

No. 17-_____

**In the
Supreme Court of the United States**

In Re LAWRENCE LYNELL SIMMONS,
Petitioner.

On Petition for Writ of Mandamus and
Prohibition to the Supreme Court of Michigan

**PETITION FOR WRIT OF
MANDAMUS AND PROHIBITION**

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QUESTIONS PRESENTED

Michigan Const. 1963, art 6, sec 6 binds the Michigan Supreme Court to provide an opinion, which states, "Decisions of the supreme court, including all decisions on prerogative writs, shall be in writing and shall contain a concise statement of the facts and reasons for each denial of leave to appeal. When a judge dissents in whole or in part he shall give in writing the reason for the dissent."

In the order below, the Michigan Supreme Court denied leave to appeal in one-sentence DENIAL through memorandum order making the UNITED STATES SUPREME COURT review this case blind and start from scratch, with no notion of the issues the Michigan Supreme Court found dispositive, to disclose the UNITED STATES SUPREME COURT is not free simply to provide a focused analysis of the key issues in the case; instead, it must review the entire case to determine the key issues before making its determination.

THE QUESTION PRESENTED IS:

A. Whether Petitioner is entitled to relief pursuant to 28 U.S.C. Sec 1651(a) to vacate the order of the Michigan Supreme Court, or other relief as this court deems appropriate.

PARTIES TO THE PROCEEDING

RESPONDENTS

- Chief Justice Stephen J. Markman
- Justice Brian K. Zahra
- Justice Bridget Mary McCormack
- Justice David F. Viviano
- Justice Richard Bernstein
- Justice Kurtis T. Wilder
- Justice Elizabeth T. Clement, SC-Michigan,

are the JUSTICES to whom mandamus is sought.

Note: Justice Elizabeth T. Clement appears to be the only Justice that reviewed the application, but did not participate because Thomas P. Clement-GC was handling a FOIA request from Petitioner.

PETITIONER

- LAWRENCE L. SIMMONS is the party to proceeding in the Kalamazoo County Ninth Judicial Circuit Court case file no. B15-0159-AA Michigan Court Appeals case file no. 329955; and, Michigan Supreme Court case file no. 155780.

DEFENDANT

- Appellee, respondent Office of Child Support is the party to the proceeding in the Kalamazoo Ninth Judicial Circuit Court case file no. B15-0159-AA; Michigan Court of Appeals case file no. 329955; and, Michigan Supreme Court case file no. 155780.

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PETITION FOR WRIT OF MANDAMUS AND PROHIBITION

Petitioner, respectfully petitions for writ of mandamus and prohibition to vacate the order of the Michigan Supreme Court and prohibit such future orders.



OPINONS BELOW

The order of the Michigan Supreme Court is not reported, but is reproduced at Pet.App.1a. The Michigan Court of Appeals Per Curiam Order is unpublished, but is reproduced at Pet.App.2a-7a. The Michigan Circuit Court Opinion and Order is not reported, but is reproduced at Pet.App.8a-15a.



JURISDICTION

The Michigan Supreme Court entered Order on November 29, 2017. This Court's jurisdiction rest on 28 U.S.C. Sec 1651(a) and 28 U.S.C. Sec 2101(c).



STATUTES INVOLVED

- Title 28 U.S.C. Sec 1651(a) provides:
 - (a) The Supreme Court and all courts established by Act of Congress may issue all writs necessary or appropriate in aid of their respective jurisdiction and agreeable to the usage and principle of law.
- Title 28 U.S.C. Sec 2101(c) provides:
 - (c) Any other appeal or any writ of certiorari intended to bring any judgment or decree in a civil action, suit or proceeding before the Supreme Court for review shall be taken or applied for within ninety days after entry of such judgment or decree. A Justice of the Supreme Court, for good cause shown, may extend the time for applying for a writ of certiorari for a period not exceeding sixty days.

Michigan's Support and Parenting Time Enforcement Act, Act No. 295 of the Public acts of 1982, being Section 552.601, particularly, MCL 552.625c(2), incorporating MCL 552.625a(1) (hereafter "SAPTEA") allows for specific Michigan State Offices, particularly in this case, the Office of Child Support (hereafter "OCS") to send facsimile to a financial institution for lien and seizure of financial assets; declaring, "an arrearage has occurred in an amount that exceeds 2 times the monthly of periodic support payments payable under a payer's support order," the title IV-D agency may levy against any of the following items subject to lien, incorporating MCL 552.625a(1) on

the presumption of a child support order(s) on record.

However, full disclosure the underlying support duty Filiation Order legally terminated by court Order of competent jurisdiction is not enforceable under the SAPTEA and rendered moot, enforced under in *In re Beck*, 488 Mich. 6 (2010), holding, “the support duty continues unless the duty is modified or terminated by a court of competent jurisdiction.”

Michigan’s Revised Judicature Act of 1961 (EXCERPT) Act 236 of 1961, being Section 600.101, particularly, MCL 600.5809(4) (hereafter “RJA”) allows for an action to enforce a support order [that is enforceable] under the support and parenting time enforcement act, Act No. 295 of the Public Acts of 1982, being sections 552.602 to 552.650 of the Michigan Compiled Laws, the period of limitations is 10 years from the date that the last support payment is due under the support order regardless of whether or not the last payment is made.

However, where it has been fully disclosed that the support duty Filiation Order legally terminated by Court Order of competent jurisdiction consistent with *In re Beck, supra.*, manifestly establish the legally terminated support order is not enforceable under the SAPTEA, rendering action under RJA moot.



STATEMENT OF FACTS

On March 18, 2015, OCS advanced facsimile Financial Institution Lien, Levy and Disclosure to the Financial Institution—Kalsee Credit Union, causing electronic seizure of Petitioner's private financial assets totaling \$1,880.90 Noticed under the Support and Parenting Time Enforcement Act, MCL 552.625a (1) and 552.625c(2), App.16a-18a

On June 22, 2015 Hearing was held; upon which, Petitioner Notified the Court that the 1990 support duty Filiation Order legally terminated upon the child's 18th birthday in accord with the Release Clause. *See*. 15 Min. Mtn Hrng, 06/22/2015, Case No. 2015-0159-AA.

On August 07, 2015, within five months of March 18, 2015, PETITIONER, in BRIEF before the Kalamazoo County Circuit Court, App.25a-27a, fully disclosed under competent jurisdiction of Default Filiation Order, the Kalamazoo County Ninth Judicial Circuit Court, Honorable Richard Ryan Lamb included a release clause for legal termination of the 1990 support duty Filiation Order upon the child's eighteenth (18) birthday through plain language, ORDERING, "Defendant has a duty of support . . . to said child until the child reaches the age of eighteen (18) years, [or until further Order of the Court," App.12a-14a, clearly required entered on or before the closing escrow date of the child's eighteenth birthday November 13, 2005], establishing that the 1990 support duty Filiation Order legally terminated November 13, 2005 and is not enforceable under the SAPTEA advanced March 18, 2015, *In re Beck, supra*, decided Dec 20, 2010 and

equitable estoppel controlling, calling for the duty and obligation of the Court to enforce the legal termination with respects to petitioner's claim of review pursuant to MCL 24.304; to wit, PETITIONER sought reimbursement order, plus interest and OCS's unlawful seizure set-aside to end the civil litigation, App.27a.[sic]

On August 28, 2015, OCS, acting through the Michigan Department of Attorney General's Office (hereafter 'Department'), filed Brief advancing the moot none legal frivolous defense, demanding all Michigan Courts affirm financial assessment, examining past/unpaid support from before the child reached 18 years old based on review of the case history of file no. 1990-1098-DP, dishonestly arranged under and outside the enabling clause of the SAPTEA. *See*, Brief On Appeal of Appellee Office of Child Support—Central Operations 08/28/2015, Case No. 2015-0159-AA.

On September 15, 2015, the Kalamazoo County Ninth Judicial Circuit Court, Honorable Paul J. Bridenstine through manifest usurpation of judicial power mandated in the ministerial duty under the Due Process Clause of the Fourteenth Amendment to the United States Constitution and Michigan Const. 1963, art 1, sec 17, in exercise of function on appeal from agency decision to follow through with the material facts fully disclosing the 1990 support duty Filiation Order legally terminated November 13, 2005, provided for in the conditions of the terms used in the language of the Release Clause, "Defendant has a duty of support. . . . to said child until the child reaches the age of eighteen (18) years," under competent jurisdiction of the Honorable Judge Richard Ryan Lamb, *In re Beck, supra*. and equitable estoppel controlling and a clear abuse of

discretion deciding the moot none legal frivolous defense with a single sentence, stating, "However, that did not absolve Petitioner of his obligation to pay for the child support that was due and remains unpaid from before his daughter reached 18 years of age," as the rationale for the Order and Opinion Affirming the Decision of the Office of the Child Support Central Operations. App.8a-15a.

On October 30, 2015 Claim of Appeal: Civil, was filed with the Michigan Court of Appeals, *See*. Claim of Appeal; Civil event 1, Case No. 329955.

On January 15, 2016, petitioner submitted Brief, fully disclosing under the competent jurisdiction of Default Filiation Order, the Kalamazoo County Ninth Judicial Circuit Court, Honorable Richard Ryan Lamb included a release clause for legal termination of the 1990 support duty Filiation Order upon the child's eighteenth (18) birthday, being November 13, 2005, sufficient to RULE the 1990 support duty Filiation Order otherwise Support Order is not enforceable under the SAPTEA, *In re Beck, supra*. and Equitable Estoppel controlling; to wit, PETITIONER sought reimbursement order, plus interest; reversal of the Circuit Court's September 15, 2015 Order; and, that the Office of Child Support unlawful electronic seizure set-aside, requesting Oral Argument on the briefs to end the civil litigation. App.28a-31a

On February 18, 2016, OCS submitted Brief through the Department, continuing the moot none legal frivolous defense dishonestly arranged under the SAPTEA because it was preserved at the Circuit level, agreeing to oral arguments on the briefs. *See*. Brief Appellee event 20, Case No. 329955.

On February 15, 2017, one year and three days from appellee's brief, Oral Arguments commenced in accord with Case Call, petitioner preserved the 1990 support duty Filiation Order legally terminated November 13, 2005 and is not enforceable under the SAPTEA, sufficient to entitle petitioner the relief pled; to wit, OCS abandoned the moot none legal frivolous defense dishonestly arranged under the SAPTEA advanced for twenty-three (23) months, conceding the Circuit Courts' usurpation of judicial power and clear abuse of discretion; to wit, the Michigan Court of Appeals made NO DECISION. *See*. Case Call 02/15/2017-event 58, Case No. 32995.

On February 28, 2017, the Michigan Court of Appeals, Honorable Judges Borrello, P.J., Markey and M.J. Kelly, J.J., entered unpublished per curiam opinion through manifest usurpation of judicial power mandated in the ministerial duty under the Due Process Clause of the Fourteenth Amendment to the United States Constitution and Michigan Const. 1963, art 1, sec 17, in exercise of function on appeal, as of right, from agency decision to follow through with the material facts fully disclosing the 1990 support duty Filiation Order legally terminated November 13, 2005, provided for in the conditions of the terms used in the language of the Release Clause, "Defendant has a duty of support. . . . to said child until the child reaches the age of eighteen (18) years," under competent jurisdiction of the Honorable Judge Richard Ryan Lamb, *In re Beck*, *supra*., and Equitable Estoppel controlling and a clear abuse of discretion deciding sua sponte the RJA applied, despite failure of OCS to argue in brief preserved before the CIRCURT COURT, nor argued, briefed or preserved before the Michigan Court of

Appeals, falsifying the record, holding the Circuit Court based its Opinion and Order Affirming the Decision of OCS on the RJA, particularly, MCL 600.5809(4); fully disclosing, the State lacked authority to act under the SAPTEA and RJA in light of the legal termination of the 1990 support duty Filiation Order November 13, 2005, App.2a-7a.

On May 15, 2017, petitioner submitted Application for leave to appeal to the Michigan Supreme Court, raising four (4) questions; in which, questions one (1) and two (2) where consolidated and questions three (3) and four (4) where consolidated, seeking appropriate relief, App.32a-55a.

On May 23, 2017, OCS submitted Answer in accord with MCR 7.305(D), failing to rebut the questions presented in the application, copying and pasting the Michigan Court of Appeals sua sponte RJA conclusion; thereby an untimely answer, a common practice of the Department throughout the life of this case. *See*. S.Ct: Answer event 93, Case No. 155780.

On November 9, 2017, the Michigan Supreme Court entered Memorandum Order through manifest usurpation of judicial power mandated in the ministerial duty under the Due Process Clause of the Fourteenth Amendment to the United States Constitution and Michigan Const. 1963, art 1, sec 17, in exercise of function on application for leave to appeal to follow through with the material facts fully disclosing the 1990 support duty Filiation Order legally terminated November 13, 2005, provided for in the conditions of the terms used in the language of the Release Clause, "Defendant has a duty of support. . . . to said child until the child reaches the age of eighteen (18) years,"

under competent jurisdiction of the Honorable Judge Richard Ryan Lamb, *In re Beck, supra.*, and Equitable Estoppel controlling and a clear abuse of discretion advancing a single sentence of non-explanation, “because we are not persuaded that the questions presented should be reviewed by this Court,” prohibited by Michigan Const. 1963, art 6, sec 6, App.1a.

Surprisingly, with regards to usurpation of judicial power, the Michigan Supreme Court manifestly states that it is not persuaded that the question deciding *In re Beck, supra.*, establishing when the support duty terminates, where petitioner fully disclosed the support duty legally terminated November 13, 2005 under the competent jurisdiction of the Honorable Richard Ryan Lamb pursuant to the language in the Release clause of the 1990 support duty Filiation Order, “Defendant has a duty of support. . . . to said child until the child reaches the age of eighteen (18) years”; *B P 7 v. Bureau of State Lottery, supra.* and *Mettler Wallon LLC v. Melrose TWP, supra.*, prohibiting decisions on moot issues, even when they are preserved, where petitioner fully disclosed actions taken under the SAPTEA and RJA moot because the State lacked the authority to act thereunder in light the 1990 support duty legally terminated November 13, 2005; *Booth Newspaper, Inc. supra.*, and *In re Forfeiture of Certain Personal Property, supra.*, prohibiting the sua sponte RJA review not presented at the lower level declined consideration before the Michigan Appellate and Supreme Courts; and, failure to afford proper due process on the opportunity to be heard regarding the Michigan Court of Appeals’ sua sponte advance of the RJA, resulting in a complete miscarriage of justice; and, *Reed v. Reed, supra.*, in the Michigan Court of

Appeals' oppression of basic requirements of due process, should be reviewed by this Court, abandoning the lawful exercise of its prescribed jurisdiction, despite the questions raised previously ruled upon by the Michigan Supreme Court and Michigan Court of Appeals, entitling petitioner to those legal protections, ending the civil litigations favoring petitioner, including but not limited to, the Michigan Supreme Court manifestly violated Michigan Const. 1963, art 6, sec 6, which binds the Michigan Supreme Court to provide an written opinion, which states, "Decisions of the supreme court, including all decisions on prerogative writs, shall be in writing and shall contain a concise statement of the facts and reasons for each denial of leave to appeal. When a judge dissents in whole or in part he shall give in writing the reason for the dissent," clearly prohibiting "the" single sentence [because we are not persuaded that the questions presented should be reviewed by this Court] of non-explanation, *Id.* at 1a.

The Michigan Courts failed to follow through with the facts fully disclosing legal termination of the 1990 support duty Filiation Order, which is not enforceable under the SAPTEA or the RJA, procedurally closing file no. C90-1098-DP with full effect November 13, 2005, legally protected under Equitable Estoppel, barring review for any reason(s) of the legally terminated 1990 support duty Filiation Order and case file no. C90-1098-DP under which the Order was created.

Clearly, it is unknown to petitioner why the Michigan Supreme Court manifestly created exceptional circumstances amounting to a usurpation of judicial power and clear abuse of discretion oppressing the

relief entitled petitioner, justifying the invocation of this extraordinary remedy, *Will v. U.S.*, 389 U.S. 90, 95, 88 S.Ct. 269, 19 L.Ed.2d 305 (1967); *Bankers Life & Casualty Co. v. Holland*, 346 U.S. 379, 383, 74 S.Ct. 145, 98 L.Ed. 106 (1953).

It is equally unknown to petitioner why the Michigan Supreme Court took the position of usurpation of judicial power mandated by Michigan Const. 1963, art 1, sec 17; Michigan Const. 1963, art 6, sec 6; and, the Due Process Clause of the Fourteenth Amendment to the United States Constitution.

What petitioner is aware of, is that, the process was not fair; that a reasonable minded person would have come to the conclusion the State lacked authority to proceed under the SAPTEA and the RJA in light the 1990 support duty legally terminated November 13, 2005, resulting in undue delay of relief entitled petitioner for over 2 years; however, to be exact, 35 months and counting.



STATEMENT OF THE CASE

This is a civil seizure case erroneously advanced by OCS under the SAPTEA; in which, the entire State of Michigan Judiciary practice undue delay, usurpation of judicial power and a clear abuse of discretion in this case now before this United States Supreme Court.

Mandamus relief is warranted because the Michigan Supreme Court willfully violated in the Due Process Clause of the Fourteenth Amendment to the United States Constitution; Michigan Cont. 1963, art 1,

sec 17; and, Michigan Const. 1963, art 6, sec 6, binding decisions of the Michigan Supreme Court, including all decisions on prerogative writs shall be in writing and shall contain a concise statement of the facts and reasons for each decision and reasons for each denial of leave to appeal. When a judge dissents in whole or in part he shall give in writing the reasons for his dissent, prohibiting a single sentence of non-explanation.

Petitioner seeks a writ of mandamus to review the Michigan Supreme Court's Order and Orders of the lower Michigan Circuit Court and Court of Appeals that offered no guidance on the "essential questions, neglecting the courts' duty to the citizens of Michigan, which includes petitioner, *Citizens Protecting Michigan's Constitution v. Secretary of State*, 482 Mich. 960 (2008).



REASON FOR GRANTING THE PETITION

The Michigan Supreme Court through manifest usurpation of judicial power and a clear abuse of discretion, failed to enter a decision, operating to deprive this United States Supreme Court of its appellate jurisdiction.

The [inferior] Michigan Supreme Court on the application for leave to appeal, advanced usurpation of judicial power mandated under Michigan Const. art 6, sec 6, creating undue delay, tantamount to failure to exercise jurisdiction, persistently and without reason, refusing to adjudicate the case properly before

it entering a written opinion and final peremptory order:

- (i) Reversing the Court of Appeals February 28, 2017 Order, App.2a-7a, as null-in-void, RULING the action taken sua sponte under RJA moot, as not properly before the court, including RULING the 1990 support duty Filiation Order legally terminated November 13, 2005 under the competent jurisdiction of the Honorable Richard Ryan Lamb, App.19a-24a, is not enforceable under the SAPTEA; and,
- (ii) Reversing the Circuit Court's September 15, 2015 Order, App.8a-15a, as null-in-void, RULING the action taken under the SAPTEA moot in light the 1990 support duty Filiation Order legally terminated November 13, 2005 under the competent jurisdiction of the Honorable Richard Ryan Lamb and is not enforceable under the SAPTEA; and,
- (iii) FINDING OCS lacked jurisdictional authority to take the actions advanced under the SAPTEA, rendering the seizure of private financial assets under the SAPTEA unlawful, entitling petitioner to relief pled, unlawfully withheld and a clear abuse of discretion in the single sentence non-explanation prohibited by Michigan Const. 1963, art 6, sec 6.

A. PETITIONER IS ENTITLED TO RELIEF PURSUANT TO 28 U.S.C. SEC 1651(A) TO VACATE THE ORDER OF THE MICHIGAN SUPREME COURT, OR OTHER RELIEF AS THIS COURT DEEMS APPROPRIATE.

“The . . . ‘All Writs Act is meant to be used only in the exceptional case where there is clear abuse of discretion or usurpation of judicial power’ . . .” *Bankers Life & Casualty Co. v. Holland*, 346 US. 379,383 (1953).

Supreme Court Rule 20.1 requires that to obtain a writ of mandamus, a petitioner must demonstrate that (1) the writ “will be in aid of the Court’s appellate jurisdiction,” (2) “exceptional circumstances warrant the exercise of the Court’s discretionary powers,” and (3) adequate relief cannot otherwise be obtained.

I. A Writ Will Aid This Court’s Jurisdiction Because the Michigan Supreme Courts Failure to Render a Decision Operates to Deprive the United States Supreme Court of Its Appellate Jurisdiction

The first prerequisite for a writ of mandamus is the establishment the writ “will be in aid of the Court’s appellate jurisdiction,” Sup. Ct. Rule 20.1.

The Michigan Supreme Court’s memorandum Order, App.1a, by Rule of Law is null-in-void as a result of usurpation of judicial power of Michigan Const. 1963, art 6, sec 6 and a clear abuse of discretion failing to correct the undue delay in the Circuit Court’s failure to exercise jurisdiction, Ruling OCS lacked jurisdictional authority to continue March 18, 2015 under the SAPTEA in light the 1990 support duty Filiation Order legally terminated November 13, 2005

and Failure to correct the undue delay in the Michigan Court of Appeals' failure to exercise jurisdiction Ruling sua sponte RJA was not properly before the appellate court, violating the Fourteenth Amendment to the United States Constitution due process clause and on the underlying claim on appeal, Ruling OCS lacked jurisdictional authority to continue March 18, 2015 under the SAPTEA in light the 1990 support duty Filiation Order legally terminated November 13, 2005, FINDING petitioner entitled to relief pled, ending the civil litigation.

The manifest facts clearly show that there was a "clear abuse of discretion," *Bankers Life & Cas. Co. v. Holland*, 346 U.S. 379, 383 (1953), or judicial "usurpation of power." *De Beers*, 325 U.S. at 217; *Cheney*, 542 U.S. at 380 (quoting *Roche v. Evaporated Milk Ass'n*, 319 U.S. 21, 26 (1943)).

This Court has made clear that mandamus relief is available in such unique circumstances. *See. U.S. Alkali Export Ass'n* 325 U.S. at 202 ("finding that a writ in aid of appellate jurisdiction must be to the Supreme Court where it has sole appellate jurisdiction").

In its seminal and historic opinion describing the contours of its judicial review powers and other jurisdictional authority, *Marbury v. Madison*, 5 U.S. (1 Cranch) 137 (1803), this Court recognized that the writ of mandamus is the appropriate tool to protect the Court's appellate jurisdiction. *Id.* at 175 ("[t]o enable this court then to issue a mandamus it must be shown to be an exercise of appellate jurisdiction, or to be necessary to enable [the Court] to exercise appellate jurisdiction").

Since *Marbury*,” [r]epeated decisions of this court have established the rule that this court has power to issue a mandamus, in the exercise of its appellate jurisdiction, and that the writ will lie in a proper case to direct a subordinate court to decide a pending cause.” *Knickerbocker Ins. Co. of Chicago v. Comstock*, 83 U.S. (16 Wall) 258, 270 (1872) (citations omitted).

The All Writs Act sets forth this Court’s statutory authority to issue all writs necessary or appropriate in aid of its jurisdiction. 28 U.S.C. Sec 1651(a). One noted treatise has recognized that under the All Writs Act, “a writ may issue on the ground that undue delay is tantamount to failure to exercise jurisdiction.” 16 Charles Alan Wright, Arthur Raphael Miller & Edward H. Cooper, *Federal Practice and Procedure: Jurisdiction* 2d Sec 3933.1, p. 557-58 (2d ed. 1996) (citations omitted).¹

In *Ex Parte United States*, 287 U.S. 21 (1932), this Court granted an application for a writ of mandamus compelling a federal judge to grant a bench warrant petition that the district court had incorrectly claimed it had the discretion to deny. *Id.* at 24045, 249-51.

This Court explained that the issuance of such a writ was necessary to aid it in exercising its appellate jurisdiction, which could otherwise be defeated by the unauthorized inaction of the lower court. *Id.* at 246.

¹ Moore’s Federal Practice similarly explains that traditionally, the role of mandamus was limited “to directing the lower court to decide a pending case or to require the lower court to reinstate a case.” 19 James William Moore & Daniel R. Coquillette, *More’s Federal Practice*, Sec 204.02[5] (3d ed. 2008).

Moreover, mandamus aids the Court's appellate jurisdiction where the lower Michigan Supreme Court engaged in wholly unauthorized activity through the single sentence of non-explanation, advancing and enjoining undue delay prohibited as a matter of law by Michigan Const. 1963, art 6, sec 6.

Over the years, this Court has continued to recognize the appropriate use of the writ of mandamus in aid of such perspective jurisdiction. In *Will v. Calvert Fire Insurance Co.*, 437 U.S. 655, 661 (1978), this Court ruled that "There can be no doubt that, where [an inferior] court persistently and without reason refuses to adjudicate a case properly before it, the [superior court] may issue the writ 'in order that [it] may exercise the jurisdiction of review given by law'" (citations omitted). *See also, Roche v. Evaporated Milk Ass'n*, 319 U.S. 21, 25 (1943) Such jurisdiction includes the Court's prospective jurisdiction over case in which it will ultimately have the authority under 28 U.S.C. Sec 2101(c) to grant review by certiorari. *See. e.g., Ex Parte United States*, 287 U.S. at 245-46 (on the proposition of certiorari under 28 U.S.C. Sec 1254).

Thus, by granting a writ of mandamus, as requested by Petitioner in this case, this court would be acting in aid of its appellate jurisdiction.

II. The Nearly Three-Year Delay in This Case Constitutes Extraordinary Circumstances Warranting a Writ of Mandamus

The second prerequisite for a writ of mandamus is the establishment of "exceptional circumstances"

that “warrant the exercise of the Court’s discretionary powers,” Sup. Ct. Rule 20.1.

Nearly, a year has passed since the Oral Hearing February 15, 2017; in which, the Michigan Court of Appeals has failed to exercise jurisdiction, refusing to adjudicate the case properly before it on the underlying claim, RULING OCS lacked jurisdictional authority to continue March 18, 2015 under the SAPTEA in light of material facts fully disclosing the 1990 support duty Filiation Order legally terminated November 13, 2005 under the competent jurisdiction of the Honorable Richard Ryan Lamb, *In re Beck, supra* and Equitable Estoppel controlling, violating petitioner’s property interest in private financial assets which the State has interfered with upon procedures that remain Constitutionally infirm or insufficient, *Hinky Dinky Supermarket, Inc. v. Dep’t of Community Health*, 261 Mich.App 604, 605-606; 683 N.W.2d 759 (2004), ground on moot issues by an arbitrary exercise of governmental power, equally violating substantive due process, *Landon Holdings, Inc. v. Grattan Twp.*, 257 Mich.App 154, 173; 66 N.W.2d 93 (2003).

The establishment of “exceptional circumstances” regarding the undue delay in this case exhibited by the Circuit Court for twenty-three (23) months and Michigan Court of Appeals for twelve (12) months, nearly three (3) years, enjoined by the Michigan Supreme Court through manifest usurpation of judicial power and a clear abuse of discretion, failed to end the

undue delay in this case, warranting the exercise of this Court's discretionary powers.²

Clearly, by Rule of Law, the undue delay of nearly three (3) years in the present case warrants a writ of mandamus. Such a writ is appropriate especially in light of the procedural posture of this case: there was no trial, the records and transcripts are not extensive, and the petition for mandamus is from unlawful denial of application for leave to appeal as a result of usurpation of judicial power and clear abuse of discretion of the Michigan Supreme Court.

This case equally involve Constitutional infringement by State Judiciary undue delay; of which, this Court has continued to affirm in civil proceedings regarding neutrality requirements to guarantee that life, liberty and property will not be taken on the basis of an erroneous or distorted conception of the facts and law, particularly critical in such Fourteenth Amendment Due Process action to protect against undue delay and to ensure litigants' constitutional rights are protected through "prompt" and "speedy" judicial decisions to protect petitioner from unjustified deprivation of property, *Carey v. Piphus*, 435 U.S. 247, 259 (1978).

² Circuit courts of appeal have also recognized that the writ of mandamus is the appropriate remedy for causes involving a court's undue delay. See *Johnson v. Rogers*, 917 F.2d 1283, 1285 (10th Cir. 1990) (fourteen-month delay). In *U.S. v. Johnson*, 732 F.2d 379 (4th Cir. 1984), the Fourth Circuit concluded that the two-year delay in the preparation of defendant's trial transcript justified granting a writ of mandamus, being within "the range of magnitude of delay as a result of which courts have indicated that due process may been denied." *Id.* at 382 (citations omitted).

This Constitutional core requirement of NOTICE concept reasonably calculated, under all circumstances, to apprise petitioner of the pendency of all RJA assertions and accusation, affording petitioner a meaningful opportunity to present objections, enabling petitioner to determine what is being proposed and what he must do to prevent the deprivation of his interest, *Mullane v. Central Hanover Bank & Trust Co.*, 339 U.S. 306, 314 (1950); *Richard v. Jefferson County*, 517 U.S. 793 (1996); *Goldberg v. Kelly*, 397 U.S. 254, 267-68 (1970).

The Constitutional core requirement of concept equally encompass HEARING on ALL RJA ASSERTIONS AND ACCUSATION, granted at a meaningful time and in a meaningful manner as a "basic aspect of the duty of government to follow a fair process of decision making when it acts to deprive petitioner of his possessions, the particular purpose is to ensure abstract fair play to petitioner and to protect petitioner's use and possession of property from arbitrary encroachment," *Mathews v. Eldridge*, 424 U.S. 319, 333 (1976); *Baldwin v. Hale*, 68 U.S. (1 Wall.) 223, 233 (1863); *Fuentes v. Shevin*, 407 U.S. 76, 80-81 (1972); *Joint Anti-Fascist Refugee Committee v. McGrath*, 341 U.S. 123, 170-71 (1951); *Armstrong v. Manzo*, 380 U.S. 545, 552 (1965).

The Michigan Court of Appeals violated the Fourteenth Amendment to the United States Constitution "Notice" and "Hearing" requirement on all RJA assertions and accusations, advanced sua sponte post expiration of OCS's briefing deadline.

The Circuit Court; Michigan Court of Appeals and the Michigan Supreme Court through unconventional practices, failed IMPARTIAL functions.

The underlying principle of the importance of prompt judicial decision making and Fourteenth Amendment protections apply to the context of this case, in which a judicial delay of nearly three (3) years has occurred.

Finally, there are several reasons why the procedural issue the 1990 support duty Filiation Order or 1990 support duty Child Support Order legally terminated upon the child's eighteenth birthday November 13, 2005 by order of Court of competent jurisdiction is both 'exceptional' and 'of considerable public importance:

- (a) Citizens of the United States and Michigan State Inhabitants are being subjected to Fraudulent Child Support, which includes petitioner;
- (b) The Office of Child Support perpetuate Child Support Fraud upon the Michigan Courts, as well documented in this case against Petitioner;
- (c) The Michigan Department Prosecuting Attorney General's Office litigation posture promotes perpetuating Child Support Fraud upon Michigan Courts on behalf of the Office of Child Support against State inhabitants, which includes petitioner; and,
- (d) Based on belief, some thirty thousand (30,000), if not greater, Michigan State inhabitants, which includes petitioner, are

forced into involuntary servitude under a 1990 support duty Filiation Order or 1990 support duty Child Support Order that legally terminated in 2005 articulated under the plain language in the Order's Release clause, App.12a-14a, (language still used today), rarely reviewed by this United States Supreme Court. *United States v. U.S. Dist. Court for Eastern Dist. of Mich., Southern Division (Keith)*, 444 F.2d 651, 655-56 (6th Cir. 1971), *aff'd*, 407 U.S. 297 (1972) (quoting *Schlagenhauf v. Holder*, 379 U.S. 104, 110 (1964).

The unlawful practices and procedures of the State and its actors, entitles Petitioner to clear powers of a "prompt judicial review" and "prompt final judicial decision[s]," warranting the exercise of this UNITED STATES SUPREME COURT's ministerial duty of judicial power pursuant to Article III of the UNITED STATES CONSTITUTION, Sections 1, "The judicial power of the United States, shall be vested in one Supreme Court . . ." and Section 2, "The judicial power shall extend to all cases, in law and equity, arising under this Constitution, the laws of the United States, and treaties made, or which shall be made, under their authority;—to all cases of admiralty and maritime jurisdiction."

As such, the second requirement of Supreme Court Rule 20.1 for the issuance of a writ of mandamus is satisfied in this case.

III. No Other Adequate Relief is Available to Petitioner

Finally, Supreme Court Rule 20.1 requires that a writ of mandamus shall issue only when there is no other adequate relief available to the petitioner.

In this case, Petitioner's attempt to induce the Michigan Courts through formal briefing to decide the case, fully disclosing the 1990 support duty Filiation Order legally terminated November 13, 2005 and is not enforceable under the SAPTEA, *In re Beck, supra and equitable estoppel controlling*, requesting that a decision be rendered to no avail.

Furthermore, undue delay is practiced at the administrative level by OCS on April 02, 2015, oppressing legislative intent pursuant to MCL 552.625f(2)(c), entitling petitioner, within 7 days of written challenge, to review the case with the agency on the mistake concerning the fact the agency's decision was not authorized by law other than those described in subdivision 2(a) and (b), rendering the Agency's decision unreliable for any purpose, App.16a-18a.

In addition, undue delay is practiced at the Circuit level September 15, 2015, neglecting the court's duty to petitioner, a Citizens of Michigan, avoiding the principal underlying 'essential questions' presented at every level of review, App.8a-15a, in the Circuit Court's usurpation of judicial power mandated in the ministerial duty under the Due Process Clause of the Fourteenth Amendment to the United States Constitution and Michigan Const. 1963, art 1, Sec 17, in exercise of function on appeal from agency decision to RULE on the manifest evidence of material fact the 1990 support duty Filiation Order legally terminated

November 13, 2005, provided for in the conditions of the terms used in the language of the Release Clause, “Defendant has a duty of support. . . . to said child until the child reaches the age of eighteen (18) years,” under competent jurisdiction of the Honorable Judge Richard Ryan Lamb, *In re Beck, supra.*, and equitable estoppel controlling, disclosing the legal option for collection is no longer available, positively commanded, plainly defined and peremptory (imperative) to the conditions and terms used in the language of release clause, the 1990 support duty legally terminated November 13, 2005 and is not enforceable under the SAPTEA March 18, 2015 otherwise moot and a clear abuse of discretion by the Circuit Court manifestly deciding the moot none legal frivolous defense dishonestly arranged under and outside of the SAPTEA, rendering the Circuit Court Order null-in-void as the 1990 support duty Filiation Order, App.19a-24a, legally terminated nine (9) years and four (4) months passed, advanced by OCS, through the DEPARTMENT for twenty-three (23) months, abruptly abandoned during Oral Argument February 15, 2017, subjecting Petitioner to continued undue delay. *Citizens Protecting Michigan’s Constitution v. Secretary of State*, 482 Mich. 960 (2008).

Next, undue delay is practiced at the Michigan Court of Appeals level February 28, 2017, neglecting the court’s duty to petitioner, a Citizens of Michigan, avoiding the principal underlying ‘essential questions’ presented at every level of review, App.2a-7a, in the Appellate Court’s usurpation of judicial power mandated in the ministerial duty under the Due Process Clause of the Fourteenth Amendment to the United States Constitution and Michigan Const. 1963, art 1,

sec 17, in exercise of function on direct appeal as of right, to RULE the 1990 support duty Filiation Order legally terminated November 13, 2005, provided for in the conditions of the terms used in the language of the Release Clause, "Defendant has a duty of support. ... to said child until the child reaches the age of eighteen (18) years," under competent jurisdiction of the Honorable Judge Richard Ryan Lamb, *In re Beck, supra.*, and equitable estoppel controlling, disclosing the legal option for collection is no longer available, positively commanded, plainly defined and peremptory (imperative) to the conditions and terms used in the language of the release clause, the 1990 support duty legally terminated November 13, 2005 and is not enforceable under the SAPTEA March 18, 2015 otherwise moot and a clear abuse of discretion by the Michigan Court of Appeals falsifying the records, rendering the Order null-in-void ruling sua sponte the lower Circuit Court properly affirmed the decision of the Office of Child Support under the RJA, equally moot, violating the Due Process Clause of the Fourteenth Amendment to the United States Constitution, subjecting Petitioner to continued undue delay. *Citizens Protecting Michigan's Constitution v. Secretary of State*, 482 Mich. 960 (2008)

And, undue delay is practiced at the Michigan Supreme Court level November 29, 2017, neglecting the court's duty to petitioner, a Citizens of Michigan, avoiding the principal underlying 'essential questions' presented at every level of review, App.1a, in the Supreme Court's usurpation of judicial power mandated in the ministerial duty under the Due Process Clause of the Fourteenth Amendment to the United States Constitution; Michigan Const. 1963, art 1, sec 17; and,

Michigan Const. 1963, art 6, sec 6, mandating a written opinion, containing a concise statement of facts and reasons in exercise of function on application for leave on each decision the 1990 support duty Filiation Order legally terminated November 13, 2005 provided for in the conditions of the terms used in the language of the Release Clause, "Defendant has a duty of support. . . . to said child until the child reaches the age of eighteen (18) years," under competent jurisdiction of the Honorable Judge Richard Ryan Lamb, *In re Beck, supra.*, and equitable estoppel controlling, disclosing the legal option for collection is no longer available, positively commanded, plainly defined and peremptory (imperative)) to the conditions and terms used in the language of the release clause, the 1990 support duty legally terminated November 13, 2005 and is not enforceable under the SAPTEA March 18, 2015 otherwise moot; and, the Court of Appeals sua sponte RJA actions moot, violating the Due Process Clause of the Fourteenth Amendment to the United States Constitution and Michigan Const. 1963, art 1, sec 17 and a clear abuse of discretion by the Michigan Supreme Court, rendering the Order null-in-void in the "single sentence of non-explanation," prohibited by the Michigan Const. 1963, art 6, sec 6, subjecting Petitioner to continued undue delay. *Citizens Protecting Michigan's Constitution v. Secretary of State*, 482 Mich. 960 (2008)

As such, appropriate use of the writ of mandamus in aid of such prospective jurisdiction is warranted where the [inferior] Michigan Circuit, Appellate and Supreme Courts persistently and without reason refuse to adjudicate the case properly before it, engage in practice and procedure of usurpation of judicial power

and clear abuse of discretion preserved in the manifest of this case, this [superior] United States Supreme Court may issue the writ "in order that [it] may exercise the jurisdiction of review given by law," 28 U.S.C. Sec(s) 1651(a); Title 28 U.S.C. Sec 2101(c) and Sup. Ct. R. 20.1.

Clearly, under these circumstances, a writ of mandamus is the only adequate relief remaining to Petitioner. The prerequisites for a writ of mandamus have clearly been met in this petition to the United States Supreme Court for immediate consideration.



CONCLUSION

Petitioner respectfully request that this Court issue a writ of mandamus directing Respondents to do all of the following:

- (a) Reinstate case no. 155780, presently closed;
- (b) In accord with *In re Beck, supra* and equitable estoppel controlling, Rule the 1990 support duty Filiation Order legally terminated November 13, 2005 and is not enforceable under the SAPTEA or RJA; and,
- (c) Remand to the Michigan Supreme Court with instructions to remand to the Michigan Court of Appeals, directing remand to the Circuit Court, Ordering the Circuit Court to enter Reimbursement Order directing OCS to reimburse petitioner the amount of \$1,880.90, plus interest immediately, if not sooner to avoid further undue delay, ending the civil

litigation erroneously caused under the
SAPTEA.

Respectfully submitted,

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