

No.

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IN THE SUPREME COURT OF UNITED STATES

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RICHARD RYNN and GELLIANA DAVID-RYNN, husband and wife,  
MATHEW RYNN, an individual, and MARCELLA RYNN, an individual  
Applicants Petitioners

v.

UHS OF PHOENIX, LLC, et al.,  
Defendants/ Respondents

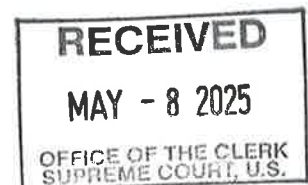
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APPLICATION TO JUSTICE ELENA KEGAN TO VACATE JUDGMENT  
PURSUANT TO RULE 22 AND FED. R. CIV. P. 60(b)(2), 60(b)(3), 60(b)(4)  
BASED ON NEWLY DISCOVERED EVIDENCE, RES JUDICATA, AND  
FRAUD ON THE COURT, TO THE UNITED STATES COURT OF  
APPEALS FOR THE ARIZONA SUPREME COURT

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## **PARTIES TO THE PROCEEDING**

### **Defendants:**

La Frontera Empact, Aurora Behavioral Health, State of Arizona Arizona Department of Child Safety, Quail Run Behavioral Health, Arizona Department of Health Services, Debra Hill, San Manuel Foster Home, Devereux Advanced Behavioral Health, Maricopa Unified School District, Chandler Regional Medical Center, Maricopa Integrated Health Systems, Tamla Alexander, Day Starz Group Home

## **Questions Presented**

1. Whether a state court's refusal to adjudicate a Rule 60(b) motion on the merits, based on procedural grounds, violates due process where the motion alleges fraud on the court?
2. Whether judgments may be vacated where newly discovered evidence and judicial records demonstrate that material claims were never adjudicated on the merits and involved parties were never properly before the court?
3. Whether reliance on discredited evidence—previously rejected as lacking competent support—can form the basis of a later judgment without violating due process and principles of fundamental fairness?
4. Whether the application of res judicata to bar claims by or against parties not included in prior litigation constitutes a constitutional violation where no full and fair opportunity to be heard was provided?
5. Whether ongoing fraud on the court and denial of access to adjudication on the merits justifies vacatur under Rule 60(b)(3) and warrants this Court's intervention under Rule 22?

## DIRECTLY RELATED CASES

1. **Rynn v. McKay** *United States District Court of Arizona* Case No. 2:18-cv-00414-JJT, August 16, 2018 – Marcella not named as a plaintiff. **Related Matter:** Petition pending before the U.S. Supreme Court, Case No. 24A22.
2. **Rynn v. Avondale City Court, First Transit, et al.**, *Avondale City Court*: Case No. P02019000235, *Maricopa County Superior Court*: Case Nos. LC2022-000265 and CV2022-011208, *Arizona Court of Appeals, Division One*: Case No. 1 CA-CV 23-0092, *Arizona Supreme Court*: Case Nos. CV-24-0017 and CV-24-0032, **Related Matter:** Petition pending before the U.S. Supreme Court, Case No. 23A1101.
3. **Quail Run v. Richard Rynn** *Maricopa County Superior Court* Case No. LC2017-000316-001, October 27, 2017 – Judgment reversed and remanded; record found devoid of competent evidence (ID 485, p. 43–50)
4. **Richard R. v. Daniel Washburn** Case No. S1100JD201700116, **Related Matter:** Petition pending before the U.S. Supreme Court, Case No. 24-888

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### **STATUTES AND RULES**

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# **APPLICATION TO VACATE JUDGMENT PURSUANT TO RULE 22 AND FED. R. CIV. P. 60(b)(2), 60(b)(3), 60(b)(4) BASED ON NEWLY DISCOVERED EVIDENCE, RES JUDICATA, AND FRAUD ON THE COURT**

## **I. INTRODUCTION**

**Petitioners respectfully move this Court to vacate the judgments in the above-captioned matter pursuant to Supreme Court Rule 21 and Federal Rule of Civil Procedure 60(b)(2)(3)(4).**

Vacatur is warranted based on newly discovered evidence and clear ongoing fraud on the court, which has materially affected the integrity of prior proceedings. **The Arizona Supreme Court improperly relied** on state procedural rule **Ariz. R. Civ. P. 22(f)** to deny relief, despite the well-established principle that **Rule 60(b) motions based on fraud on the court are not subject to procedural limitations**, including time constraints or procedural bars. The court's refusal to adjudicate Petitioners' Rule 60 motion on the merits constitutes a denial of due process, warranting reversal on this independent and dispositive ground. Additionally, Petitioners' claims have been improperly precluded based on a misapplication of **res judicata**, despite the fact that the Arizona Court of Appeals' 2018 to 2024 decisions relied on threats manufactured by Quail Run—allegations that were previously rejected in *Quail Run v. Rynn* LC2017-000316-001 (2017) as lacking competent evidentiary support. The prior rulings did not adjudicate all claims or involve all necessary parties, thereby failing to satisfy the fundamental requirements for claim preclusion.

The continued reliance on discredited allegations and the preclusive effect given to incomplete or procedurally deficient judgments have resulted in ongoing constitutional violations, including the denial of due process. These errors have caused material harm to Petitioners and warrant this Court's intervention to restore the integrity of the judicial process and prevent further injustice. Accordingly, relief under Rule 60(b)(2) and (3) is not only appropriate, but necessary to preserve the fairness and integrity of the judicial process. (ID 483 p. 1-18) (ID 518 p. 8-12)

## **II. LEGAL STANDARD**

Rule 60(b)(2) allows relief based on newly discovered evidence that, with reasonable diligence, could not have been previously obtained and would likely alter the outcome.

Rule 60(b)(3), 60(b)(4) permits relief where the judgment was procured through fraud, misrepresentation, or misconduct by the opposing party. (ID 483 p. 1-18) (ID 518 p. 8-12)

“Fraud on the court” includes deliberate misconduct such as perjury or concealment that undermines the integrity of the proceedings. See *Pumphrey v. K.W. Thompson Tool Co.*, 62 F.3d 1128, 1131–32 (9th Cir. 1995).

### **III. STATEMENT OF FACTS**

Petitioners submit newly discovered evidence and judicial records establishing violations of due process, and claims for injuries including but not limited to the following:

- Petitioner Marcella was not a party to *Rynn v. McKay*, and her claims have never been adjudicated on the merits; (ID 485 p. 58-62)
- The Superior Court of Arizona Quail Run v Richard Rynn in 2017 reversed the ex parte Injunction from Quail Run employees including Candy Zammit for lack of evidence; (ID 485, p. 43–50)
- On April 24, 2017, Defendants, including Quail Run, violated a signed discharge order by unlawfully asserting custody without judicial authorization or due process of law, constituting a clear breach and evidencing fraud.
- Medical and legal records document Marcella’s extensive injuries and unlawful confinement; (ID 483 p. 1-18) (ID 484 p. 1-13)
- No valid court order authorized custody or medical intervention on April 24, 2017. (ID 483 p. 1-18) (ID 484 p. 1-13)(ID 518 p. 8-12)

### **IV. ARGUMENT**

#### **A. Newly Discovered Evidence Warrants Relief Under Rule 60(b)(2)**

Critical records—including medical documentation, reversal of the IAWH, and judicial transcripts—were not available or disclosed until after judgment. These documents prove that no lawful authority existed for Marcella’s detention & refute material allegations & establish fraud. (ID 483 p. 1-18)

#### **B. Fraud on the Court Justifies Vacatur Under Rule 60(b)(3), 60(b)(4)**

False affidavits (e.g., Cathy Cottey, April 28, 2017), misstatements by state actors, and suppression of exculpatory evidence constitute fraud on the court. These acts corrupted the judicial process and prejudiced Petitioners’ access to fair adjudication. (ID 483 p. 1-18) This inconsistency remains in dispute of material facts arising case and is of national significance concerning parental rights in the context of a child’s discharge from a medical facility and the impact of deprivation of constitutional rights and safety of parents and children from harm by the government and private individuals. The court’s ruling constitutes reversible error due to personal knowledge and discrepancies in the court’s factual findings and the evidence presented.



### **C. Procedural and Constitutional Violations Undermine All Prior Judgments**

Petitioners' rights were violated under:

- **Fourth Amendment** – Protecting against unlawful seizure of a child without a warrant or exigent circumstances.
- **Fourteenth Amendment** – Guaranteeing due process before depriving parental custody.
- **42 U.S.C. § 1983** – Allowing redress for state actions taken under color of law that violate constitutional rights.

*Troxel v. Granville, 530 U.S. 57 (2000) – Establishing the fundamental right of parents to direct the care and custody of their children.*

*Mabe v. San Bernardino County, Dep't of Public Social Services, 237 F.3d 1101 (9th Cir. 2001): Held that officials must obtain a court order or demonstrate exigent circumstances before removing a child from parental custody.*

*Wallis v. Spencer, 202 F.3d 1126 (9th Cir. 2000): Established that the state may not remove children from their parents without prior judicial authorization unless there is immediate danger.*

### **D. No Final Judgment Exists Due to Continuing Misconduct and Harm**

Marcella's independent claims have never been heard on the merits. Judicial reliance on fraudulent orders and unresolved injuries voids any supposed finality. See *Rynn v. Washburn*, U.S. Sup. Ct. No. 24-888, and *Rynn v. McKay*, Case No. 2:18-cv-00414-JJT, U.S. Supreme Court, Case No. 24A22.

### **V. VOID ORDERS AND PROCEDURAL DEFICIENCIES**

The ex parte April 28, 2017 order was issued without notice, hearing, or the sworn affidavit required by Arizona Rule 65(b), and was discovered only in January 2022. These defects render the order void and invalidate all dependent rulings. See *Shinn v. Arizona Bd. of Executive Clemency*, CV-21-0275-PR. (ID 483 p.1-18)(ID 483 p.2-7) (ID 518 p. 8-12)

### **Defendants' Falsification of Material Facts Supports Plaintiffs' Ongoing Claims**

Defendants have knowingly misrepresented material facts across multiple proceedings, undermining the integrity of the judicial process and reinforcing Plaintiffs' claims of fraud, breach of contract under color of law, and ongoing

constitutional violations. Specifically, the record confirms that **Marcella Rynn** was not represented in *Rynn v. McKay*, Case No. 2:18-cv-00414-JJT, as Judge John Tuchi explicitly held that Plaintiff Richard Rynn, appearing pro se, could not represent his daughter's interests. Judge Tuchi's May 7, 2018 order confirms that Marcella was not a party to the case, nor was she represented by her father in the federal litigation. (ID 485, p. 58-62)

## **II. The Superior Court's Reversal in *Quail Run v. Richard Rynn* Supports Plaintiffs' Claims**

In *Quail Run v. Richard Rynn*, Case No. LC2017-000316-001-DT, the Superior Court of Arizona reversed the trial court's issuance of an Injunction finding that the order was based on unverified and incompetent evidence. (ID 485, p. 43-50) The appellate decision stated:

- "Plaintiff Quail Run did not provide any evidence showing how or why the statements from Quail Run—"*who did not hear the statements from Defendant—*"*should have been granted credence by the trial court.*" (ID 485, p. 43-50)
- "An order of protection carries with it an array of collateral legal and reputational consequences... "*Because the ex parte IAWH was based on statements that were completely unverified*", Plaintiff Quail Run did not meet the requirements of ARPOP, Rule 38(g)." (ID 485, p. 43-50)

The judgment was reversed and remanded, effectively invalidating the underlying factual basis for subsequent claims made by Defendants and supporting Plaintiffs' assertions of fraud and improper judicial conduct.

## **III. Arise of Case Breach of Discharge Contract by Quail Run and State Actors under Color of Law**

The case arises from Marcella's wrongful detention and assault following her scheduled discharge from the Quail Run facility on April 24, 2017. Despite a signed discharge order on April 20, 2017, by Dr. Tan Fermo and Candy Zammit—along with verbal instructions from Dr. Fermo that there was no further medical basis to retain Marcella—Quail Run failed to release her. Instead, the facility unlawfully transferred custody to the Department of Child Safety (DCS) without a valid court order or legal process. This action breached the binding discharge agreement and violated the civil and constitutional rights of Richard, Gelliana, and Marcella Rynn. (ID 485 p.22) (ID 483 p.1-18) (ID 483 p. 3-7) (ID 518 p. 8-12)



This breach, committed under color of law, continued until October 9, 2018, when the dependency proceedings concluded. During this period, Marcella suffered ongoing physical and psychological injuries, including broken bones, spinal fractures, broken teeth, forced drug injections, and prolonged isolation—all documented in medical records. These facts constitute further evidence of the unlawful and tortious conduct alleged by Plaintiffs.

#### **IV. District Court Transcript Confirms Marcella Retained Independent Rights (ID 485, p. 58-62)(ID 483 p. 8-9)**

The May 7, 2018 District court transcript in *Rynn v. McKay* further supports Plaintiffs' position that Marcella's legal claims remain viable and independent and the court failed to adjudicate Marcella's claims in violation of due process. (ID 485 p.58-62) Key excerpts include:

- *"Mr. Rynn...may not represent the interests of MR... Count 3, dealing with unlawful imprisonment—the only person that would have standing to bring that is the person found to be unlawfully detained or imprisoned, and that is MR..."*(Marcella) (ID 518 p. 8-12)
- *"While MR may not be a plaintiff in this case"*.(ID 485, p. 58-62)

These statements establish that Marcella's claims were never adjudicated on the merits and remain open to legal redress. (ID 483 p. 8-9)

#### **V. Misstatements by Arizona Courts Do Not Bar Relief and Confirm Fraud on the Court**

Subsequent proceedings in the Arizona Court of Appeals and Arizona Supreme Court have perpetuated false statements contradicting the factual and legal findings of the Superior Court's reversal. Contrary to Defendants' claims, the dependency proceedings were initiated unlawfully after the contractual discharge. No court proceedings were initiated on April 24, 2017, and Defendants failed to obtain custody through any legal mechanism. See *U.S. Supreme Court, Case No. 24-888, Rynn v Daniel Washburn*.

The appellate court's summary—asserting that Marcella was placed into care due to alleged threats and interference—is inconsistent with the Superior Court's case No. LC2017-000316 (October 27, 2017) reversal and unsupported by admissible evidence. The memorandum decision in *Richard R. v. Dep't of Child Safety*, 2 CA-JV 2017-0165 (Feb. 6, 2018), Division One Case No: 1 CA- CV 23-0392 July 18, 2024 U.S. Supreme Court, Case No. 24-888 fails to acknowledge the falsified basis for the IAWH and ignores that the dependency was built on the same tainted foundation.

## **VI. No Final Judgment Has Been Entered Due to Ongoing Fraud and Harm**

Because of continued injuries, fraud on the court, and lack of final adjudication on Marcella's independent claims, no finality attaches to any prior rulings. Plaintiffs' claims for fraud, constitutional violations, and breach of contract remain active and justiciable. The continuing harm to Marcella—both physical and legal—requires judicial intervention and correction of the record. (ID 483 p. 1-18) see pending Tenth Amended complaint (ID 514 -519, 522, 523, 532-534) (ID 518 p. 8-12)

### **A. Newly Discovered Evidence Supports Vacatur**

Recent records establish the following critical facts not available at the time of judgment:

- No court order existed on April 24, 2017, authorizing detention or treatment.
- Documentary and medical records confirm a doctor-ordered discharge that was ignored. (ID 483 p. 3-7)
- Defendants falsely alleged “threats to kill everyone,” a claim refuted by Superior Court findings by the evidence (Case No. LC2017-000316) and new documentary evidence. see *Rynn v Daniel Washburn U.S. Supreme Court*, Case No. 24-888 and Division One Case No: 1 CA- CV 23-0392 July 18, 2024

These facts materially undermine the legitimacy of prior rulings and were not discoverable earlier due to the concealment and ex parte nature of the defendants' proceedings. (ID 518 p. 8-12)

### **B. Fraud on the Court Warrants Vacating**

Defendants knowingly submitted false affidavits (e.g., Cathy Cottee's April 28, 2017 affidavit) to obtain ex parte orders without evidence of irreparable harm, violating Arizona Rule of Civil Procedure 65(b). Such conduct constitutes fraud on the court and has prejudicially influenced both the trial and appellate courts, rendering their rulings void.

The Arizona Court of Appeals in Division One and Division Two repeatedly relied on these misrepresentations, ignoring the lack of statutory and constitutional basis for the State's actions on April 24, 2017. Defendants failed to provide necessary documents or court orders supporting their actions, including any custody orders that would authorize interference in Marcella's discharge

*18 U.S.C. § 1621 is the federal law that defines perjury, making it a crime to knowingly and falsely testify or provide false declarations under oath. It outlines the elements required for a perjury conviction, including that the testimony was false, material, given under oath, and done willfully*

### **The Arizona Supreme Court Failed to Rule on Plaintiff's Motion to Vacate, Violating Due Process**

On March 28, 2025, the Arizona Supreme Court failed to rule on Plaintiff's properly filed Motion to Vacate, which was based on newly discovered evidence, fraud and the judgment entered in Maricopa County Superior Court Case No. LC2017-000316 on October 27, 2017. By declining to address the motion, the Court denied Petitioner a ruling on a dispositive matter. The court's refusal to address the motion constitutes a violation of due process. While courts possess discretion in many procedural matters, that discretion does not extend to ignoring motions that raise substantial claims of fraud on the court.

Fraud on the court implicates the integrity of the judicial process and is not subject to procedural defaults or limitations. As established by federal and state precedent, fraud on the court is an extraordinary basis for relief that courts are required to adjudicate. The Arizona Supreme Court's silence on the motion, particularly where it involved allegations of judicial misconduct and fraud undermining the judicial process itself, constitutes a constructive denial without explanation, in violation of Plaintiff's due process rights under the Fourteenth Amendment. Due process requires a meaningful opportunity to be heard, including adjudication of claims raising constitutional violations and extraordinary relief. The court's refusal to address Plaintiff's motion not only failed to meet that standard but also deprived Plaintiff of a fair forum to resolve serious claims that directly affect the validity of prior rulings.

### **VI. RELIEF REQUESTED**

Petitioners respectfully request that this Court:

1. Vacate the judgments from:
  - *1 CA-CV 23-0392* (Division One, July 18, 2024)
  - *2 CA-JV 2017-0165* (Division Two)
  - *S1100JD201700116* (Pinal County Superior Court)
2. Declare that prior rulings were fraudulently obtained and are void under res judicata principles due to Superior court decision on the evidence that threats from Quail Run "*devoid of competent evidence*"; (*ID 485 p.43-50*)

3. 3. Order an evidentiary hearing regarding the newly discovered evidence and alleged fraud, and issue a ruling on the Tenth Amended Complaint. (ID 518)
4. Grant further relief necessary to protect the judicial process.

## VII. CONCLUSION

The legitimacy of the judiciary depends upon truth and due process. This Motion is based on documentary evidence and corrected judicial findings that invalidate the foundation of the prior judgments. Relief is not only just but essential to rectify ongoing harm and judicial error.

## VIII. PRAYER FOR RELIEF

WHEREFORE, Petitioners respectfully pray that this Court:

1. Vacate the final judgment in this matter;
2. Reinstate and allow adjudication of Marcellas independent and unaddressed claims;
3. Order an evidentiary hearing to resolve fraud on the court;
4. Grant any such other relief as this Court deems just and proper.

RESPECTFULLY submitted  
this 5<sup>th</sup> day of May 2025

  
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RICHARD RYNN

  
\_\_\_\_\_  
GELLIANA DAVID RYNN

  
\_\_\_\_\_  
MARCELLA RYNN

  
\_\_\_\_\_  
MATHEW RYNN