

ORIGINAL

No. ____ - ____

Supreme Court, U.S.
FILED

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IN THE

Supreme Court of the United States



In the Matter of the Application of

JULIETTE FAIRLEY,

Petitioner,

against

MAURICETTE FAIRLEY,

Respondent,

For the Appointment of a Guardian Of the Person of

JAMES E. FAIRLEY,

A Person Alleged to be Incapacitated.

*On Petition for a Writ of Certiorari to the
Fourth Court of Appeals of the State of Texas*

PETITION FOR A WRIT OF CERTIORARI

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November 7, 2017

QUESTIONS PRESENTED

1. Whether the Fourth Court of Appeals, in denying Petitioner's Motion for Rehearing, erred when it affirmed the trial court's elimination of Petitioner's legal standing. (2, 6)
2. Whether the Fourth Court of Appeals erred when it decided against Petitioner's appeal based on a lack of testimony disqualifying Respondent when Petitioner was barred from participating in legal proceedings. (3, 4, 6)
3. Whether the Fourth Court of Appeals denied Due Process when it affirmed the trial court's order that struck Petitioner's legal standing because she did not fund the trial court with \$20,000.¹ (6)
4. Whether requiring staggered cash payments of \$10,000, \$5,000 then \$5,000 totaling \$20,000 based on the outcome of future court proceedings constitutes a violation of Due Process of law and federal racketeering "Pay for Play" statutes.² (7)
5. Whether requiring only one applicant, in this case the Petitioner, to pay \$20,000 in cash and not all applicants is a violation of the 14th Amendment's Equal Protection Clause.
6. Whether requiring Petitioner to pay \$50 an hour to visit her father and limiting face to face visitation to four hours a month violates Petitioner's Constitutional Right to Freedom of Association. (12)
7. Whether requiring any applicant to pay \$20,000 at all violated the 13th Amendment of the U.S. Constitution because it placed a price tag on the person of James Fairley. (7)

¹ The Texas Rules of Civil Procedure Rule 143 does not authorize the court to fix bond in a specific amount. It must be open-ended as litigated in *Dilmore v. Russell* and *Mosher v. Tunnell*.

² 18 U.S. Code § 1961 is any act indictable under the following provisions of title 18, United States Code: Section 201 (relating to bribery) and sections 1581–1592 (relating to peonage, slavery, and trafficking in persons)

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James Edgar Fairley is the biological father of Petitioner, Juliette Fairley, and the husband of Respondent Mauricette Sophie Fairley. James remains locked up at Lakeside Assisted Living and Memory Care in San Antonio. He is a 22 year veteran of the U.S. Air Force who fought in the Korean War, World War 2 and Vietnam.

Petitioner, Juliette Fairley, is the daughter of James Fairley and an applicant to be his guardian/caregiver in the Bexar County Probate Court in San Antonio, Texas and was denied the opportunity because she did not pay \$20,000 in cash to the Court. As a result, she was denied legal standing in current and future guardianship proceedings concerning the care of her father James Fairley.

Respondent is Petitioner's 82 year old mother Mauricette Sophie Fairley who was not required to pay \$20,000 in funds to be James Fairley's guardian and was appointed guardian despite evidence submitted to the Court over multiple years that she had repeatedly denied her husband, James Fairley, medical and dental care as well as blood pressure medication, which is why Petitioner submitted an application to be his caregiver/guardian.

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PETITION FOR A WRIT OF CERTIORARI

Petitioner Juliette Fairley respectfully petitions for a Writ of Certiorari to review the judgment of the Supreme Court of Texas denying Petitioner a review of the lower court and Fourth Court of Appeal in San Antonio's decisions, which contradict the Court of Appeals Fifth District of Texas in Dallas

OPINIONS BELOW

When Petitioner's mother ("Respondent") refused to provide James with specialty medical care for his ongoing medical issues, including glaucoma, Petitioner filed the evidence with the trial Court and respectfully moved it for an Order that would mandate Respondent to escort James to specialist physicians. Instead, Bexar County Probate Judge Rickhoff denied Petitioner's motion, dismissed her application for guardianship and declared that James did not need a guardian. (Appendix 10)

After James returned from New York where he received medical care that Respondent was denying him in Texas, Judge Burwell slapped Petitioner with an Order requiring her to pay \$50 an hour to see James and limited face to face visitation with James to four hours a month despite there being no wrong doing on the part of the Petitioner and no police charges filed against Petitioner. (12)

Although Petitioner had submitted evidence to the Bexar County Probate Court that Respondent was medically neglectful of James Fairley, Judge Gladys Burwell ordered Petitioner to pay \$20,000 to the Court alleging that Petitioner had acted without just cause in objecting to Respondent being appointed the guardian of her father on December 29, 2014. (7)

Trial Court Judge Polly Jackson Spencer subsequently dismissed Petitioner's application on February 13, 2015 to be James' guardian and banned Petitioner from participating in further legal proceedings because Petitioner had not paid \$20,000 in cash (funds) to the Court. Petitioner had submitted an Affidavit of Inability to Pay Costs. (6, 9)

On January 28, 2016, during a hearing for a Motion for a New Trial, it was brought to the Trial Court Judge Polly Jackson Spencer's attention that her February 13, 2015 Order (a) eliminated the standing that Juliette needed to participate in the trial that appointed Respondent Guardian of James (b) Petitioner's Due Process rights had been violated when Judge Spencer upheld the prior Judge's Order that required Juliette to pay \$20,000 in funds to the Court, which is erroneous and unauthorized by the Texas Rules of Civil Procedure 143 and (c) because Juliette's application and legal standing had been dismissed, Petitioner Juliette Fairley was unable to present evidence and testimony that would have eliminated Respondent from being qualified to be appointed guardian. (5)

After Petitioner Juliette submitted her first brief to the Fourth Court of Appeals on May 6, 2016, James began complaining of hunger and being starved. Seeking a speedy solution in order to improve James' circumstances more quickly, Petitioner requested a referral to mediation on June 16, 2016 however the Fourth Court of Appeals denied Petitioner's request for referral to mediation. No explanation or opinion was offered by the Fourth Court of Appeals (11)

On January 18, 2017, the Fourth Court of Appeals overlooked the fact that Juliette's standing had been eliminated by prior Orders and affirmed the trial court's Nov. 20, 2015 judgment, claiming in a memorandum opinion that because Petitioner did not object to the appointment of Respondent as guardian, the trial court's order requiring \$20,000 in cash was a harmless error. Petitioner did not have standing to object due to Judge Spencer's Order dismissing her application and legal standing.. (2, 4, 6, 8)

On February 9, 2017, The Fourth Court of Appeals denied Petitioner's Motion for Rehearing despite having been briefed of violations of Due Process. No explanation or opinion was offered. (2)

On September 1, 2017, the Supreme Court of Texas declined to review Petitioner's Petition for Review of the case. No explanation or opinion was offered. (1)

JURISDICTION

This Court has jurisdiction over this matter under Article III, Section 2 of the U.S. Constitution and 28 U.S.C. section 1257, because Petitioner seeks review of a final decision of the highest court of the state of Texas concerning claims arising under the U.S. Constitution and the laws of the United States, including the Equal Protection Clause, the Due Process Clause and the 13th Amendment of the U.S. Constitution.

CONSTITUTIONAL PROVISIONS

The Estate Codes of Texas⁴ themselves violate the U.S. Constitution and federal laws including but not limited:

Fifth Amendment of the U.S. Constitution-No person shall be held to answer for a capital, or otherwise infamous crime, unless on a presentment or indictment of a grand jury, except in cases arising in the land or naval forces, or in the militia, when in actual service in time of war or public danger; nor shall any person be subject for the same offense to be twice put in jeopardy of life or limb; nor shall be compelled in any criminal case to be a witness against himself, nor be deprived of life, liberty, or property, without due process of law; nor shall private property be taken for public use, without just compensation.

Fourteenth Amendment of the U.S. Constitution-All persons born or naturalized in the United States, and subject to the jurisdiction thereof, are citizens of the U.S. and of the state wherein they reside. No state shall make or enforce any law which shall abridge the privileges or immunities of citizens of the U.S.; nor shall any state deprive any person of life, liberty or property, without due process⁵ of law; nor deny to any person within its jurisdiction the equal protection of the laws.

Thirteenth Amendment to the U.S. Constitution- The Abolition of Slavery in the Emancipation Proclamation was passed by Congress on January 31, 1865 and ratified on December 6, 1865. The 13th amendment abolished slavery in the U.S.

⁴ <http://www.statutes.legis.state.tx.us/Docs/SDocs/ESTATESCODE.pdf>

⁵ Hecht v. Monaghan, 307 N.Y. 461, 121 N.E.2d 421 (1954); Honey Dippers Septic Tank Services, Inc. V. Landi, 198 A.D.2d 402, 604 N.Y.S.2d 128 (2d Dept. 1993)

Article III, Section 2 of the U.S. Constitution- The judicial power of the U..S. shall be vested in one Supreme Court and in such inferior courts as the Congress may from time to time ordain and establish. The judges, both of the supreme and inferior courts, shall hold their offices during good behavior, and shall, at stated times, receive for their services, a compensation, which shall not be diminished during their continuance in office.

The Right to Freedom of Association under the First, Fifth and Fourteenth Amendments-This Court has interpreted Due Process of law as protecting the rights in the First Amendment from interference by state governments. Implicit within this right is the Right to Association.

INTRODUCTION

This case presents several unique questions of law regarding freedom, liberty the interpretation of Equal Rights and Due Process as it relates to the payment of thousands of dollars in cash to secure legal standing and influence the outcome of a court case based on wealth as well as the unequal application of costs to certain but not all parties in litigation.

First, the 5th Amendment states to the federal government that no one shall be "deprived of life, liberty or property" without due process of law while in 1868, the 14th Amendment assigns to all states the legal obligation to uphold the Due Process Clause. This due process formula is echoed in the cornerstone of our operative Federal Rules of Civil Procedure, Rule 1, which declares that federal rules⁶

"should be construed and administered to secure the just, speedy, and inexpensive determination of every action and proceeding."

At issue is (a) whether the Fourth Court of Appeals erred and violated the Petitioner's Due Process rights when it denied Petitioner's request for a rehearing and upheld the lower court's order requiring Petitioner to pay \$20,000 in funds to be her father's guardian as a harmless error. (2, 3, 4)

(b) whether Judge Gladys Burwell placed \$20,000 in cash as the qualifier and determining factor rather than evidence, discovery, testimony and due process as to which of the applicants was most qualified to care for the person of James Fairley when she required Petitioner to pay \$20,000 in cash in staggered amounts dependent on the outcome of future legal proceedings. (7)

⁶ <https://www.federalrulesofcivilprocedure.org/frcp/title-i/rule-1/>

(c) When Judge Polly Jackson Spencer first signed an Order that eliminated Juliette's standing because she could not pay \$20,000 in funds, the Order not only denied Petitioner legal standing to ever be her father's caregiver based on cost rather than qualification, placing a price tag on Due Process. Further, despite having an opportunity to grant Petitioner a new trial that would restore Petitioner's legal standing and ensure Juliette's Due Process without cost, Judge Polly Jackson Spencer failed to sign the order that was presented to her. (6, 5)

(d) Whether Judge Burwell's decision to restrict, with cost, Petitioner's ability to visit James is a violation of Petitioner's Right of Association under the First Amendment. The Supreme Court has expressly recognized that the Right to Freedom of Association are implicit in the First, Fifth and Fourteenth unless there has been a crime. Neither James nor Juliette have been convicted of a crime throughout these proceeding. Visits between James, and his Petitioner daughter Juliette are not illegal nor do they promote illegal activity. (12)

Further, the 1868 Equal Protection Clause of the Fourteenth Amendment to the United States Constitution provides that no state shall deny to any person within its jurisdiction "the equal protection of the laws."

However, the Petitioner was the only applicant required to pay \$20,000 in funds to the court, which apportioned Due Process rights to Respondent but not the Petitioner, which is discrimination and a clear violation of the Equal Protection Clause of the Fourteenth Amendment since not all applicants were required to pay \$20,000 to be James Fairley's caregiver (guardian).⁷ (6, 8)

⁷ http://www.law.du.edu/documents/denver-university-law-review/v87-2/cabraser_pdf.pdf

According to XXIX, reprinted in CONSTITUTIONS, supra note 2, at 48–49, it is essential to the preservation of the rights of every individual, his life, liberty, property, and character, that there be an impartial interpretation to the laws, and administration of justice. It is the right of every citizen to be tried by Judges as free, impartial, and independent.

Finally, the Orders of both Judge Polly Jackson Spencer and Judge Gladys Burwell illegitimately placed a \$20,000 cash price tag on the life and liberty of James Fairley, a legally blind military veteran who is currently being held in a locked elder facility against his will where he has experienced starvation, dental negligence, malnourishment and denial of visitation with his daughter, the petitioner, despite constantly requesting to see his daughter who is his advocate. (7, 6, 8)

Although Judge Rickhoff had determined in his September 2014 Order that James did not need a guardian, some four months later Judge Burwell placed a price tag on James Fairley's life and liberty by requiring his daughter and no other applicant to pay \$20,000 in cash to be appointed his guardian. This bounty of \$20,000 on James Fairley's head violates not only the Emancipation Proclamation but also Article XII of the Delaware Constitution, which states: (10, 7, 6)

“Every freeman, for every injury done him in his goods, lands, or person, by any other person, ought to have remedy by the course of the law of the land, and ought to have justice and right for the injury done to him, freely without sale, fully without any denial, and speedily without delay, according to the law of the land.”⁸

Thus, the Estate Codes of Texas themselves violate the U.S. Constitution and federal laws and in this particular case, the trial court not only discriminated against

⁸ Id. art. XII, reprinted in CONSTITUTIONS, supra note 2, at 215

Petitioner based on her ability or inability to pay \$20,000 in cash to the court but it also applied the law unequally because it did not require the same payment of funds of other applicants. Not only was Petitioner eliminated from being an applicant but she was also stricken from all future proceedings concerning the best interests of her father James Fairley because she did not have the financial means to pay thousands of dollars into the coffers of the court. (6, 7, 8)

When the court did not require payment of \$20,000 in cash from all applicants but only the petitioner, it violated the 13th and 14th Amendments by treating Petitioner as inferior based on ability or inability to pay. In 1896, the U.S. Supreme Court's 7 to 1 decision in *Brown v Board of Education* held that facilities were required to be equal when separate in order to satisfy the 14th Amendment's Equal Protection Clause.

Despite the holding of *Plessy v Ferguson* and *Brown v Board of Education*, on the day that President Donald Trump was inaugurated, Petitioner was informed that the Fourth Court of Appeals denied her motion for rehearing, which requested a rehearing that would uphold Petitioner's Due Process right without the requirement that she pay \$20,000 in funds, and on September 1, 2017 the Supreme Court of Texas denied her Petition for Review of this ruling. (1, 2)

When the Supreme Court of Texas let stand such a clear violation of Petitioner's Due Process rights and discrimination based on ability to pay \$20,000, it also failed to enforce the Texas Rules of Civil Procedure Rule 143, which does not authorize the court to fix bond in a specific amount. It must be open-ended as litigated *In Re: Pendragon Transportation LLC* in the Court of Appeals Fifth District of Texas in Dallas. On Feb. 21, 2014, Justice Ada Brown wrote:

“Rule 143 provides that a party seeking affirmative relief may be ruled to give security for costs at any time before final judgment, upon motion of any party, or any officer of the court interested in the costs accruing in such suit, or by the court upon its own motion. TEX. R. CIV. P. 143. TEX. R. CIV. P. 143. Rule 143 does not authorize the court to fix bond in a specific amount; it must be open-ended.

Whereas Judge Burwell’s Dec. 2014 Order pits Texas Estates Code Section 1055.001 against not only the Court of Appeals Fifth District of Texas in Dallas but also the Texas Rules of Civil Procedure, federal laws and the U.S. Constitution (1):

“It is therefore ordered that on or before January 15, 2015, Juliette Fairley shall deposit the sum of Ten Thousand Dollars (\$10,000) with the Clerk of this court as security for the probable costs of this proceeding, to include court costs, attorney ad litem fees and mental health professions.”(7)

It is further ordered that on or before January 28, 2015, the date upon which this Court will hear Movant’s Motion in Limine challenging Juliette Fairley’s standing pursuant to Estates Code Section 1055.001, Juliette Fairley shall deposit the additional sum of Five Thousand Dollars (\$5,000) with the Clerk of this court as further security for the probable costs of this proceeding, to include court costs, attorney ad litem fees and mental health professionals.(7)

It is further ordered that in the event the Movant’s Motion in Limine challenging Juliette Fairley’s standing is denied, then, on or before February 15, 2015, Juliette Fairley shall deposit the additional sum of Five Thousand Dollars (\$5,000) with the Clerk of this court as further security for the probable costs of this proceeding to include court costs, attorney ad litem fees and mental health professionals.” (7)

**These orders violate the Texas Rules of Civil Procedure, the U.S. Constitution,
federal law and Due Process of law. (7, 8)**

STATEMENT OF THE CASE

After being wheeled out of the Fairley Family home he shared with his wife Sophie Fairley ("Respondent") in April 2010 with three broken ribs, dehydration and malnutrition, James Fairley began living in a retirement home in San Antonio that cost an estimated \$3,000 to \$4,000 a month because physicians at Lackland Air Force Base told their biological daughter Juliette Fairley, Petitioner, that if James were returned to the Fairley Family home with Respondent, he would die.

It was Adult Protective Services that first suggested to Petitioner that she should file an application to be James' guardian if she wanted to ensure James' safety, protection and quality medical care. The incidents of elder abuse by Respondent leading to legal proceedings include but are not limited to:

On one occasion, James was dropped off unescorted by the retirement home at Wilford Medical Center at Lackland Air Force Base for high blood pressure but without any paperwork on hand. Respondent was nowhere to be found when Petitioner and physicians contacted her.

Because James had spent time in a substance abuse treatment center in California that treated opioid addiction in retirees, he could not ingest psychotropic medications or drink alcoholic beverages safely. Although Respondent is aware, she instead encouraged James to drink antiseptic mouthwash, which was intoxicating but also burned a hole in his throat and caused James to cough. Juliette would find antiseptic mouthwash that was planted in James' room at the retirement home and replace it with non-alcoholic mouthwash so that James would not harm himself with it, thinking it's juice.

In another incident, James was fed so much candy by Respondent when she visited that he developed some 13 cavities. Petitioner discovered Respondent was then ordering dentists to extract James' teeth instead of filling cavities. In a March 2013 agreement, Respondent was ordered by Bexar County Probate Judge Rickhoff to stop pulling James' teeth and instead to fill the 13 cavities that had developed among James' teeth due to eating too much sugar while under Respondent's care but Respondent failed to fulfill that agreement.

James has several on going medical conditions for which he requires frequent monitoring by physicians. When Juliette requested that Respondent provide James with specialty medical care for glaucoma, heart disease, COPD and gastro issues, Respondent refused and instead forced James to sit outside in the cool air of the fall and winter. James easily catches a cold as a result of sitting outside from the cool air and during the summer, James complained to Juliette that Respondent was forcing him to walk outside in 100 degree Texas heat at noon time.

Further, after medical records were subpoenaed, it was discovered that Respondent had delayed delivering James' blood pressure medication to the retirement home he resided in for some 10 days on more than one occasion. When Petitioner requested that James' medications be directly delivered to the retirement home instead of passing through Respondent's hand's first, Respondent refused.

Juliette met with the patient advocacy office of the Audie Murphy VA Hospital about the lack of care James was receiving and Petitioner was once again guided to the Bexar County Probate Court in San Antonio because merely being James' concerned

daughter did not give Petitioner the authority to improve his medical care without being appointed guardian.

Petitioner presented evidence to the trial court of Respondent's medical neglect and submitted a motion requesting that Respondent be ordered to secure medical care for James but the motion was denied by trial court Judge Tom Rickhoff who declared in a Sept. 2014 Order that James did not need a Guardian. (10)

Since guardian proceedings had been dismissed, James was a free man and could travel anywhere without restriction. (10) That's when James relocated to New York City with Petitioner for medical care that was being denied him in Texas. Juliette sent an email and fax to Respondent and the retirement home where he resided, informing them that James had relocated to New York with his daughter Juliette. Once James was safely settled in Petitioner's comfortable Manhattan apartment, Petitioner secured referrals from physicians at Mount Sinai hospital and set up appointments for him with medical specialists that were covered by his private health insurance.

Pulmonologist Dr. Diego Diaz examined James' nasal passages and found that the persistent cough and congestion was caused by a sinus infection and/or drip. The doctor prescribed a nasal spray called Flutinas and over the counter tablets called Coricidin.

Mt. Sinai Cardiologist Dr. Nicholas DuBois updated James's blood pressure medication by stopping Lasix and prescribing the higher quality Losartan to replace Lisinopril.

The Cardiologist also scheduled cardio exams. Between Aetna, Tricare and Medicare, Petitioner's father received 100% coverage for this superior care by not only

Dr. DuBois and Dr. Diaz but also gastroenterologist Dr. David Borcich who replaced James' prescription for Omneprazole with liquid Carafate. An appointment at the New York Eye and Ear Infirmary of Mount Sinai with a glaucoma specialist confirmed Juliette's suspicion that James had lost his eyesight.

James reported to Petitioner that receiving his eye drops was hit or miss back in Texas and without receiving medication twice a day, his glaucoma had advanced to blindness.

Within six weeks of living with Petitioner, James' health improved. Although Petitioner situated her father in the lower rung of a bunk bed in her studio apartment, it was a safe place for James to sleep and provided the appropriate boundaries between father and daughter while he was being cared for by the Petitioner and New York physicians.

Having a safe place to sleep was important to James because he had revealed to Petitioner while washing blood out of his underwear that he'd been sexually assaulted at the retirement home, which Petitioner reported to the San Antonio Police Department.⁹ However, when Petitioner reported the incident to Respondent, Respondent failed to take action on behalf of her husband.

While he was under Petitioner's care in New York, the congestion in James' chest cleared up, coughing stopped and he looked forward to eating lunch with other elderly veterans at the Stein Senior Center on East 23 Street in Manhattan where a home health aide named Stephanie Carafano, whom Juliette hired, would escort James during the day while Petitioner was working.

⁹ Case #12064751 by Officer D. Loeffler #0248

If James returned to Texas with Respondent, he would not receive the medical care he needed. As a result, Juliette filed to be James' guardian in New York as suggested by counsel however, against James' Fairley's wishes, Judge Visitacion Lewis at 60 Centre Street ordered that James be returned to Texas despite letters and an affidavit from his New York cardiologist, his primary care physician and pulmonologist stating that his medical condition had greatly improved as a result of Petitioner's efforts.

Petitioner was pushed aside based solely on false accusations by Respondent that were unfounded and without evidence or any formal police charges. Back in Texas, Respondent was appointed Guardian despite the evidence of neglect on the part of Respondent that had been presented to the Court by Petitioner since 2011. (8)

Based on false documents submitted by the former medical director at the Audie Murphy VA Geriatric Clinic Marc Prange (who was also medical director at Lakeside Assisted Living and Memory Care at the time), James was placed against his will by Respondent in a locked unit of Lakeside Assisted Living and Memory Care at 8627 Lakeside Parkway in San Antonio where family and friends cannot visit unless their names are on a list.

While the case was on appeal with the Fourth Court, Juliette requested that the Fourth Court of Appeals order the parties to mediation however the Fourth Court of Appeals denied Petitioner's request, providing Petitioner no choice but to continue to litigate in order to advocate for James' best interests and welfare. (11)

To this day, James sits in this locked elder unit at 8627 Lakeside Parkway in San Antonio waiting to be freed. His toothbrush is locked away in a locker and he has to remember to ask for his toothbrush in order to brush his teeth. He has lost weight and

virtually all of his teeth while residing there due to lack of tasty nutritious food and lack of dental care. Despite the March 2013 agreement ordering Respondent to stop extracting James' teeth, Respondent continues to Order the extraction of James' teeth that could have been saved by filling cavities. No one is allowed entry unannounced to hold either Lakeside staff or Respondent accountable for James' safety, medical well-being and welfare.

Under Estate Code in Texas, James lost all of his Civil Rights and Constitutional Rights once the Bexar County Probate Court placed him under guardianship however these laws of the state of Texas are in direct conflict with federal law and the U.S. Constitution.

Although James is a war hero, having fought in World War 2, Vietnam and the Korean War, he is held captive behind bolted doors like an inmate incarcerated in a prison. He is not allowed to talk to Petitioner, who is his healthcare advocate and biological daughter Juliette, in person or by phone, unless Petitioner pays \$50 an hour and James is not allowed open or free visitation with her in person or any of his friends, including Chris McHattan who attempted to visit but was turned away. (12)

James has asked to leave the locked facility, complained of hunger and not receiving edible meals three times a day. Dr. Devragiri at Santa Rosa Christus Hospital in San Antonio diagnosed James as malnourished on February 8, 2017, the same day that Respondent was nowhere to be found when Dr. Geraldine Klein sought authorization to administer anesthesia to James for minor surgery. Dr. Klein ended up contacting Juliette because Respondent had abandoned James at the crucial hour that he was under going surgery and needed anesthesia to avoid a painful incision.

Respondent has banned Juliette's visits with James because she does not want Petitioner to report to authorities how badly James is abused and/or medically/dentally neglected and starved.

Although James requests visits with his Petitioner daughter regularly, he is denied the company of Juliette. Petitioner has repeatedly brought evidence to the trial court of Respondent's medical neglect and abuse however the trial court has not cared to act.

REASONS FOR GRANTING THE PETITION

The Court should grant the petition because it presents important recurring questions of federal law of which the Supreme Court of Texas has ignored and the Fourth Court of Appeals has deemed insignificant.

This petition is an ideal vehicle for addressing these questions because they allow the Court to resolve all points of division on this issue of elder guardianship amongst the Circuits given that by 2030, some 76 million Baby Boomers will turn 65 years old.¹⁰

I. The U.S. Supreme Court should grant review to resolve the split of authority amongst appellate courts in Texas on whether a set price tag for costs is authorized. There is a need for direction in the law and guidance from the U.S. Supreme Court because the ruling against Petitioner by the Fourth Court of Appeals in San Antonio is in conflict with a Feb. 2015 opinion by the 5th Court of Appeals in Dallas¹¹. The founding fathers established that no one shall be "deprived of life, liberty or property" without Due Process of law under the 5th Amendment, and, in 1868, the 14th Amendment assigned to all states the legal obligation to uphold the Due Process Clause.

2. This court should grant review to resolve the practice of attaching such a high price as \$20,000 in cash to secure legal standing and Due Process as unconstitutional because it allows only the wealthy to participate in legal proceedings. Not only was petitioner cast aside as a potential family member caregiver for James but she was also denied participating in future proceedings concerning her father's welfare. (1)

There is a need for direction in the law and guidance from the U.S. Supreme Court because this ruling in Texas by a lower court renders the pursuit of Due Process

¹⁰ U.S. Census Bureau

¹¹ In Re: Pendragon Transportation LLC

rights and Justice as unattainable, expensive and unaffordable for the average American when the Federal Rules of Civil Procedure, Rule 1, declares that federal rules “should be construed and administered to secure the just, speedy, and inexpensive determination of every action and proceeding.”

3. This court should grant review to resolve the unequal application of justice, the law and Due Process based on income. There is a need for direction in the law and guidance from the U.S. Supreme Court because requiring one litigant to pay \$20,000 in cash for standing as well as due process and not all litigants assumes that one is superior to another based on wealth, which is in direct conflict with the Equal Protection Clause of the Fourteenth Amendment to the U.S. Constitution as well as the Bill of Rights which states that all men are created equal.

4. This court should grant review to resolve the unlawful price of \$20,000 in cash that was placed on the life of an American man born free in these United States and who is entitled to liberty and the pursuit of happiness under the Declaration of Independence and the Bill of Rights. There is a need for direction in law and guidance from the U.S. Supreme Court because the sale of an American, regardless of gender, religion, financial status, creed or color, is illegal having been outlawed in 1863 when Abraham Lincoln signed the Emancipation Proclamation.

5. This court should grant review to address the Estate Code in Texas that violate federal law and the U.S. Constitution and that allow an elderly military veteran such as James Fairley to be isolated from family, imprisoned and medically neglected. There is a need for direction in the law and guidance from the U.S. Supreme Court because state

law in Texas violates the U.S. Constitution and federal laws and robs the elderly of their Civil Rights and dignity.

6. This court should grant review to address the Estate Code and laws of Texas that are in direct conflict with the First Amendment's Freedom of Right to Association in requiring a daughter to pay \$50 an hour to visit her senior citizen father and that limit a daughter's in-person visits with her father to four hours a month when there have been no police or criminal charges filed against her that would warrant such a ban on the First Amendment's Right to Freedom of Association. (12)

There is a need for direction in the law and guidance from the U.S. Supreme Court because in violating the U.S. Constitution and federal laws, Texas state laws are robbing retirees of their Civil Rights and dignity.

CONCLUSION

The Writ of Certiorari should be granted because mandating Petitioner Juliette Fairley to pay \$20,000 in cash for legal standing is a segregating and unequal requirement that was not imposed on all litigants as required by Plessy v. Ferguson, Brown V. Board of Education, federal law and the U.S. Constitution. This Pay for Play¹² cash requirement contradicts a February 2014 opinion¹³ by the Court of Appeals Fifth District of Texas in Dallas and is in conflict with Due Process of law. Further, funding the trial court with \$20,000 in staggered amounts depending on the outcome of future hearings is inconsistent with federal law as determined by this Court.



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Respectfully submitted,
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¹² 18 U.S. Code § 1961 is any act indictable under the following provisions of title 18, United States Code: Section 201 (relating to bribery) and sections 1581–1592 (relating to peonage, slavery, and trafficking in persons)

¹³ In re: Pendragon Transportation LLC <http://600commerce.com/wp-content/uploads/2014/02/In-re-Pendragon-Transp..pdf>