens of the United States, including children:

Perjury undermines the function and province of the law and threatens the **integrity of judgments that are the basis of the legal system**. See *United States v. Dunnigan*, 507 U.S. 87, 97, 113 S.Ct. 1111, 122 L.Ed.2d 445 (1993) (“To uphold the integrity of our trial system ... the constitutionality of perjury statutes is unquestioned”). (**Emphasis added**) *United States v. Alvarez*, 132 S. Ct. 2537, 2546

(2012) (See also *Halloran v. Blue and White Liberty Cab Co. Inc.*, 253 Minn. 436, 442 (Minn. 1958) for related relevance).

While the holdings of this Court are clear, any practical effect of such is unfound for years here. Given there is no perceivable executive oversight or enforcement of such civil rights violations and deprivations as exhibited here by the State and actors under color of state law for over half a decade, enforcement of the Constitution must come from citizens *anytime* this Court does not step in through its appellate jurisdiction, which is almost all of the time.

It is understandable that this Court cannot address everything it knows should be addressed or would want to address if its capabilities and capacities allowed, as has been well said through dissent by an experienced Justice:

Another reason Congress conferred original federal-question jurisdiction on the district courts was its belief that state courts are hostile to assertions of federal rights. See Hornstein, *Federalism, Judicial Power and the "Arising Under" Jurisdiction of the Federal Courts: A Hierarchical Analysis*, 56 Ind. L. J. 563, 564-565 (1981); Comment 636; Redish 71. Although this concern may be less compelling today than it once was, the American Law Institute reported as recently as 1969 that "it is difficult to avoid concluding that federal courts are more likely to apply federal law sympathetically and understandingly than are state courts." ALI 166. In any event, this rationale is, like the rationale based on the expertise of the federal

courts, simply an expression of Congress' belief that federal courts are more likely to interpret federal law correctly. One might argue that this Court's appellate jurisdiction over state-court judgments in cases arising under federal law can be depended upon to correct erroneous state-court decisions and to insure that federal law is interpreted and applied uniformly. However, as any experienced observer of this Court can attest, "Supreme Court review of state courts, limited by docket pressures, narrow review of the facts, the debilitating possibilities of delay, and the necessity of deferring to adequate state grounds of decision, cannot do the whole job." Currie 160. Indeed, having served on this Court for 30 years, it is clear to me that, realistically, it cannot even come close to "doing the whole job" and that § 1331 is essential if federal rights are to be adequately protected. *Merrell Dow Pharms. Inc. v. Thompson*, 478 U.S. 804, 827 (1986).

When state courts refuse to address Constitutional claims and this Court does not correct such Constitutional violations, the comity landscape is fundamentally altered due to the rebellion of the state against the Constitution, and unconstitutionally closing federal district court doors to remedies clearly available under law becomes just as treasonous to the Constitution as the original violations of the Constitution are:

We have no more right to decline...exercise of jurisdiction...given, than to usurp that which is...not given...[, either] would be treason to the constitution...Questions...we would gladly

avoid [may occur], but we cannot avoid them. All we can do is...exercise our best judgment...and...perform our duty. *Cohens v. Virginia*, 19 U.S. 264, 403 (1821).

If judicial persons do not want to be sued the answer is not for citizens to forfeit their most precious and protected rights and, in this case, allow the government to continue to openly abuse one's own child—the answer is for judicial officers to adhere to the requirements of the United States Constitution, which is something for which discretion to refuse to adhere to does not exist for *anyone* or *any 'Thing'* under law:

No man in this country is so high that he is above the law. No officer of the law[, including judicial officers,] may set that law at defiance with impunity. All the officers of the government, from the highest to the lowest, are creatures of the law, and are bound to obey it.

It is the only supreme power in our system of government, and every man who by accepting office participates in its functions is only the more strongly bound to submit to that supremacy, and to observe the limitations which it imposes upon the exercise of the authority which it gives.

Courts of justice are established, not only to decide upon the controverted rights of the citizens as against each other, but also upon rights in controversy between them and the government; and the docket of this court is crowded with controversies of the latter class.

Shall it be said, in the face of all this, and of the acknowledged right of the judiciary to decide in proper cases, statutes which have been passed by both branches of Congress and approved by the President to be unconstitutional, that the courts cannot give a remedy when the citizen has been deprived of his [rights far more precious than any property right] by force, his [child seized both Father and child unlawfully confined] and [for] the use of the government [in attempt to conceal the depth and span of its own unlawful acts] without lawful authority, [and] without process of law, [because the [Chief Justice of the State] has ordered it and [such order is in effect]?

If such be the law of this country, it sanctions a tyranny which has no existence in the monarchies of Europe, nor in any other government which has a just claim to well-regulated liberty and the protection of personal rights. *United States v. Lee*, 106 U.S. 196, 220 (1882).

Absent this Court being willing and able to address issues such as presented here and causing conformity to law and the Constitution when the State deprives protected rights, the answer for enforcing the United States Constitution is substantially more litigation against judicial persons:

The very essence of civil liberty certainly consists in the right of every individual to claim the protection of the laws, whenever he receives an injury. One of the first duties of government

is to afford that protection. In Great Britain the king himself is sued in the respectful form of a petition, and he never fails to comply with the judgment of his court. In the 3d vol. of his Commentaries, p. 23. Blackstone states two cases in which a remedy is afforded by mere operation of law. In all other cases," he says, "it is a general and indisputable rule, that where there is a legal right, there is also a legal remedy by suit, or action at law, when ever that right is invaded." *Marbury v. Madison*, 5 U.S. 137, 162 (1803).

In such circumstances as these, absent federal judicial officers being willing to enforce the Constitution for United States Citizens in accordance with the requirements of the United States Constitution and according to the lawful enactments in pursuance thereof (see Petition for Writ of Certiorari to the Eighth Circuit in *Joseph Rued, et al v. Charlene Hatcher, et al*, Supreme Court of the United States No. 23-986), the only means for citizens, short of revolution, to tether state and federal judiciaries to the Constitution and its demands, given state and federal judiciaries' open attempts to protect themselves, their brethren, and their governments at the expense of citizens, children, and the Constitution itself resulting in open rebellion against the Constitution, to achieve adequate enforcement of the Constitution for citizen's Constitutional rights is a jury:

The founders of our Nation considered the right of trial by jury in civil cases an important bulwark against tyranny and corruption, a safeguard too precious to be left to the whim of the sovereign, or, it might be added, to that of

the judiciary...Thomas Jefferson stated: "I consider [trial by jury] as the only anchor yet imagined by man, by which a government can be held to the principles of its constitution." 3 *The Writings of Thomas Jefferson*, 71 (Washington ed. 1861). *Parklane Hosiery Co. v. Shore*, 439 U.S. 322, 343 (1979) (Dissent).

Respectfully Submitted,

s/Joseph Rued
Joseph D. Rued
9007 Avila Cove
Eden Prairie, MN 55347
rued.joseph@yahoo.com
239)276-4056

December 2, 2024

Pro Se Petitioner