

**ORIGINAL**

24-888

No. 24A334

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SUPREME COURT OF THE UNITED STATES

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Richard R. et al  
Petitioners/Appellants

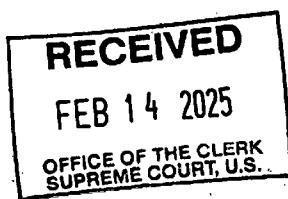
v.  
Daniel Washburn  
Department of Child Safety  
Respondents/Appellees

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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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### **Questions Presented**

1. Did the courts err in failing to review and address lower court findings that judgments were "devoid of competent evidence"?
2. Does Rule 65 require a showing of imminent harm and reason for no notice to justify the issuance of an ex parte order without notice, and was this standard properly applied?
3. Are judgments void when contradictions exist between the district court's findings (indicating compliance with a doctor's discharge order) and the state court's findings (alleging improper removal), warranting vacatur based on fraud?
4. Does the minor's age affect the right to vacate a void judgment that was issued fraudulently and without jurisdiction?

### **PARTIES TO PROCEEDING**

Richard R., Gelliana D. R., M.R. State of Arizona, Department of Child Safety

### **DIRECTLY RELATED CASES**

Rynn v Craig Jennings, Et Al Arizona District Court Case No. 4:24-cv-00594-TUC-JGZ

Quail Run v Richard Rynn, Superior Court Of Arizona Maricopa County Case No. LC2017-00316-001 Order 10/23/2017 Decision "*Devoid of competent evidence*", "Reverse & Remand"-----8. 21

Rynn V Mckay Et Al, Arizona District court Case No. 2:18-cv-00414-JJT "*went to retrieve (pick daughter up) M.R., who was under an order from her doctor to be discharged. At the discharge meeting*" (Document 59 Filed 08/16/18 Page 2 of 9)

## Table of Contents

	<b>Page</b>
Questions Presented-----	3
Parties to Proceeding-----	3
Directly Related Cases-----	3
Table of Contents-----	4
Table of Authorities-----	5
Statutes & Constitutional Provisions -----	6
Petition For Writ Of Certiorari-----	7
Opinions From Lower Courts -----	7
Jurisdiction-----	8
Constitutional Provisions Involved-----	8
Statement of The Case and Procedural History-----	9
Memorandum of Facts -----	13
LEGAL ARGUMENT VACATE VOID	
JUDGEMENTS-----	18
Conclusion-----	22
Appendix of Record-----	25

<u>TABLE OF AUTHORITIES</u>	
CASES	
<i>Alvarado v. Thomson</i> , 240 Ariz. 12, 16–17 ¶¶ 17–23 (App. 2016)-----	13
<i>Damiano v. Damiano</i> , 83 Ariz. 366, 369 (1958)-----	13
<i>Green v. Lisa Frank, Inc.</i> , 221 Ariz. 138, 151 ¶ 35 (App. 2009)-----	14
<i>McNeil v. Hoskyns</i> , 236 Ariz. 173, 177 ¶ 15 (App. 2014)-----	14
<i>Preston v. Denkins</i> , 94 Ariz. 214, 219 (1963) -----	14
<i>Ruffino v. Lokosky</i> , 245 Ariz. 165, 168–69 ¶ 10 (App. 2018)-----	14
<i>Washington v. Glucksberg</i> , 521 U.S. 702 (1997)).	
<i>Koven v. Saberdyne Sys., Inc.</i> , 128 Ariz. 318, 321 (App. 1980)-----	14
<i>Marquez v Rapid Harvest Co.</i> , 99 Ariz. 363, 365(1965)-----	14
<i>Rogone v. Correia</i> , 236 Ariz. 43, 48 ¶ 11 (App. 2014) -----	15
<i>Jones v. Weller</i> , 362 N.E.2d 73, 76–77 (Ill. App. 1977)-----	15
<i>Doe v. Smith</i> , 200 So. 3d 1028, 1035 ¶ 24 (Miss. 2016)-----	15
<i>Washington v. Glucksberg</i> , 521 U.S. 702 (1997)-----	15
<i>Gault</i> , 387 U.S. 1 (1967)(U.S. Supreme court) -----	21

## **STATUTES AND CONSTITUTIONAL PROVISIONS**

Civil Rule 60(b)-(d)." and Civil Rule 60(d)(3)-throughout	
ARS Rule 60-----throughout	
Fourth, sixth, fourteenth amendments-----	8, 16, 20
Arizona law (ARS Rule 65 & ARS Rule 48)---	9, 10, 19
Section 242 of Title 18 -----	9
Section 1983 -----	9
ARS Rule 65 (b)(1)(A) -----	10
Brady Rule-----	16
fifth amendment-----	8, 20
Article II, Section 4-----	20
ARS 4(3) -----	21
A.R.S. § 13-3601-----	21
14th amendment-----	21
A.R.S. § 12-2101 -----	21
Article 6 Section 5 -----	21

### **Petition for Writ of Certiorari**

Petitioner seeks review under Civil Rule 60(b)-(d), 60(d)(3), and 28 U.S.C. § 1651 to vacate Pinal County Superior Court Case No. S1100JD201700116 due to failure to review lower courts factual findings “*judgements devoid of competent evidence*”, Superior Court Of Arizona Maricopa County Case No. LC2017-00316-001 Order 10/23/2017 Decision, fraud, due process violations, and jurisdictional errors, including the court's error to consider the age of the minor.

### **Opinions From Lower Courts**

Supreme Court state of Arizona July 22, 2024, denied Petition to Vacate, denied Petition for Review

Arizona Court of Appeals Division Two February 7, 2024, denied to accept jurisdiction for Petition for special Action.

Pinal County Superior Court Case No. S1100JD201700116 denied to accept jurisdiction due to age of minor

Arizona Court of Appeals Division Two Case No. 2 CA-JV 2017-0165 Decision Affirmed Feb.6, 2018

Maricopa County Superior Court Case No. LC2017-00316-001 Order 10/23/2017 Decision “*Devoid of competent evidence*”, “Reverse & Remand”

### **Jurisdiction**

Petitioner timely invokes the jurisdiction of the U.S. Supreme Court under Civil Rule 60(b)-(d), 60(d)(3), Rule 23, and the All-Writs Act, 28 U.S.C. § 1651. The Arizona Supreme Court on July 22, 2024 denied Petitioner's motion to vacate without addressing fraud, and the 2017 lower courts factual findings “*judgements devoid of competent evidence*”, (ID 172 pg. 54) violations of constitutional rights, violations of custody and of minor, and newly discovered evidence in 2022, and declined en banc review. The Arizona Court of Appeals, Division Two, denied jurisdiction for a Petition for Special Action on February 7, 2024.

### **Constitutional Provisions Involved**

Petitioner's rights under the Fourth, Fifth, Sixth, and

Fourteenth Amendments have been violated.

Additionally, Section 1983 of Title 42 and Section 242 of Title 18 establish liability for state actions infringing on these rights. Violations include: (ID 182 June 22, 2023)

- **Due Process:** Procedural safeguards were disregarded.
- **Parental Rights:** Unlawful interference with custody.
- **Fraud on the Court:** Misrepresentations in violation of Arizona Rule 65 & 48. (ID 182 June 22, 2023)

#### **Statement of the Case and Procedural History**

The case originated on April 24, 2017, when M.R., a competent minor, was scheduled for discharge from Quail Run per her doctor's orders. Quail Run and La Frontera refused discharge and maliciously filed false reports with the Department of Child Safety (DCS), resulting in the unlawful detention of M.R. by private

companies under color of law in violation of contractual discharge and a fraudulent juvenile court petition based on the lie of "*no discharge date*" filed on April 28, 2017. (Case No. 4:24-cv-00594-TUC-JGZ)

- Evidence reveals DCS and the court relied on false claims of "*no discharge date*" and "*refusal of treatment*."
- The juvenile court issued an ex parte custody order without providing notice, without an affidavit demonstrating imminent harm, and without an affidavit explaining the lack of notice, in violation of ARS Rules 65 & 48 (b)(1)(A) that requires an affidavit for ex parte orders. (ID 1, 2, p. 12) (ID 182 June 22, 2023)
- Petitioners discovered this ex parte order in January 2022 during a separate appeal restarting statute of limitations due to fraud, discovery rule and due process violations. (ID 1, 2, pg. 12) (ID 172 pg. 1-18)

### **Issues Presented for Review**

1. Discharge of ex parte order obtained through material non-disclosure in violation of due process.
2. Ex parte order based on fraudulent reports without proper notice or evidence of imminent harm and failing to disclose doctors ordered discharge.
3. Whether state courts erred in failing to vacate judgments despite the lower courts factual findings on arise of case "*Devoid of competent evidence!*", "Reverse and Remand", newly discovered evidence of fraud and jurisdictional defects. (Case No. LC2017-00316-001)
4. Whether contradictory findings between state and federal courts justify vacating the judgments.

### **State Courts' Constitutional Violations**

State courts disregarded evidence of material factual findings by lower court "*devoid of competent evidence*" (ID 172 pg. 54-61, 1/11/2023) and contractual discharge and failed to adhere to procedural rules, and

improperly relied on hearsay and fraudulent testimony.

Decisions were based on preponderance of evidence rather than the requisite standard for ex parte actions, rendering the orders void. (ID 1, 2, p. 12) (ID 182 June 22, 2023)

### **Relief Sought**

Petitioners respectfully requests the U.S. Supreme Court to vacate the judgments under Civil Rule 60(b)-(d) and 60(d)(3) due to fraud, jurisdictional defects, and due process violations. Supporting evidence includes:

- Doctor-ordered discharge on April 24, 2017, omitted from state court findings. (ID 1-4) (ID 172 pg. 41)
- Fraudulent reports contradicted by lower courts decision, police and contractual records. (ID 172 pg. 1-18, pg. 41, 1/11/2023) (ID 182) (ID 1-4)
- Newly discovered evidence of an ex parte order, revealing procedural violations and bad faith by DCS.

The judgments are void as they were obtained through fraud and in violation of constitutional rights.

Immediate relief is warranted. (ID 2)(ID 182)

### **Memorandum of Facts**

#### **Failure to Conduct Evidentiary Hearing**

The court failed to properly adjudicate this case by neglecting to conduct an evidentiary hearing on newly discovered evidence from 2022. This evidence was unavailable earlier due to inadequate service of process and fraudulent conduct. (ID 1-10) (ID 182 June 22, 2023)

#### **Fraud on the Court**

Fraud on the court undermines the judicial process, vitiating all it touches. Arizona courts define it as the most egregious conduct involving corruption of the judicial process (Alvarado v. Thomson, 240 Ariz. 12, 16-17 ¶¶ 17-23 (App. 2016); Damiano v. Damiano, 83

Ariz. 366, 369 (1958)). Courts possess inherent authority to address such fraud at any time, including setting aside judgments obtained through it (Green v. Lisa Frank, Inc., 221 Ariz. 138, 151 ¶ 35 (App. 2009); McNeil v. Hoskyns, 236 Ariz. 173, 177 ¶ 15 (App. 2014)).

### **Void Judgments**

Judgments are void when a court lacks jurisdiction or when proper service is not effectuated (Preston v. Denkins, 94 Ariz. 214, 219 (1963)). Lack of proper service voids jurisdiction, as held in Koven v. Saberdyne Sys., Inc., 128 Ariz. 318, 321 (App. 1980), and Marquez v. Rapid Harvest Co., 99 Ariz. 363, 365 (1965). The voidness of a judgment may be challenged regardless of delay (Ruffino v. Lokosky, 245 Ariz. 165, 168–69 ¶ 10 (App. 2018)).

### **Fundamental Rights**

Parents and children have a fundamental right to maintain their familial relationship, protected under the Fourteenth Amendment's Due Process Clause (Washington v. Glucksberg, 521 U.S. 702 (1997)).

### **Judicial Authority and Due Process**

Fraud and jurisdictional defects render judgments void and stand outside procedural time limits (Rogone v. Correia, 236 Ariz. 43, 48 ¶ 11 (App. 2014)). Other state courts recognize similar authority (Jones v. Weller, 362 N.E.2d 73 (Ill. App. 1977); Doe v. Smith, 200 So. 3d 1028, 1035 ¶ 24 (Miss. 2016)).

### **Case-Specific Facts**

- 1. Lack of Proper Service (ID 1-4) (ID 172 pg. 1-18)**
  - The court lacked jurisdiction due to insufficient service. The April 28, 2017, ex parte order acknowledges a lack of service, rendering subsequent judgments void.

- Rynn first became aware of the April 28, 2017, order in January 2022, demonstrating fraudulent concealment by the State. (ID 1, 2, p. 12) (ID 182 June 22, 2023)

## **2. Unlawful Seizure and Contractual Breach**

- M.R. was seized on April 24, 2017, without a warrant, order, or notice, violating her Fourth, Sixth, and Fourteenth Amendment rights. (ID 172)
- Quail Run entered a contract on April 20, 2017, agreeing to M.R.'s discharge to her parents on April 24, 2017. The state breached this agreement, leading to permanent harm including broken bones. (ID 172 pg.41)

## **3. Fraud and Suppression of Evidence**

- The state suppressed material evidence, including the Quail Run contract and police report, violating the Brady Rule (Brady v. Maryland, 373 U.S. 83 (1963)). (ID 172 pg. 41 1/11/2023) These omissions prejudiced Rynn and undermined the legitimacy of court proceedings. (ID 182 pg. 2-4) (ID 172 pg. 1-18, 1/11/2023)

#### **4. Due Process Violations**

- No summons, notice, or service was provided to Rynn or M.R., violating procedural and constitutional due process requirements (Fed. R. Civ. P. 60(b)(4)).

#### **Claims for Relief**

- **Vacatur of Void Judgments**

The judgments must be vacated due to jurisdictional defects, lack of service, fraud, and false accusations.

- **Compensation and Damages**

The state is liable for punitive damages under 42 U.S.C. § 1983 for constitutional violations, including unlawful seizure and suppression of evidence.

- **Judicial Integrity and Retrial**

The court must ensure factual accuracy, correct and vacate the record or conduct a new trial to remedy manifest injustice.

**Supporting Evidence (ID 172 pg. 1-61, 1/11/2023)**

(Rule 60, pp. 1-18, Filed January 11, 2023)(ID 174)

1. **Exhibit A:** April 28, 2017, ex parte petition. (ID 1)
2. **Exhibit B:** Quail Run contract confirming M.R.'s return home. (ID 172 pg. 41 1/11/2023)
3. **Exhibit D:** Police report of April 24, 2017, confirming M.R.'s discharge.
4. **Exhibit E:** Fraudulent custody paperwork lacking parental signatures. (ID 172)
5. **Exhibit F:** April 28, 2017, ex parte order. (ID 2)
6. **Exhibit G:** Maricopa Superior Court ruling reversing ex parte order.(ID 172 pg. 1-61, 1/11/2023)

**LEGAL ARGUMENT VACATE VOID  
JUDGMENTS**

Petitioners move under ARS Rule 60 and Federal Rule 60 to vacate void judgments obtained by fraud and perjury, which have no time limitation for challenge.

The court failed to establish a credible threat of harm to M.R. as required, rendering its actions invalid.

The Arizona Supreme Court violated due process by failing to resolve disputes or review petitioners' applications to vacate. Special action jurisdiction applies to pure questions of law, as outlined in *State v. Nichols*, 224 Ariz. 569, ¶ 2, 233 P.3d 1148, 1149 (App.

2010), and is justified when trial court actions lack any legal basis (*King v. Superior Court*, 138 Ariz. 147, 673 P.2d 787 (1983)).

#### **Newly Discovered Evidence**

In 2022, petitioners discovered an ex parte petition and order issued on April 28, 2017, by Daniel Washburn. These were not disclosed to Rynn due to insufficient service of process, violating due process. The order failed to apply the correct standard for evaluating irreparable harm under Federal Rule 65. This oversight necessitates vacating the Superior Court's rulings and warrants a new trial. (ID 172)(ID 182)

#### **Conflicting Court Orders**

The District Court confirmed that Dr. Tan Fermo ordered M.R. discharged home, yet the state court omitted this fact. The court must reconcile factual discrepancies between its findings and the District

Court material factual findings: “*went to retrieve (pick daughter up) M.R., who was under an order from her doctor to be discharged. At the discharge meeting*”

(*Rynn v. McKay*, Case No. 2:18-CV-00414 JJT, USDC AZ-PHOENIX). (Document 59 Filed 08/16/18 Page 2 of 9)

### **Due Process Violations**

The April 28, 2017, ex parte custody order was issued without notice or legal representation for M.R., Richard, or Gelliana Rynn. (ID 2) The appellants only became aware of the order in 2022. These actions violated ARS Rule 65(b), the Fifth and Fourteenth Amendments, and Article II, Section 4 of the Arizona Constitution. The judgments are void due to insufficient service of process and lack of jurisdiction.

### **Constitutional Claims**

The petitioners' constitutional rights under the First, Fourth, Fifth, and Fourteenth Amendments were violated. The April 28, 2017, ex parte custody order was

based on unverified allegations, unrelated to abuse or neglect, and omitted essential procedural safeguards required by *Gault*, 387 U.S. 1 (1967).

#### **Relief Sought**

The Superior Court lacked jurisdiction due to the absence of service. Appellants are entitled to an evidentiary hearing to confirm the lack of an affidavit of service and jurisdictional defects. Courts must vacate void judgments obtained under fraud and perjury omitting "discharge order" to preserve judicial integrity. *Division Two Case No. 2 CA-JV 2017-0165.*

*Appellate courts possess jurisdiction to vacate void judgments pursuant to A.R.S. § 12-2101, Article 6, Section 5 of the Arizona Constitution, and their authority over injunctions and writs under the All-Writs Act. The 14th Amendment of the United States Constitution guarantees everyone the right to due process of law, which includes judgments that comply with the rules. per ARS 4(3) require that a summons be served with a copy of the pleading.*

Allegations fail to include a statutorily enumerated offense constitutes error by the court.. See A.R.S. § 13-3601 (Supp.2013)

## Conclusion

Appellants have demonstrated irreparable harm and constitutional violations, courts failure to adhere to lower courts factual findings "*Devoid of competent evidence!*", (Case No. LC2017-00316-001)(ID 172 pg. 54-61, 1/11/2023) warranting the vacatur of void judgments. The record confirms no affidavit of service for M.R., Richard, or Gelliana. For legal integrity and to rectify due process violations, the judgments must be vacated as a matter of law.

RESPECTFULLY submitted

this 19<sup>th</sup> day of December 2024.

  
RICHARD R.

  
GELLIANA D. R.

  
M.R.