

No. _

In the

Supreme Court of the United States

Kelvin Fortenberry, *Petitioner Pro Se*

V.

Esther Shack and Henry Shack, *Respondents*

On Petition For Writ Of Certiorari

To The Michigan Supreme Court

PETITION FOR A WRIT OF CERTIORARI

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QUESTIONS PRESENTED

1. Why didn't Michigan check into the allegation of intimidation against me by the court officer?
2. How can a judge ignore an objection made by a defendant and then use the basis of this objection to rule against him while in fact violating three amendments.
3. Why wasn't fraud considered and reviewed by the court?
4. The Supremacy Clause states that federal law supersedes state and local laws. How can Michigan courts use their statutes or codes supersede Federal Court case law when the U.S Supreme Court states that statutes and codes are not laws?
5. How can a judge be allowed to violate your constitutional and civil rights?
6. How can Family Court make a ruling on child support when the agency didn't have jurisdiction?
7. Why did the Michigan courts ignore my right to challenge jurisdiction?

LIST OF PARTIES

- Judge Jerome Cavanagh of Michigan Third Circuit Court Wayne County
- Ms. Kelly Barum Court Officer of the Michigan Third Circuit Court, Wayne County
- Judges Jane E. Markey, Stephen L. Borrello and Kristina Robinson Garret of the Michigan Court of Appeals
- Lisa Schmidt from Speaker Law Firm PLLC., the counsel for Esther and Henry Shack.

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Case number 368802

Applicant for Appeal filed (Nov. 28, 2023).

The judgement was entered on July 25, 2024. The court discerned that no error in the proceedings. Accordingly, they affirmed the entirety of the judgement of the trial court.

State of Michigan Third Circuit Court Wayne County:

File No. 23-000274-AY

In re VCF, Minor, judgment entered on November 7, 2023, to terminate parental rights based on the non-custodial parent not complying with the support order for two years.

Statement of the Basis of Jurisdiction

This petition intends to seek review of the order dated October 11, 2024, by the Michigan Supreme Court in case number 167441 for which a timely reconsideration was denied on January 31, 2025, they were not persuaded that the questions presented should have been reviewed by this Court.

Our challenge of jurisdiction was on the basis the lower courts lack the evidence to sustain a judgment. The evidence in question, establishment of paternity, under Title 4-D 45 CFR 303.5 there must have been a paternity test to proceed with this case, or an affidavit of parentage, neither are in the file. Full Faith and Credit Clause from Article IV, Section 1 of the Constitution says that state courts respect the laws and judgments from other states. The New York Supreme Court declared that it is unconstitutional to terminate parental rights based on a preponderance of the evidence. This case states that even after parents are found unfit in a contested court proceeding, they retain constitutionally protected parental rights. The lower

courts did not have subject matter and personal jurisdiction over the body of Kelvin Fortenberry, who is a living man.

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Statement of the Case

In today's world there has been a rise of Socialism, Marxism, and Communism, we as a people have wandered off the very path our forefathers set us on. Honor and Justice for all, as it states in the Preamble, "We the people, in order to form a more perfect union, establish justice, and assure domestic tranquility." Meaning: to create a system of laws for internal peace. The information provided are not mere allegations or speculation; rather, facts, clearly supported by the uncontroverted evidence in the record. I am here to shed light on the violations that plague people of Color and ask that the scales of justice be even. It was Thomas Jefferson that said, "The measure of society is how it treats the weakest member". We don't look at it as greater or weaker, but we do look at it's injustice or justice. The only thing necessary for evil to triumph, is for good men to do nothing" Edmond Burke. We say these things as a Man whom the state allowed tainted evidence against him, had what the constitution says is a fundamental right taken, character defamed, demeaned with comfort from what supposed to be a nonbiased judiciary. "If you are silent about your pain, they'll kill you and say you enjoyed it," Zora Neale Hurston. In a state where there is a race to the top of the Termination of Parental Rights (TPR) chart (5Qs: Sankaran on the Courts' Overuse of Terminating Parental Rights, U of M Law Bob Needham and Professor Vivek Sankaran, May 31, 2023) Michigan's aim is to not allow any evidence

to state the contrary. There is no paternity test, they denied discovery of fraudulent evidence, multiple procedural errors, and numerous civil rights, and constitutional violations to say the least. I am no longer accepting the things I cannot change. I am changing the things I cannot accept,” Angela Davis. Per the transcript, an Appeals Court Judge said, “if it’s not your child, why do you care!” That’s the justice system in Michigan. Benjamin Disraeli stated, “when men are pure, laws are useless; when men are corrupt, laws are broken.” That statement from the Judge in and of itself casts doubt upon the efficacy of his ruling. In the lower courts, presumption is the acceptance of something as true although it is not known for certain. In layman’s term, guilty until proven innocent, when the Law clearly states you’re innocent until proven guilty... where did our morals go, when evidence is requested, evidence offered, then denied, as well as jurisdiction. We served by certified mail an official document challenging paternity and jurisdiction to the child support agency on December 13, 2023, and they never responded, rendering a default judgment, (see Appendix D). So how can Family court or any other court cherry pick information to come to a judgment? This apparent rush to judgment failed to take the entirety of the record into consideration and purposefully ignored the clear fact that office lacked jurisdiction to move forward, thus rendering the default judgment void and unenforceable. This intentional act of depravity is what has taken place in these

proceedings. "It may be true that the law cannot make a man love me, but it can keep him from lynching me, and I think that's pretty important," Martin Luther King, Jr. In an era where lynching is illegal, metaphorically speaking this court system in Michigan is lynching and obfuscating people's parental rights away. The narrative they are proposing is that I just walk away from their decision, just like the appeals court judge said, why do I care! My name, my name is the most precious commodity my Father left me: "A good name, like goodwill, is got by many actions and lost by one." Lord Jeffery. So, I asked, as you embark upon this journey that you do so with an open mind, and heart. People of Color are not second-rate citizens. "Our world is not divided by race, color, gender, or religion. Our world is divided into wise people and fools. And fools divide themselves by race, color, gender, or religion." Unknown.

Argument I

Why didn't Michigan check into the allegation of intimidation against me by the court officer.

Definitions

Intimidation is defined in this section as "an individual intimidates others by deterring or coercing them to take an action they do not want to take." WEX Law Legal Information Institute.

Analysis

I was scheduled for a parental rights hearing on October 17, 2023. After waiting on a zoom call for over two hours, and no one showed up. I contacted the court and spoke with Ms. Valerie McGowan, and she stated that court was canceled, and they notified my attorney. I advised Ms. McGowan that I am a pro se litigant and did not receive notice of the cancellation. She advised me of the next court date, and I informed her I was unable to make that date. I was instructed to speak with the supervisor, Ms. Kelley Barum. I received an email stating I could not reschedule, never got a reason why, so I called the court. Despite my good faith reasons for my lack of availability for the rescheduled hearing date, Ms. Barum refused to even attempt to accommodate my request to reschedule. After some frivolous banter Ms. Barum replied, I don't know why you are showing up." This statement was inflammatory and unbecoming of a court officer of the court and her actions rendered me defenseless. The Michigan courts never addressed the allegation of intimidation of one of their own court clerks. This is a clear violation of my civil rights, constitutional rights and parental rights. Intimidation by definition is to frighten or threaten someone, usually in order to persuade them to do something that you want them to do. Intimidation can be charged as a felony punishable up to five years. Michigan law criminalizes threats especially involving violence or harm

of those intended to extort or intimidate a witness from testifying.

Under MCL 750:122, threats or intimidation aimed at discouraging someone from attending or testifying in a legal proceeding are illegal. Ms. Barum's threat put me in fear of what the court was going to do, the thoughts of an unjust hearing caused duress which adversely impacted my court proceedings. This was also a violation of my constitutional rights. I have a right to be heard in a court proceeding without a court officer threatening me. Michigan courts overlooked this allegation, the documentation in our brief and information that would incriminate one of their own. We believe that Ms. Barum comfort in this violation is what motivated the Family Court Judge to violate my rights. The action of Ms. Barum is a civil rights violation because the courts allowed a Caucasian court clerk to tell a man of color this inflammatory statement. The Civil Rights Act of 1964 is a landmark federal law in the United States that outlaws discrimination based on race, color, religion, sex, and national origin. It was a significant step in the fight against racial and gender discrimination.

Argument II

How can a judge ignore an objection made by a defendant, and then use the basis of this objection to rule against him while in fact violating three amendments?

Definitions

Due Process in this section requires that individuals are afforded the fairness and impartiality in a hearing. Duress in this section is defined as psychological pressure.

Separation of Powers is defined as courts are divided into structurally independent branches.

Civil Rights is defined in this section as Freedom of Speech and Equal Protection under the law.

Analysis

The transcript shows that Judge Cavanagh violated my civil liberties and my constitutional protected rights when he stated, after I made an objection to being called NCP, he stated “I will let you know when you can speak”. The Judge didn’t allow me to invoke my parental and constitutional rights. The non-custodial parent label implies that there was an injury in fact. Lujan v. Wildfire 504. U.S. 555 (1992) states there is a constitutional minimum standard requiring the court to receive evidence from the petitioner/plaintiff showing an injury in fact caused by the conduct of the responder/ defendant. This is a clear violation of Due Process. His directive (order) rendered me helpless and caused duress. The judge’s statement prevented me from objecting and addressing other issues, i.e., jurisdiction. The Judge limited the issues I was able to preserve for appeal.

Due process of law is application by the state of all legal rules and principles pertaining to a case so all legal rights that are owed to a person are respected. Due process balances the power of law of the land and protects the individual person from it. When a government harms a person without following the exact course of the law, this constitutes a due process violation, which offends the rule of law. In *Rood*, 763 N.W. 2d 587, 483 Mich. 73 (Mich 2009) the court held that a parent is entitled to procedural due process if the state seeks to terminate his parental rights. The state must make reasonable efforts to allow him the opportunity to participate.

Duress is a psychological state of mind that Ms. Barum initiated that the Judge duplicated. Duress describes the act of using force, coercion, threats, or psychological pressure, among other things to get someone to act against wishes. If a person is under duress, they are not acting of their own free will and so may be treated accordingly in court proceedings. *Williams v. Williams*, 939 So.2d 1154, the court noted that duress is a condition of mind produced by an improper external pressure or influence that practically destroys the free agency of a party and causes him to do an act or make a contract not of his own volition. In this case the judge also violated the separation of powers. Family Court is judicial, and the judge proceeded to give administrative orders regarding child support payments, which we believe is a violation of the separation of powers.

The Dear Colleague letter of April 20, 2023, was sent to all judges to remind them of how to treat people of color in urban or low poverty areas. The letter details the “detrimental effects of unjust fines and fees fall disproportionately on low-income communities and people of color, who are overrepresented in the criminal justice system and already may face economic obstacles arising from discrimination, bias, or systemic inequities” This letter is showing how the Judges clearly abused their power and authority. Question: Why are they allowed to continue to implement unfair treatment on our communities? This negative impact from these judges is a clear violation of my civil and constitutional rights and as a man of color I will continually fight to be treated equally under the law.

On January 28, 1999, the Minnesota Supreme Court issued a decision in the case of Holmberg v. Holmberg holding that Minnesota’s administrative child support process is unconstitutional. The administrative child support process, current structure violates the constitutional constraints on separation of powers.

In this hearing the Family Court Judge terminated the parental rights based on a support order and what the family court is saying is neglect. In the matter of Blessing vs. Freestone Supreme Court 520 US 329 -Supreme Court 1997 states “To qualify for federal AFDC funds, the State must certify that it will operate a child support enforcement program that conforms with the numerous requirements set

forth in Title IV-D of the Social Security Act, 42 U.S.C 651-669b. The Child Support Agency testified any moneys received was not for the custodial parent or child but to pay back a grant.

Argument III

Why wasn't fraud considered and reviewed by the court?

Definitions

Extrinsic Fraud is an act of deception or misrepresentation outside the event itself which deprives the victim of material information or participation. Compare to: intrinsic fraud Extrinsic fraud commonly arises in contract disputes and in civil actions.

Fraud in this section is the intentional perversion of truth to deceive or cheat someone of something of value or a legal right.

Fruit of the poisonous tree is defined here as evidence that is obtained illegally.

Federal Rule 60 in this section is defined as a void judgment based on Fraud.

Analysis

In this hearing, as we seek justice, opposing counsel alluded to the fact that her client used deception and deceit, to defraud the defendant to acquire a signature. Per opposing counsel's brief, (page 24 line 3-15) we believe as pro se litigants this comes across as an arrogant admission of guilt. Fraudulent misrepresentation,

extrinsic fraud typically arising in the field of contract law, occurs when a defendant makes an intentional or reckless misrepresentation of fact or opinion with the intention to coerce a party into action or inaction on the basis of that misrepresentation. The courts should have provided grounds for relief from the final judgment based on Federal Rule 60 section B-3 which states fraud (whether previously called intrinsic or extrinsic), misrepresentation, or misconduct by an opposing party.

The law states that fraud is based on false representation of material fact (not opinion) by the other side that they knew was incorrect, misleading or an outright lie. The law also affirms that false statements can be made orally, or in writing.

Contract law states:

(1) A person commits the crime of fraudulently obtaining a signature if, with intent to defraud or injure another, the person obtains the signature of a person to a written instrument by knowingly misrepresenting any fact

(2) Fraudulently obtaining a signature is a Class A misdemeanor and its fruit from a poisonous tree.

Fruit of the poisonous trees is a doctrine that extends the exclusionary rule to make evidence inadmissible in court if it was derived from evidence that was illegally obtained. As the metaphor suggests, if the evidential “tree” is tainted, so is

its “fruit.

We assert that morally and ethically to assume this court competence and erroneously think that the decision should have gone in their favor is preposterous. This egregious admission of guilt, by both plaintiff and counsel, should have led to immediate dismissal. If Ms. Schmidt didn’t deceive the courts, why was the statement changed about the letter in her follow up brief? The ABA Model Rules of Professional Conduct: “Prohibits attorneys from making false statements of fact or law before a legal tribunal as well as to the public”. Also, from the ABA “the lawyer must not allow the tribunal to be misled by false statements of law or fact or evidence that the lawyer knows to be false”. The law protects the lawyer from self-incrimination, but it doesn’t allow them to lie. Yale Law School Lillian Goldman Law Library states, “Under the Supreme Court’s interpretation of this privilege, lawyers enjoy less protection than might be supposed. Documents in their hands can general be used against them, and in certain circumstances so can their refusal to testify”. In the matter of County of San Diego v. Gorham, the Appellate Court determined that judgment obtained from fraudulent service can be set aside regardless of the passage of time and a violation of due process rights.

The Michigan rules of Professional Conduct Rule 1.6 Confidentiality of Information states that confidences and secrets to the extent reasonably necessary

to rectify the consequences of a client's illegal or fraudulent act in the furtherance of which the lawyer's services have been used.

Argument IV

The Supremacy Clause states that federal law supersedes state and local codes and statutes. How can Michigan courts use their statutes or codes supersede Federal Court case law?

Definitions

Coram Non-Judice is defined in this section as not before a judge.

Supremacy Clause in this section is defined federal laws take precedence over state laws, constitutions, and codes.

Analysis

The Supremacy Clause states in Article VI, paragraph 2 of the U.S. Constitution. 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, un 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.

Child Support violates the separation of powers and the Supremacy Clause by coming up with their own codes and statutes that they believe supersedes the

constitution. They create the statutes, enforces them, utilizing administrative judges and lawyers. Family Court should not hear and rule on any cases pertaining to child support. In our case, we petitioned child support requesting them to provide proof they had jurisdiction, and they defaulted which Federal Rule 55 Default Judgment. Federal rule 55 states when a party against whom a judgment for affirmative relief is sought has failed to plead or otherwise defend, and that failure is shown by affidavit or otherwise, the clerk must enter the party's default. The Michigan Courts refused to look at the facts surrounding this case because they have an agenda, quota to lead the nation in TPRs. 42 USC 658A is an incentive that the states receive from the Department of Health and Human Services to establish "paternity" start and enforce child support cases and collect the money. In the year 2024 states received \$735 million, which is performance based, to get individuals into the child support program. As long as this is an incentives program or kickback exists unconstitutional acts as such will continue to plague American citizens.

Child Support procedures are unconstitutional, and it violates federal laws. An example of this: 28 USC 1691 Seal and teste of processes states that all writs and process issuing from a court of the United States shall be under the seal of the court and signed by the clerk thereof. Also, the Courts have held that all Writs coming from a Court of the United States signed by a Deputy Clerk is a void judgment for

lack of Judicial signature, Scanbe Mfg. Co. v. Tryon, 400 F.2d 598 hn. 1 9th Cir.

1968. This is one example of one of many procedure errors which we asserted

Federal rule 60 which states when the jurisdictional error is “egregious” will a court

treat the judgment as void. Also, this agency cannot have administrative law judge

enforcing a judicial ruling. The Latin term for this is coram non-judice, “meaning

not before a judge.” Judge Lita Popke was a judge pro temp (2009-2013) when she

set on this case. The United States Supreme Court or SCOTUS has held that Non-

Judicial Persons are without jurisdiction to issue judgements because they are not

from a judicial officer, therefore all judgements by Non-Judicial Persons are void for

lack of jurisdiction. In the matter of Burham v. Superior Court 495 U.S. 604 (1990)

is very clear that a court lacks jurisdiction the orders issued by the court are void

Coram Non Judice “before a person not a judge. It is clear that the issuance of a

money judgment by a non-judicial person presiding in this matter is intentionally

disregarding SCOTUS decisions and is knowingly depriving the undersigned of

rights guaranteed by the United States Constitution and Bill of Rights to defraud

the undersigned of property and will be held liable for damages for acting without

jurisdiction causing the undersigned pain and suffering by an injury in fact.

The Michigan Courts and Child Support are ignoring this federal case law. The

U.S. Constitution establishes three separate but equal branches of government: the

legislative branch, executive branch, and judicial branch. The Framers structured the government in this way to prevent one branch of government from becoming too powerful, and to create a system of checks and balances.

Child Support and Family Court violated 18 USC 242 which states that whoever, under color of any law, statute, ordinance, regulation, or custom, willfully subjects any person in any State, Territory, Commonwealth, Possession, or District to the deprivation of any rights, privileges, or immunities secured or protected by the Constitution or laws of the United States. When we petitioned child support to prove their jurisdiction, the agency defaulted, they did not respond to our correspondence to date. These are some of the facts presented to the Michigan courts that they blatantly disregarded.

The Family Court Judge used child support to terminate the parental rights of Kelvin Fortenberry. The Supreme Court case of "Petitt v. Pettit, 626 N.E. 2d 444 states when a support obligation is "reduced" to a money judgment in the form of A shall recover X number of dollars from B, the support obligation which is "reduced" is transformed into a money judgment, a debt, and the support obligation no longer exists.

Argument V

How can a judge be allowed to violate your constitutional and civil rights?

Definitions

Civil Rights in this section is discrimination based on race, color or religion.

Constitutional Rights in this section are defined as liberties and protections guaranteed by the U.S. Constitution.

Analysis

Throughout the proceedings there were several instances that indicated a significant impartiality on the part of Judge Borrello. His predispositions signified he had already made a determination towards my case with extreme bias. The American Heritage Dict. (new college ed. 1980) defines bias as “a preference that impartial judgment; prejudice.” The judge had a very jovial demeanor toward diverse cultures versus when he saw me, a man of color, his entire countenance changed. This type of behavior was discreditable. There was no impartiality, instead avenged his colleague’s substandard past acts by stating “I see why the judge did you like this.” Referencing what was said by the Family Court Judge. Judge Borrello repeatedly stated that I was lying with no explanation on what he was referring too? This was slanderous and a defamation of my character and highly prejudicial. The mere mention has now left the possibility of a tainted judge pool not allowing the opportunity for an impartial hearing. People v. Cook (2006) 39 Cal.4th 566, 597 reads “The court’s questioning must be ‘temperate, non-

argumentative, and scrupulously fair.” People v. Carpenter (1997) 15 Cal.4th 312, 353, citing People v. Fudge (1994) 7 Cal.4th 1075, 1198 states “Although the trial court has both the duty and the discretion to control the conduct of the trial [Citation], the court ‘Commits misconduct if it persistently makes discourteous and disparaging remarks.’” The Do’s and Don’ts of the court room, via Supreme Court.gov website, it states the one of the main things not to do is to Lie in court. If this statement is true, then how can Ms. Schmidt publish in her brief that her client lied to get the very signature she needed to open this case, when the fraud law is clear on Extrinsic Fraud/Fraudulent Misrepresentation. The law doesn’t even allow you to lie to police MCL-Section 750.479c. How did the Appeals Court allow this miscarriage of justice? This very admission violates my rights for due process. Per the transcript, when I asked the judge to question Ms. Schmidt regarding this duplicity, he obfuscated when denying my request. Respectfully, I had no recourse.

This also shows a clear bias by the Appeal Court judge. How does anyone know this is my child. Paternity has never been established per federal statues 45 CFR 303.5, and it was denied by the mother and by the Appeals Court. Is the court supporting a lie? This is a Rush to Judgment on the Appeals Court part. If this client lied about one thing, then you can assume she has a pattern of lying. Why can’t a Man of Color get a fair hearing? Why are the scales of justice slanted in

Michigan against men of color? Why omit the evidence offered to prove innocence, the answer: Black men in Michigan are presumed guilty and have to prove their innocence in a kangaroo court... which goes against the very thing the Justice system was built on. In the Central Park Five case, if it were not for the pursuit of justice the truth would've been suppressed, and the men would've rotted in prison, but DNA exonerated them which determine the truth, not the color of their skin... This also shows the court violated my civil and due process rights.

How can a judge prosecute and practice law from the bench? As an appellant my argument should have been with the appellee's lawyer, however the judge began to argue with me. His actions violated 28 U.S. Code 454 – Practice of law by Justices and Judges states: any justice or judge appointed under the authority of the United States who engage in the practice of law is guilty of a high misdemeanor. The Appeals Judge officiously and unnecessarily usurped the duties of the opposing counsel, and in doing so, created the impression that he was allying with the plaintiff and opposing counsel. Judge Borrello stated to the opposing counsel "I don't know if Ms. Schmidt has any arguments she needs to make," implying he has already won the case. Federal rule 60 states a party seeking to void the judgment must demonstrate more than the court erred in asserting subject-matter jurisdiction over the claim. Rather, the party must establish the court's exercise of

jurisdiction over the claim amounted to a “plain usurpation of judicial power.” “One hopes that examples of judicial bias are rare- whether that is bias toward the prosecution or bias based on gender, race, ethnicity, social class, indigency, sexuality, sex, or any other minority or “other” based criteria. But bias exists,”

Arguing Judicial Bias on Appeal by Staff Attorney Anna L. Stuart.

The Unconstitutional Official Acts - 16 AM Jur 2d, Sec 177 late 2d Sec. 256

states: Any unconstitutional act of an official will at least be a violation of an oath of that's official to execute the duties of his office and therefore be grounds for his removal from office. No official immunity or privileges of rank or position survive the commission of unlawful acts. If it violates the rights of individuals, it is also likely to be a crime, and the Militia duty obligates anyone aware of such violation to investigate it, gather evidence for a prosecution, make an arrest, and if necessary, seek an indictment from a grand jury, if one is obtained prosecute the offender in a court of law.

Other instances show that the judge stating this paternity case was adjudicated by a tribunal. In a headline dated April 9, 2025 on Whitehouse.gov, President Trump Directs Repeal of Regulations that are Unlawful under 10 recent Supreme Court Decisions, we highlight number 3. SEC v. Jarkey, 603 U.S. 109 (2024) held that it violates the Seventh Amendment for agencies to adjudicate commonlaw

claims in their in-house courts. Agencies accordingly must repeal any regulation authorizing enforcement proceedings that enable the agency's courts to impose judgments or penalties that can only be obtained via jury trial in Article III Courts. This judge should have known per our brief that the Friend of the Court Bureau, and the Michigan Supreme Court states there is only two ways to establish paternity. One, the judge didn't know that adjudication by a tribunal doesn't establish paternity, which ignorance of the law is not a defense. Or was the Judge acting as the prosecutor, opposing counsel, or asking a question?

Argument VI

How can Family Court make a ruling on child support when the agency didn't have jurisdiction?

Definitions

In this section the **Supremacy Clause** is defined federal laws take precedence over state laws, constitutions, and codes.

Analysis

The State of Michigan is one of four states in the country that have accelerated practices for terminating parental rights, 5Qs: Sankaran on the Courts' Overuse of Terminating Parental Rights, U of M, The Imprint Youth and Family news article titled Michigan's Highest Court Hears Challenge to Termination of Parental Rights,

dated May 7, 2024, estimated that as of 2016 children will experience parental rights terminations before they turn 18, with higher rates for children of color and Native Americans. Why are there higher rates for children of color? Michigan terminates parental rights at a high level and very quickly. The constitution is clear that parents have a fundamental interest to care for their child: *Santosky v. Kramer*, 455 U.S. 745 (1982). The New York Supreme Court declared that its unconstitutional to terminate parental rights based on a preponderance of the evidence. *Santosky* is the first Supreme Court case to hold that even after parents are found unfit in a contested court proceeding, they retain constitutionally protected parental rights.

Why is there such a disparity when it comes to people of color? The Dear Colleague Letter dated April 20, 2023, see Appendix E, notes that the detrimental effects of unjust judgments fall disproportionately on low-income communities and people of color, who may already face economic obstacles arising from discrimination, bias, or systemic inequities.

Argument VII

Why did the Michigan courts ignore my right to challenge jurisdiction?

Definitions

Jurisdiction in this section is defined as having the authority to proceed.

In the case of *Basso v. Utah Power & Light Co.* 495 F 2d 906, a supreme court ruling, states that jurisdiction can be challenged at any time even on final determination. It is my constitutional right to challenge jurisdiction in this case. The Child Support Office lacked consent from the defendant and never established subject matter and personal jurisdiction over the body of Kelvin Fortenberry, who is a living man. Any claim of consent was brought on my coercion, and fraudulent pretenses both illegal and violation of my constitutional rights. A part of having jurisdiction is paternity. With no paternity how is the state establishing their case? The state is denying a paternity test as well as the mother.

Here are several court cases that supports my right to challenge jurisdiction. A judgment rendered by a court without personal jurisdiction over the defendant is void. It is a nullity. *Sramek*, 17 Kan. App. 2d 573, 576-577, 840 P.2d 553 (1992), rev. denied 252 Kan. 1093 (1993). The case of *Lantana v. Hopper*, 102 F2d 188; *Chicago v New York*, 37 F Supp 150 states "The court must prove on the record, all jurisdiction facts related to the jurisdiction asserted." The burden shifts to the court to prove jurisdiction. *Rosemond v. Lambert*, 469 F 2d 416. The law provides that once State and Federal jurisdiction has been challenged, it must be proven. 100 S. Ct 2502 (1980). A judicial tribunal has no jurisdiction of the subject matter on which it assumes to act, its proceedings are absolutely void in the fullest sense of the term.

Reason for Granting Writ of Certiorari

The petition for the Writ of Certiorari should be granted Michigan courts lacked the evidence to sustain a judgement. DNA evidence is one of two key components into establishing paternity, an affidavit of parentage being the other. Michigan courts were in a rush to judgment from the start of this case until now. Under criminal law, Brady v. Maryland the Supreme Court ruled that the prosecution suppression of evidence that could impact a defendant's guilt or punishment violates their due process rights. Child Support orders rely on presumptions, garnishments as commercial contracts, and civil (not criminal) jurisdiction. No injured party, no jurisdiction. There was no injury in fact, Lujan v. Wildfire. 504. U.S. 555 (1992). Rule 12. (b)(1) states the burden of proving that jurisdiction does exist falls on the party asserting jurisdiction. Ramming v. United States 281 F. 161, under Rule 12(b)(1), a party may move to dismiss a complaint on the grounds that the district court lacks subject matter jurisdiction. Fed. R. Civ. P. 12(b) (1).

Conclusion

In conclusion, why is it so hard for a man of color to receive a fair hearing in Michigan? Mrs. Shack has denied a paternity test from the time of conception. My instructions from her Prenatal Doctor were to request a paternity test at the birth

of child to established paternity. This request was sternly denied by the mother. In Michigan courts, when paternity is in question either party can request a paternity test, both mother and father must submit to the paternity. If either party refused to participate in paternity the court can hold them in contempt which is punishable by fines and imprisonment. Even if a mother doesn't want to establish paternity the father can still request one from the court. Instead, in this matter the Michigan courts elected to punish the fathers rather than following the law. The state denied our request for a paternity test. Why are the courts obfuscating our rights for paternity when there is a possibility that infidelity is the reason she is denying a DNA test? The Appeals Court denied our request for paternity which is shown in our brief. The Appeals Court violated our rights for due process by denying our request for paternity which is a constitutional violation. Mrs. Shack blatantly lied to acquire the signature to even start the proceedings, which, in fact, is a felony "extrinsic fraud and fraudulent misrepresentation"! Quote: "A lie gets halfway around the world before the truth has a chance to get its pants on," Winston Churchill. The Court denied us an opportunity to validate the signature, both in discovery, and by request to the Appeals Court. This is another constitutional violation of my due process rights. There seems to be a pattern of practice amongst due process violations. The courts are saying I abandoned the child, when in fact, it

was parental alienation. The Child Support Agency fraudulently started support case. She was never on government assistance. When I received a correspondence for modification, I replied asking for a special appearance hearing on this matter, and to challenge jurisdiction, according to Federal rule 55 Default Judgment (a) ENTERING A DEFAULT. When a party against whom a judgment for affirmative relief is sought has failed to plead or otherwise defend, and that failure is shown by affidavit or otherwise, the clerk must enter the party's default. We also know they operated illegally because there is not a paternity test on file. Any consent was made under duress, or fear of going to jail, again. This case was not before a judge, also known as Coram NonJudice, the judge on this matter was a judge pro temp. When does it ever stop!!!! In a letter from the Justice Department to Senator Grassley dated February 22, 2025, Sarah Harris stated that "the DOJ's determination that removal restrictions for administrative law judges (ALJs) are unconstitutional, and that the DOJ no longer intends to defend them in court." On January 3rd, 2025, Senator Mike Johnson confirmed the unconstitutional violations of these Administrative Law Judges when he addressed the 119th Congress. The ALJs violated the 5th, 6th, and 7th amendments of the constitution.

The Child Support Agency gives the custodial parent a sense invulnerability (lying), it increases animosity, causing greater conflict between parents which

provides a huge bureaucracy to support one parent at the expense of the other who is not provided equal protection (paternity, parenting time, or otherwise). The sense of fairness is absent because the power of equity are not used in administrative hearings. So, my question to the Court: How can Michigan courts uphold the criminal behavior and unlawful acts? No one can definitely say that's my child, and the courts in Michigan know if it's found out it's not, it sets up a lawsuit, extortion to defraud. "There is no statute of limitation on fraud," County of San Diego v. Gorham (2010)186 Cal.App.4th 1215. There is indeed a pattern of practice amongst these judges in Michigan, and everyone wants to deny it because the recipient of these nefarious treatment don't look like them, they're people of color. Why is there a different justice system for other ethnicities compared to people of color. We are asking for an opportunity to clear our name and to exercise our God given rights in a fair and just hearing in a court of law.

I, Kelvin Fortenberry certify under penalty of perjury that everything on these documents is true and correct.