No. ____ 25A51

IN THE SUPREME COURT OF THE UNITED STATES

DONALD N. S. MORTVEDT,
Applicant,

v.

STATE OF ARKANSAS and **ALLYSON REEVES**,
Respondents.

EMERGENCY APPLICATION FOR STAY OF ENFORCEMENT OF CUSTODY ORDERS PENDING APPEAL
(Pursuant to Supreme Court Rules 22 and 23)

To the Honorable Brett M. Kavanaugh, Associate Justice of the Supreme Court and Circuit Justice for the Eighth Circuit

Applicant respectfully requests an emergency stay of enforcement of custody orders entered on November 13, 2024 and January 13, 2025, which were issued without adequate process, without a finding of parental unfitness, and under circumstances that implicate multiple constitutional violations.

Applicant currently is certified as In Forma Pauperis in the 8th circuit and respectfully requests permission to proceed as such.

This application is submitted pursuant to Supreme Court Rules 22 and 23, and in aid of this Court's jurisdiction under 28 U.S.C. § 1651(a) (the All Writs Act) and 28 U.S.C. § 2101(f). Applicant also invokes Federal Rule of Appellate Procedure 8(a), having sought comparable relief from both the district court and the Court of Appeals for the Eighth Circuit, where emergency motions were filed and taken with the case. Relief is now sought from this Court to prevent ongoing harm pending final resolution on appeal.

Applicant seeks a stay of enforcement to prevent ongoing constitutional injury and irreparable harm to himself and to his two minor daughters while these structural and procedural questions remain unresolved. In the

alternative, Applicant respectfully requests such other interim relief as Justice Kavanaugh may deem proper and within his authority to grant under the applicable rules.

Applicant has been allowed only 2 hours of visitation in 8 months while previously holding 50/50 custody for about a year. Applicant is a fit parent. There has never existed a time where Applicant has not vigorously attempted to exercise his parental rights.

Applicant has engaged with every level of state government, the record going back two years with engagement with the Governor's Office with a request for a declaration of equal parental rights. This included early engagement with the legislative branch through Rep. Walker and Pam Smith. Later engagements included proposed legislation submitted through them during the 2025 Arkansas Legislative Session, which was forwarded to the Bureau of Legislative Research. The reason given for non-action was that 'all of Title IX would have to change.' Most of these exchanges are available as emails in the exhibits. The conversation regarding Title IX is further memorialized in a recorded call with Pam Smith after consultation with BLR attorneys.

[Enclose state orders as exhibits: the gag orders, loss of parenting time, and previous 50/50 custody order.]

Applicant exhausted the judicial forum in Arkansas after Judge Clawson III recused following Applicant's motion for recusal. The docket reflects no reassignment or further adjudication. Several motions sat unanswered. [Reference these orders and docket screenshot as exhibits.]

Prior to the November 13, 2024 hearing, Applicant's oldest daughter made statements suggesting that concerning things might be happening in Texas. In response, and acting as any fit parent would, Applicant attempted to take appropriate steps — including arranging a trauma-informed intake appointment at Kidspiration, a facility specializing in cognitive behavioral therapy. The resulting clinical evaluation is submitted under seal as Exhibit [placeholder], and Applicant respectfully directs the Court to its contents.

In attempting to protect his children and respond to what he believed were serious and credible disclosures, Applicant was met not with process, but with punishment. With only one working day's notice, no counsel, no

witnesses, no opportunity to prepare, and no hearing on parental fitness, Applicant's rights were dramatically curtailed. He was reduced from 50/50 custody to four hours per month of supervised visitation — of which he has only been allowed to exercise two hours total in eight months.

A gag order was also imposed, barring Applicant from speaking to his children about what they told him, or even inquiring further. The allegations — which remain unresolved — are now sealed away from both public view and parental protection. The process through which these restrictions were imposed included apparent violations of the ADA, due process, and the absence of any clinical or evidentiary review. The judge who issued the orders later recused himself, following a motion filed by Applicant.

Today, Applicant does not know whether his daughters are safe. He does not know why his daughter was telling him what she did but it is seriously concerning. He does know that the trauma-trained clinician who conducted the intake concluded that key questions remain unanswered and indicated potential dx and prognosis applicant will not state in this unsealed part of the file. But he has not been permitted to follow up. He cannot communicate freely. And he cannot act on what he was told.

This is not a theoretical injury. It is a lived, ongoing harm — and it is made worse by the State's refusal to allow a fit parent to do the one thing that makes him a parent at all: listen, believe, and protect.

After the paralysis of the state court became clear, Applicant filed in the Western District of Arkansas on a Friday and received sua sponte dismissal by the following Monday. He filed intent to appeal within days, and brought the matter to the Eighth Circuit. With visitation blocked and Applicant's young children conveying distress — including their mother appearing with a black eye — Applicant redoubled his federal filings, recognizing that the appellate process was moving too slowly to stem the harm.

Applicant filed two emergency motions for relief pending appeal, both taken with the case. All orders directly follow this application as filed. These effective denials left Applicant and his children without relief as constitutional and emotional harms deepened by the day.

These harms are not speculative. The structural and psychological

consequences resemble those described in M.S.L. v. ICE, where family separation was held to inflict constitutional injury.

Applicant discusses the doctrinal substance more deeply in his June 5 filing before the Eighth Circuit, invoking the Tenth Amendment as applied in Bond v. United States. [Reference exhibit and page.]

The same relief — a stay of unconstitutional custody orders — has been consistently sought at each stage. This matter implicates potential ultra vires state action, absent a fitness finding.

The implications here are immense. Even a short, non-inclusive list includes the First, Ninth, and Tenth Amendments; due process; ADA violations; federalism; reserved powers; and ultra vires state action. There are serious and unresolved questions of precedent, including Troxel v. Granville (2000) and Bond v. United States (2011). There is also the open question of whether conscience is protected under the First Amendment — and to what extent — as suggested by James Madison's original draft, which explicitly named conscience as a right, and which may have been later absorbed into the Free Exercise Clause of the First Amendment.

But more fundamentally, applicant will call into question the legitimacy of the concept of custody as it currently operates. Why is what may be our most important right — the right to parent — being tried in civil court, and how is it being abridged without criminal conviction? Are there not laws — written clearly in black and white — that must define the threshold before which the State can abridge individual liberty or assume powers that belong to the people?

That is the very premise of due process and the balance of federalism: that rights are presumed to remain with the people unless and until the State overcomes that presumption according to a standard spelled out in law. Those lines must be known in advance. Only when they are clearly crossed — and only after due process, with findings of guilt under criminal standards — may the State act to restrict or assume individual rights.

I do not bring all of these questions to the Court today. But the weight and seriousness of even a portion of them — already implicated by these circumstances and many documented already on the permanent 8th circuit

record — should be sufficient to convey the gravity of the situation and the urgent need for relief for Applicant and his children.

Thus, as Applicant intends to bring the full spectrum of constitutional questions before this Court in due time as the forums below may not be structurally equipped to reach or resolve such questions, he respectfully requests, in the interim, relief from ongoing harms that are constitutional, familial, and immediate. Therefore, Mr. Mortvedt respectfully requests the aforementioned stay and any other relief that may be available and appropriate under this posture.

To date, no emergency relief has been granted by the lower courts.

Applicant previously filed pursuant to Rule 23 and is now resubmitting after a period taken to cure.

Applicant's June 4 filing to the Eighth Circuit — attached here as Exhibit [X] and referred to internally as the *Obstruction* motion — sets forth the full constitutional foundation of the relief now sought. It addresses all four *Dataphase* factors and includes a structured jurisprudential framework organized around jurisdiction, harm, deprivation, remedy, and supremacy. The filing cites and applies key precedent including *Troxel v. Granville*, *Santosky v. Kramer*, *Elrod v. Burns*, *Mathews v. Eldridge*, *Brown v. Plata*, *Ms. L. v. ICE*, *Plouffe v. Ligon*, and *Bond v. United States*. It also references applicable authorities under FRAP 8, FRAP 10(e), the All Writs Act, and constitutional doctrines including the Ninth and Tenth Amendments. Rather than restate those arguments in full here, Applicant incorporates the June 4 filing by reference and respectfully directs the Court to that document as the comprehensive doctrinal and evidentiary basis for the relief now requested.

Mr. Mortvedt includes the entirety of his prior filings to the best of his ability for reference, and asserts that all necessary legal and factual support is contained therein. Given the emergency posture and the ongoing harm to both Applicant and his children, Applicant has refrained from drafting another multi-thousand-word motion to restate what has already been clearly articulated and preserved in the record below. He respectfully submits that under the circumstances, urgency and prudence favor relying on what has already been carefully constructed.

Footnote:

Petitioner recently discovered, while finalizing his Rule 23 emergency application, that the Court of Appeals entered a summary affirmance order dismissing the appeal without addressing the supplemented record or the pending request for emergency relief. Petitioner has not yet received formal service by mail but became aware of the order via PACER. This development underscores the urgent need for this Court's intervention.

Petitioner will include this order in the attached packet. Its timing—entered while Supreme Court review is actively underway—further supports the need for immediate action, particularly as the state court appears to be attempting to revive or manipulate post-service procedure in a manner that may obstruct or preempt the constitutional issues now properly before this Court. These efforts appear calculated to obfuscate the issues and cause procedural harm to the Petitioner.

Taken together, the procedural suppression at the federal appellate level and the tactical procedural maneuvering at the state level amount to a complete denial of process. Petitioner has been deprived of any meaningful opportunity to be heard—from state courts through the federal circuit—while valid constitutional questions remain unresolved and ongoing harm continues.

Petitioner has recently learned that a state judge, identified as **Judge Clark**, has purportedly issued rulings on motions that were filed more than four months earlier. However, there is **no record in the docket of Judge Clark's assignment or formal entry into the case** following the recusal of the prior judge, and **no notice or service** of any such assignment has been provided to Petitioner. Due to the timing of this discovery and the active preparation of Petitioner's emergency application to this Court, there has been no meaningful opportunity to investigate this matter further. On its face, it appears to reflect an effort by the state to **retroactively shield procedural defects** and cause additional harm to Petitioner's position while this Court's review is pending.

These procedural developments, while occurring during active drafting of this application, have further delayed completion and increased urgency. Nonetheless, Applicant respectfully submits the time is 3:27 PM Central on

July 2, 2025, and reaffirms his intent to seek immediate protection for his children and himself from this Court.

x

Respectfully submitted,

Donald N. S. Mortvedt

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CERTIFICATE OF SERVICE

I certify that on July 3, 2025, I will serve a true and correct paper copy of this Emergency Application for Stay of Enforcement of Custody Orders Pending Appeal and all accompanying unsealed exhibits by U.S. Mail with tracking, postage prepaid, to the following recipients:

Office of the Attorney General of Arkansas

323 Center Street, Suite 200

Little Rock, AR 72201

(Counsel for Respondent State of Arkansas)

Jacob Potter, Attorney for Allyson Reeves

[Publicly available business address on record]

Additionally, I will transmit courtesy electronic copies by email on the evening of July 2, 2025.

Respectfully submitted,

/s/ Donald N. S. Mortvedt

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Additional material from this filing is available in the Clerk's Office.