18-9204

ORIGINAL

IN THE
SUPREME COURT OF THE UNITED STATES

On Writ of Certiorari To The United States
Supreme Court

Eleventh Circuit Court of Appeals Number: 18-13709-EE
District Court Docket Number: 1:17-cv-20822-JEM

Devon A. Brown

Petitioner/Appellant

vs

ANN COFFIN and the FLORIDA DEPARTMENT
Of Revenue.

Respondents/Appellees.

Petition for Writ Of Certiorari

Devon A. Brown, Sui Juris Petitioner
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A. Questions Presented

1. Can a state or its agency violates Appellant's constitutional protected rights to enforce upon him an obligation that his contractual in nature?

   The Supreme court of Minnesota ruled in 1996 and affirmed in 1997 stating that title iv-d is unconstitutional in the fact that the lower tribunal (administrative agency) skipped over the district court's original jurisdiction in having hearing officers practicing law on the bench. The original jurisdiction is found in article III, clause II of the United States Constitution that stated plainly that *"if a state is party to an action, the supreme court shall have original jurisdiction*".

2. 42 U.S.C. § 1983 allows a person whose constitutional rights have been deprived to bring an action to redress the constitutional deprivation. This action was brought against Florida Department of Revenue's Director Ann Coffin. A common law suit was brought against the other Defendant the Florida Department of Revenue for Deprivation of rights and common law tort. Can a natural fiction in the Florida Department of Revenue force a contractual obligation upon the Appellant without his free consent without duress, and intimidation? Can a natural flesh and blood woman i.e Ann Coffin force a contractual obligation upon Appellant without his free consent without threat, intimidation or any kinds of duress?

   The Appellee's are forbidden under the laws of contract to enforce an obligation which is contractual by nature upon the Appellant.

3. Can Title IV-D of the Social Security Act that housed child support enforcement be forced upon anyone in the fact that title IV-D was never enacted into positive law, see 1 U.S.C. 204 -*prima facie.*

   According to this court's opinion in Blessings vs. Freestone (1997), Tile iv-d of the social security act requires a contract to enforce obligation.

   According to Article 1 section 10 of the United States Constitution, "no state shall make any law impairing the obligation of contract.

4. Can anyone be forced to pay for state expenditures if they were never a party to the contract that generated the states expenditures?.

42 U.S.C. 601(d), makes it clear that title iv-d was only to recoup state expenditure. See Oliphant vs. Bradley, Mason vs. Bradley. Title iv-d was never intended to benefit any individual, no one has any enforceable right under title iv-d. See also Blessings vs. Freestone.

B. PARTIES TO THE PROCEEDINGS

Devon A. Brown, Petitioner/Appellant,

Ann Coffin and the Florida Department of Revenue, Respondents/Appellees.

C. Table of contents

D. TABLE OF AUTHORITY

E. CITATIONS AND OPINIONS

The District court Opinion is reported in Docket number 37, and 44 of Appendix B. The respondent claimed the rooke-fieldmen doctrine, and immunity doctrines via judicial notices. Also see appendix A.

F. JURISDICTION

The jurisdiction of this Court is invoked under 28 U.S.C. § 1257(a) and under Article three of the United States Constitution's original and appellate jurisdiction.

G. CONSTITUTIONAL AND STATUARY PROVISIONS

Article I, section X of the United States Constitution states that "no state shall make any law to impair the obligation of contract". Title IV-D of the social security act is contractual by nature and cannot be forced upon anyone without their free consent. Without any forms of duress.

Article VI of the United States Constitution states that "anything contrary is notwithstanding". Title IV-D violated several of Petitioner constitutional due process rights making the initial title IV-D order "null and void.

The XIV amendment to the United States Constitution is supposed to protect Petitioner losing his property without proper due process of law. It also forbids sates from making or enforcing any laws or "color of law" against petitioner.

The VII amendment to the United States Constitution mandates a trial by jury in controversy that exceeds twenty dollars, this right shall be preserved. These rights were not recognized in Petitioner's case.

H. **STATEMENT OF THE CASE.**

I. Petitioner sued the Appellants, ANN COFFIN the Director of the Florida Department of Revenue and the Florida Department of Revenue herein referred to as "FDOR". The case was dismissed by the United States District court for the Southern District of Florida without prejudice. The Defendants claimed immunity. Petitioner appealed to the Eleventh Circuit court of Appeals who affirmed the District court ruling stating that the FDOR is not a "person" under a 42 U.S.C 1983 claim.

II. Petitioner made several attempts that were all dismissed for different reasons, including the rooker-fieldman doctrine.

III. The current case that Petitioner is requesting this court to review was filed on March 02, 2017, and was terminated on August 16, 2018. Petitioner then appealed

to the Eleventh Circuit court of Appeals. The Eleventh Circuit court of appeals affirmed the District court's ruling on or about March 21, 2019.

IV. Title iv-d cannot be forced upon Petitioner under common law and the principle on "non-assumpsit".

MEMORANDUM OF LAW.

V. Petitioner had filed numerous affidavits asserting his constitutional protected rights with case laws, which were all ignored and unrebutted by the Appellants. "An Unrebutted affidavit stands as truth". Truth is expressed in an affidavit. Petitioner cannot be forced into 42 U.S.C. which housed the social security act.

NOT POSITIVE LAW

VI. Child Support was not enacted into positive Law, so it is NOT law. See 1 U.S.C. 204-Prima Facie, (first evidence).

It is presumed to be law at first evidence until challenged.

POSITIVE LAWS –applies to everyone , example murder. Murder applies to everyone, while NON POSITIVE LAW applies to only certain people, In this case non-custodial parent.

VII. Non positive laws REQUIRES SIGNATURES TO COMPEL PERFORMANCE. In other words one have to voluntary into it. Therefore child support is 100% voluntary.

VIII. Title IV-D that housed the child support enforcement is codified under 42 U.S.C., WHICH WAS NOT ENACTED INTO POSITIVE LAW.

Title IV-D of the social security act is 100% voluntary, and cannot be forced upon anyone.

CHILD SUPPORT IS 100% VOLUNTARY.

IX. "No State shall make any law to impair the obligation of contract".- Article 1, Clause 10 of the United States of America's Republic Constitution. No state can make any law to force anybody into any contract. The American people have a right to enter and NOT to enter into any contract with anyone if they so choose. This is backed up by 42 U.S.C 1981.

25 Although state participation in the Social Security Act itself is mandatory, participation by a state in the IV-D program is voluntary. **875 F. 2d 1558 - Wehunt v. G Ledbetter.**

X. "In this regard the Supreme Court agreed with the findings in Oliphant, slip op. At 16, that Title IV-D does not require participating states to provide child support services to AFDC applicants to participate in the other states which have **"voluntarily"** agreed to participate in the AFDC program are required to offer child support services as a condition of receiving federal funding". **(Oliphant vs.Bradley, 1992 US Dist, LEXIS 8975 at *23 (ND IIM 1992).**

U.S. Supreme Court Rulings in Child Support contracts.

XI. Although counsel for the Secretary suggested at oral argument that the Secretary "has the same right under a **contract** as any other party to seek specific **performance,"** Tr. of Oral Arg. 49 [**Blessing v. Freestone, 520 U.S. 329 (1997).** As we explained in *Pennhurst State School and Hospital* v. *Halderman,* 451 U.S. 1 (1981), such an **agreement** is "in the nature of a **contract,"** *id.,* at 17: The State promises to provide certain services to private individuals, in exchange for which the Federal Government promises to give the State funds. In **contract law**, when such an **arrangement** is made (A promises to pay B money, in exchange for which B promises to provide services to C), the person who receives the benefit of the exchange of promises between the two others (C) is called a third-party beneficiary. Until relatively recent times, the third-party beneficiary was generally regarded as a stranger to the contract, and could not sue upon it; that is to say, if, in the example given above, B broke his promise and did not provide services to C, the only person who could enforce the promise in court was the other party to the contract, A. See 1 W. Story, A Treatise on the Law of Contracts 549-550 (4th ed. 1856).**[Blessing v. Freestone, 520 U.S. 329 (1997).**

XII. "In his decision, Justice McReynolds stated that the "liberty" protected by the Due Process clause "[w]ithout doubt...denotes not merely freedom from bodily restraint but also the right of the individual to contract, to engage in any of the common occupations of life, to acquire useful knowledge, to marry, establish a home and bring up children, to worship God according to the dictates of his own conscience, and generally to enjoy those privileges long recognized at common law as essential to the orderly pursuit of happiness by free men." **Meyer v. Nebraska, 262 U.S. 390 (1923.**

TITLE IV-D IS A SEPARATE UNIT, NOT PART OF THE COURT.

XIII. 42 U.S.C 654 (3) provide for the establishment or designation of a single and separate organizational unit, which meets such staffing and organizational requirements as the Secretary may by regulation prescribe, within the State to administer the plan.

XIV. Title IV-D is an administrative agency OPERATING UNDR THE Executive Branch, which is housed under The Health and Human Services, the Public health and welfare which is codified under 42 U.S.C. which was not enacted into positive law.

XV. Petitioner as well as this court knows that so-called Municipal or District court that is not a constitutional court is a legislative tribunal. In speaking on this subject in relation to the Constitution for the united States of America, the supreme Court said:

XVI. "The term 'District Courts of the United States,' . . . without an addition expressing a wider connotation, has its historic significance. It describes the constitutional courts created under Article III of the Constitution. **Courts of the Territories are legislative courts**, properly speaking, and are not District Courts of the United States." **Mookini v. United States, 303 US 201, 205, 58 Sct. 543, 82 Led. 748 ((1938).**

LEGISLATIVE COURTS DON'T HAVE JUDICIAL POWER.

XVII. This expression of the Supreme Court of the united States of America shows that no constitutional judicial power is exercised by legislative courts, instead such courts only exercise a power derived from the legislative branch as an extension of the legislative rather than judicial power. A legislative tribunal does not exercise judicial power, but merely administers legislative powers according to the nature of its creation.

XVIII. "Territorial courts are legislative courts, created in virtue of the general right of sovereignty which exists in the government, or in virtue of that clause which enables Congress to make all needful rules and regulations respecting the territory belonging to the United States. The jurisdiction with which they are invested is not a part of that judicial power which is defined in the third article of the Constitution, but is conferred by Congress, in the execution of those general

powers which that body possesses over the territories of the United States." **9 Federal Statutes Annotated 212**. And;

XIX. In constitutional courts (those courts that exercise judicial powers) the legislative branch cannot prescribe any qualification for the office of judge not prescribed by the constitution from which jurisdiction is vested." **State ex rel. Chapman v. Appling, 220 Or. 41, 348 P.2d 759 (1960).**

XX. The power of the Municipal or District Court is that of the old "justice of the peace" courts which were courts of "limited and special jurisdiction." **State v. Officer, 4 Or. 180 (1871).**

XXI. Inferior tribunals are subject to the supervisory control (judicial powers), and must show affirmative proof on the face on the inferior tribunal record to sustain a conviction.

XXII. "If the court is . . . of some special statutory jurisdiction it is as to such proceedings an inferior court, and not aided by presumption of jurisdiction." **Norman v. Zeiber, 3 Or 198.**

XXIII. Inferior tribunals have no presumption of jurisdiction in their favor and all that need to be done by Petitioner, to throw the burden of proving jurisdiction upon Respondent State of Washington, was to contest the applicability of the inferior tribunals jurisdiction to Petitioner.

XXIV. " . . . if the record does not show upon its face the facts necessary to give jurisdiction, they will be presumed not to have existed." **Norman v. Zeiber, 3 Or. 198.** And;

XXV. The constitutional rule for inferior tribunals was set down by the Oregon Supreme Court in **Evans v. Marvin, 76 Or. 540, 148 P 1119 (1915)**, a case involving a justice court:

XXVI. " . . . the constitutional rule that justices courts are of **limited jurisdiction**. ...their judgments must be sustained affirmatively by positive proof that they had jurisdiction of the cases they attempt to decide." **Evans v. Marvin, 76 Or. 540, 148 P 119 (1915)**.

FURTHER PROOF THAT TITLE IV-D IS NOT LAW.

United States Court of Appeals, 875 F. 2d 1558 - Wehunt v. G Ledbetter 43
"Title IV-D is also not a **legal** assistance program".

CHILD SUPPORT PROVISIONS" ARE NOT LAW.

XXVII. Evidence provided by the federal child support enforcement program

Sec. 8, Pg 2. Proves that the "**program**" requires the "**provisions**" of child

Support enforcement (CSE) services for both welfare and non-welfare families.

XXVIII. Evidence provided by the **Federal Acquisition Regulations** proves that

*"**provision**" is a written term or condition used only in "**SOLICITATIONs**" and*

*applying only before contract award. **FAR 52.101.** Solicitation provisions*

distinguished from CLAUSEs, which are terms and conditions in contracts.

XXIX. *"The Court of Appeals erred not only in finding that individuals have an enforceable right to substantial compliance, but also in taking a blanket approach to determining whether Title IV -D creates rights. It is readily apparent that many other **provisions** of that multifaceted statutory scheme do not fit our traditional three criteria for identifying statutory rights. To begin with, many **provisions**, like the "substantial compliance" standard, are designed only to guide the State in structuring its system wide efforts at enforcing support obligations. These **provisions** may ultimately benefit individuals who are eligible for Title IV-D services, but only indirectly. For example, Title IV-D lays out detailed requirements for the State's data processing system. Among other things, this system must sort information into standardized data elements specified by the Secretary; transmit information electronically to the State's AFDC system to monitor family eligibility for financial assistance; maintain the data necessary to meet federal reporting requirements; and provide for the electronic transfer of funds for purposes of income withholding and interstate collections. 42 U. S. C. §*

654a (1994 ed., Supp. II); 45 CFR § 307.10 (1995). Obviously, these complex standards do not". **Blessing vs. Freestone (997).**

TITLE IV-D WAS NOT INTENDED FOR ANY INDIVIDUAL BENEFITS, BUT FOR THE STATE.

XXX. The State contends that Title IV-D was enacted to recoup welfare expenditures, to ease the burden on the state and federal fiscals. **875 F. 2d 1558 - Wehunt v. G Ledbetter**.

XXXI. Pursuant to 42 U.S.C. Section 601(d) there is no Individual Entitlement to Title IV-D services, this part shall not be interpreted to entitle any Individual or family to assistance under any state program funded under this part .

XXXII. "*The lack of an enforceable right in Title IV-D for AFDC families such as Mason's requires the conclusion that Congress neither expressly nor impliedly intended to create a private right of action under that statute, and also* ***did not create rights*** *entitled to protection under the Fourteenth Amendment due process clause and 42 U.S.C. § 1983*". **Mason vs. Bradley US District Court for the Northern District of Illinois - 789 F. Supp. 273 (N.D. Ill. 1992).**

XXXIII."*The child support program in substantial compliance with Title IV-D was [not intended to benefit any individual children or custodial parent, and therefore it does not constitute a federal right]. [Far from making an individual entitlement to services], the standard is simply a yardstick for the secretary to measure the system wide performance. Thus the secretary must look to the aggregate service provided by the Child Support Enforcement Agency , not to whether the needs of any particular person has been satisfied*". See ***Blessings vs. Supra 520 U.S. at 343 117 S. Ct. at 1361 17 L Ed. 2d. at 584.***

FEDERAL INCENTIVES TO THE STATES.

42 U.S. Code § 658a

(a) In general

XXXIV. In addition to any other payment under this part, the Secretary shall, subject to subsection (f), make an incentive payment to each State for each fiscal year in an amount determined under subsection (b)

The federal incentives goes to the state treasury

XXXV.(f) **Reinvestment** A State to which a payment is made under this section shall expend the full amount of the payment to supplement, and not supplant, other funds used by the State—

This corroborate with ;

XXXVI. " *The State contends that Title IV-D was enacted to recoup welfare expenditures, to ease the burden on the state and federal fiscals".* **875 F. 2d 1558 - Wehunt v. G Ledbetter**.

And;

XXXVII. *"The child support program in substantial compliance with Title IV-D was [not intended to benefit any individual children or custodial parent, and therefore it does not constitute a federal right]. [Far from making an individual entitlement to services], the standard is simply a yardstick for the secretary to measure the system wide performance. Thus the secretary must look to the aggregate service provided by the Child Support Enforcement Agency , not to whether the needs of any particular person has been satisfied".* See ***Blessings vs. Supra 520 U.S. at 343 117 S. Ct. at 1361 17 L Ed. 2d. at 584.***

VIOLATION OF PATERNITY PURSUANT TO 466 42 U.S.C. (a)(5)(d)

XXXVIII.. Pursuant to **Sec. 466 42 U.S.C. (a)(5)(D)(iii)** Contested due to the severity of the cause of action..

5(C) Voluntary paternity acknowledgment.—

(i) Simple civil process.—Procedures for a simple civil process for voluntarily acknowledging paternity under which the State must provide that, before a mother and a putative father can sign an acknowledgment of paternity, the ***mother*** *and the*

putative ***father must be given notice, orally, or through the use of video or audio equipment, and in writing, of the alternatives to, the legal consequences of, and the rights*** *(including, if 1 parent is a minor, any rights afforded due to minority status) and* ***responsibilities that arise from, signing the acknowledgment.***

XXXIX. Petitioner Devon A. Brown constitutional and due process rights were violated even by child support enforcement own rules. Petitioner the living man was not given notice **ORALLY**, or through the use of **VIDEOS** or **AUDIO EQUIPMENT**, AND in **WRITING**, to the **legal CONSEQUENCES** and right before he/she voluntarily acknowledges paternity. This requirement is coded in the above paragraph of 42 U.S.C. 666(5)(c)(i).

XL. 45 CFR 303.101 (c)(2) The due process rights of the parties involved must be protected.

XLI. " A 'Statute' is not a Law," **(Flournoy v. First Nat. Bank of Shreveport, 197 La. 1067, 3 So.2d 244, 248),** A "Code' is not a Law," (In Re Self v Rhay Wn 2d 261), in point of fact in Law, A concurrent or 'joint resolution'of legislature is not "Law," **(Koenig v. Flynn, 258 N.Y. 292, 179 N. E. 705, 707; Ward v State, 176 Okl. 368, 56 P.2d 136, 137; State ex rel. Todd v. Yelle, 7 Wash.2d 443, 110 P.2d 162, 165).** All codes, rules, and regulations are for government authorities only, not human in accord with God's Laws. "All codes, rules, and regulations are unconstitutional and lacking due process of Law.."**(Rodriques v. Ray Donavan, U.S. Department of Labor, 769 F.2d 1344, 1348 (1985).**

XLII."That statutes which would deprive a citizen of the rights of person or property without a regular trial, according to the course and usage of **common law**, would not be the law of the land". **Hoke vs. Henderson,15, N.C.15,25 AM Dec 677.**

XLIII. "A constitution is designated as a supreme enactment, a fundamental act of legislation by the people of the state. A constitution is legislation direct from the people acting in their sovereign capacity, while a statute is legislation from their representatives, subject to limitations prescribed by the superior auspriry". See:

Ellingham v. Dye, 178 Ind. 336; 99 NE 1; 231 U.S. 250; 58 L. Ed. 206; 34 S. Ct. 92; Sage v. New York, 154 NY 61; 47 NE 1096.

XLIV. "It is impossible to prove jurisdiction exists absent a substantial nexus with the state, such as voluntary subscription to license. All jurisdictional facts supporting claim that supposed jurisdiction exists must appear on the record of the court. *Pipe Line v. Marathon". 102 S. Ct. 3858*, Quoting *Crowell v. Benson 883, US 22* . **[THERE MUST BE A CONTRACT AND THE EVIDENCE OF THIS CONTRACT MUST BE ON THE COURT RECORD].**

XLV. As was upheld in **Ex Parte Kearny, 55 Cal. 212; Smith v. Andrews, 6 Cal. 652,** any court that uses **statutes** is considered an **inferior court**.

"Inferior courts" *are those whose jurisdiction is limited and special and whose proceedings are not according to the course of the* ***common law."***

Since we are guaranteed a republican form of government in the united states of

America, all government agents are required to obtain the consent of the governed.

That means you are required to get the consent of each and every single people.

16Am Jur 2d., Const. Law Sec. 260:

XLVI. "Although it is manifested that an unconstitutional provision in the statute is not cured because included in the same act with valid provisions and that there is no degrees of constitutionality." Owen v. Independence 100 Vol. Supreme Court Reports. 1398: (1982) Main v. Thiboutot 100 Vol. Supreme Court Reports. 2502:(1982) "The right of action created by statute relating to deprivation under color of law, of a right secured by the constitution and the laws of the United States and comes claims which are based solely on statutory violations of Federal Law and applied to the claim that claimants had been deprived of their rights, in some capacity, to which they were entitled." "Officers of the court have no immunity when violating constitutional right, from liability" (When any public servant violates your rights they do so at their own peril.)

XLVII. "The code is only prima facie evidence of the laws of the United States. 1 U.S.C. 204 (a). Where an inconsistency between the United States Code and the

Statutes at Large appears, **the statutes at Large prevail over the code**. ***Stephen v. The United States 319, U.S. 423, 426, 63 S. Ct, 1135, 87. L.Ed. 1490 (1943). 'Peart v. Motor Vessell Bering Explorer, 373, F. Supp. 927, at 928, (April 12, 1974).***

NO IMMUNITY FOR TITLE IV-D

CERTIORARI TO THE UNITED STATES COURT OF APPEALS FOR THE FEDERAL CIRCUIT

Franconia Associates v. United States,
536 U.S. 129 (2002)

XLVIII. (a) *"Resolution of two threshold matters narrows the scope of the controversy. First, the requirement that the Government unequivocally waive its sovereign immunity is satisfied here because, once the United States waives immunity and does business with its citizens, it does so much as a party never cloaked with immunity".* [quoting]. ***Clearfield Trust Co.*** v. ***United States, 318 U.S. 363,*** 369.

XLIX. The State waives its Sovereign Immunity to the extent that it makes enforceable contract rights between the state and [whoever it contracts with]. *See* ***Tobacco Corp v. Dept. of Corrections, 471 So. 2d 4, 5-6 (Fla 1985).*** (enforceability of contract rights require waiver of sovereign immunity.)

L. The Eleventh Amendment is no bar, however, where (1) the state consents to suit in federal court, or has waived its immunity, or (2) where Congress has overridden the state's sovereign immunity. ***Cross v. Alabama, 49 F.3d 1490, 1502 (11th Cir. 1995).*** Congress has not abrogated Eleventh Amendment immunity in § 1983 cases.

LI. A State may not be sued in federal court by its own citizen or a citizen of another state, unless a state consents to jurisdiction. **Hans v. La., 134 U.S. 1 (1890). In Pennsylvania v. Union Gas 491 U.S. 1 (1989)**, did the Court presume to declare that, other than pursuant to acts of Congress derived from the Civil War

amendments, private parties could generally sue states without their consent in courts, for money damages.

LII. The state of Florida under its Statutes, consents that its Agencies can be sued.

Current operation of sovereign immunity in

Florida -- Section 768.28, F.S., provides that sovereign immunity for tort liability is waived for the state, and its agencies and subdivisions.

a. Entities subject to the waiver of sovereign immunity – The waiver applies to the state and its agencies or subdivisions. **Section 768.28(2), F.S.,** defines "state agencies or subdivisions" as including, "the executive departments, the Legislature, the judicial branch (including public defenders), and the independent establishments of the state, including state university boards of trustees; counties and municipalities; and corporations primarily acting as instrumentalities or agencies of the state, counties, or municipalities, including the Florida Space Authority."

COOPERATE AGREEMENT BETWEEN FEDERAL GOVERNMENT, STATE, AND MUNICIPAL AGENCIES INCLUDING THE EXECUTIVE BRANCH.

LIII. 31 U.S. Code § 6305 - Using cooperative agreements

An executive agency shall use a cooperative agreement as the legal instrument reflecting a relationship between the United States Government and a State, a local government, or other recipient when—

(1) the principal purpose of the relationship is to transfer a thing of value to the State, local government, or other recipient to carry out a public purpose of support or stimulation authorized by a law of the United States instead of acquiring (by purchase,

lease, or barter) property or services for the direct benefit or use of the United States Government; and

(2) substantial involvement is expected between the executive agency and the State, local government, or other recipient when carrying out the activity contemplated in the agreement.

45 CFR § 302.34 Cooperative arrangements.

LIV. The State plan shall provide that the State will enter into agreements, which are reflected in a record, for cooperative arrangements under § 303.107 of this chapter with appropriate courts; law enforcement officials, such as district attorneys, attorneys general, and similar public attorneys and prosecutors; corrections officials; and Indian Tribes or Tribal organizations. Such arrangements may be entered into with a single official covering more than one court, official, or agency.

CHILD SUPPORT DEEMED UNCONSTITUTIONAL.

LV. Child support which was deemed un-constitutional in (STATE OF MINNESOTA IN COURT OF APPEALS C7-97-926 C8-97-1132 C7-97-1512 C8-98-33, Filed June 12, 1998). The decision was up held in the Supreme Court. (STATE OF MINNESOTA IN SUPREME COURT C7-97-926 C8-97-1132 C9-98-33 C7-97-1512,) Filed: January 28, 1999. This alone constitutes that no jurisdiction could exist. Because child support was found to be lacking, any provision for the separation of powers act in the US Constitution in both the Federal and the state law. **The following rulings state this applies to the instant case. Mills v. Duryee, 1t1 U.S. (7 Cranch) 481 (1813), the United States**

Supreme Court ruled that the merits of a case, as settled by courts of one state, must be recognized by the courts of other states; state courts may not reopen cases which have been conclusively decided by the courts of another state. Later, Chief Justice John Marshall suggested that the judgment of one state court must be recognized by other states' courts as final. Also Ableman v. Booth 62 U.S. 506 where the higher court stated the lower courts were bound by all federal court rulings. As well Howlett V. Rose, 496 U.S. 356 (1990) Federal Law and Supreme Court cases apply to State court cases. (Cooper v. Aaron, 358 U.S. 1) (1958)-- States are bound by United States Supreme Court Case decisions

LVI. "All laws which are Repugnant (against-contradicts) the U.S. Constitution are null and void", Marlbury v. Madison s us 137, 174, 176. (1983).

LVII. "An unconstitutional act is not a law; it confers no right, it imposes no duties, affords no protection; and it creates no office; it is illegal contemplation, as inoperative as though it had never been passed", Norton v. Shelby County 118 us 425 p. 442.

LVIII. "Where rights secured by the Constitution are involved, there can be no rule making or legislation which would abrogate them," Miranda v. Arizona, 384, us 436. 491 .

LIX."The claim and exercise of a Constitutional protected right cannot be converted into a crime", Miller v. U.S. 230, F. 486, 489.

LX. "There can be no sanction or penalty imposed upon one because of this exercise of Constitutional protected rights", Snerer v. Cullen, 481 F. 946.

LXI. "The general rule is that an unconstitutional statute, though having the form and name of law, is in reality no law, but is wholly void and ineffective for any

purpose, since its unconstitutionality dates from the time of its enactment... In legal contemplation, it is as inoperative as if it had never been passed... Since an unconstitutional law is void, the general principles follow that it imposes no duties, confers no right, creates no office, bestows no power or authority on anyone, affords no protection and justifies no acts performed under it... A void act cannot be legally consistent with a valid one. An unconstitutional law cannot operate to supersede any existing law. Indeed insofar as a statute runs counter to the fundamental law of the land, (the Constitution) it is superseded thereby. No one is bound to obey an unconstitutional law and no courts are bound to enforce it." Bonnett v. Vallier, 116 N.W. 885, 136 Wis. 193 (1908); NORTON v. SHELBY COUNTY, 118 U.S. 425 (1886).

FOURTH AMENDMENT VIOLATION

LXII. Child support hearings violates my fourth amendment U.S. Constitutional guaranteed protected rights, in that it tries to force me to NOT be secured in my papers, when it tries to force me to produce paperwork. This practice is Unconstitutional. The fourth amendment clearly states; ***"The RIGHT of the people to be secure in their persons, houses, PAPERS, and effects, against unreasonable searches and seizures, shall not be violated, NO WARRANT shall issue, but upon probable cause, supported by Oath or affirmation, and particularly describing the place to be searched or seized"***.

SEVENTH AMENDMENT VIOLATION.

LXIII. Child support hearings also violates Petitioner's common law seventh amendment guaranteed protection of trial by jury of anything in controversies over Twenty Dollars.

"In Suits at common law, where the value in controversy exceeds twenty dollars, the RIGHT of trial by jury shall be preserved.....

LXIV. "All codes, rules, and regulations are unconstitutional and lacking ***due process****..."* **Rodriques v. Ray Donavan (U.S. Department of Labor) 769 F. 2d 1344, 1348 (1985)**.
(a) *"Reliance solely on historical precedent is foreclosed by* **International Shoe Co. v. Washington, *326 U.S. 310, 326 U.S. 316***, *and* **Shaffer v. Heitner, 433 U.S. 186, 433 U.S. 212**, *which demonstrate that all rules of state court jurisdiction, even ancient ones such as transient jurisdiction, must satisfy contemporary notions of due process*". **Burnham vs. Superior Court (1990)**.

SEPARATON OF POWERS CLAUSE.

LXV. Under the common law United States Republic Constitution, it is unlawful for anyone to work in two separate Branches of government at the same time, neither can two separate agencies intercross with each other. This was put into the constitution to avoid tyranny.] Article 1. "Legislative", Article 2. Section 1 "Executive," Article 3 "Judicial".

Violation of Florida Constitution, Title 3. Legislative. Title 4. Executive. Title 5. Judiciary.

Judges can only officiate in Law, Equity under the U.S. Constitution.[not administrative hearings]. Here we have Petitioner being brought into an "Administrative hearing" (Executive Branch), being officiated by an hearing officer (Magistrate), practicing law (Judiciary Branch) violating both the U.S Constitution and the State Constitution.

There must be three separate and distinctive Branches of government, no one person can serve in more than one of these branches of government.

LXVI. Proceedings in Family Court before a support magistrate are administrative hearings, UNDER the auspices of judicial branch, therefore all hearings and orders issued by a non judicial court employee (FLORIDA CONSTITUTION, Article 1 **SECTION 18.**) violate separation of powers doctrine. Administrative procedures under the executive branch of government cannot create and enforce "court orders" therefore all orders are administrative, which explains why almost all orders are never recorded or entered with clerk of county pursuant 28 USC 1691. This violates 14th amendment and due process of law, and due process of law is the same as law of the land. **Holmberg v Holmberg** Minnesota Supreme Court found the administrative hearing in family court violates separation of powers doctrine because District Court is skipped over when you are ordered to go

directly to appellate court, rather than Supreme Court that maintains jurisdiction

in law and equity . See United States Constitution .

Article 3 Section 1.

LXVII. The judicial power of the United States, 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 behaviour, and shall, at stated times, receive for their services, a compensation, which shall not be diminished during their continuance in office.

Section 2.

LXVIII. In all cases affecting ambassadors, other public ministers and consuls, and those in which a **state shall be party**, **the Supreme Court shall have original jurisdiction**. In all the other cases before mentioned, the Supreme Court shall have appellate jurisdiction, both as to law and fact, with such exceptions, and under such regulations as the Congress shall make.

Cannon v. Commission on Judicial Qualifications, (1975) 14 CAL. 3d 678,694
LXIX. *"Acts in excess of Judicial authority constitutes misconduct, particularly where a judge deliberately disregards the requirements of fairness and due process."* ***[Supreme Court of California. July 10, 1975.]***

Page 95 U. S. 715
LXX. "The term "due process of law," when applied to judicial proceedings, means a course of legal proceedings according to those rules and principles which have been established by our jurisprudence for the protection and enforcement of private rights. To give such proceedings any validity, there must be a competent tribunal to pass upon their subject matter, and if that involves merely a determination of the personal liability of the defendant, he must be brought within its jurisdiction by service of process within the State, or by his voluntary appearance". **Pennoyer v. Neff, 95 U.S. 714 (1878).**

CHILD SUPPORT AID FOR FAMILY WITH DEPENDENT CHILDREN (AFDC)
NO ENFORCEMENT RIGHTS ON ANYONE.

Mason v. Bradley, 789 F. Supp. 273 (N.D. Ill. 1992)

LXXI. "At least four district courts have agreed with *Carelli* that Title IV-D was intended to benefit AFDC families. *Oliphant,* slip op. at 14-15 (**but finding no enforceable right because no binding obligation on states participating in AFDC program**); *Howe v. Ellenbecker,* 774 F. Supp. 1224, 1229-30 (D.S.D.1991) (and finding enforceable right because language mandatory); *Behunin v. Jefferson County Dept. of Social Serv.,* 744 F. Supp. 255, 257-58 (D.Colo. 1990) (same); *Beasley v. Harris,* 671 F. Supp. 911, 921 (D.Conn.1987) (and finding an enforceable right)". .....

LXXII. **"Nonetheless, Title IV-D must also provide "unambiguous notice" of particular, mandatory obligations upon the states to create enforceable rights for Mason.** *Suter,* ___ U.S. at ___, 112 S. Ct. at 1366. In this regard, the court agrees with the finding in *Oliphant,* slip op. at 16, that Title IV-D does not clearly require participating states "to provide effective, prompt child support services to all AFDC applicants...." **Illinois, like other states which have voluntarily agreed to participate in the AFDC program, are required to offer child support services as a condition of federal funding"**.....

LXXIII. **"In sum, the lack of an enforceable right in Title IV-D for AFDC families such as Mason's requires the conclusion that Congress neither expressly nor impliedly intended to create a private right of action under that statute"....**

LXXIV. "A § 1983 remedy is crucial in these cases because families have no other means of compelling the state to provide child support enforcement services. The only alternative would be an implied right of action under Title IV-D,7 but the Supreme Court has adopted a strong presumption against implied rights of action: **the plaintiff must affirmatively demonstrate that Congress intended to allow a private right of action under the federal statute.** ***Merrell Dow Pharmaceuticals, Inc. v Thompson, 478 US 804, 812 n 9 (1086).***
Title IV-D provide no explicit indication of congressional intent to create a private right of action. The silence of the statute and legislative history on the question of

a private right of action does not jeopardize the possibility of an action under § 1983. Section 1983 enforcement is available unless the defendant-state actor demonstrates that Congress intended to disallow a private right of action. ***Wright v Roanoke Redevelopment & Housing Authority, 479 US 418, 423 (1987)***. See also **Middlesex County Sewerage Authority v National Sea Clammers Ass'n, 453 US 1, 27 n 11 (1981) (Stevens concurring)** ("[T]he burden is properly placed on the defendant to show that Congress, in enacting the particular substantive statute at issue, intended an exception to the general rule of § 1983."). Because § 1983 is an express congressional authorization of private suits, its use does not raise the separation of powers concerns inherent in judicially created remedies".

I. REASON FOR GRANTING THIS WRIT.

This case has significant public interest in the fact that there is a growing movement not only nationwide but worldwide challenging the unconstitutional ways in which the Tile IV-D of the social security act is enforced upon the American people in most cases violating their constitutional rights which includes due process of law. In this case, the Respondents/Appellees' violated Petitioner/Appellant's constitutional due process rights in enforcing a provision which is contractual by nature circumventing the constitutional safe guards which are there to protect against infringements of basic unalienable and inherent rights of Petitioner/Appellant as one of "we the people". This writ should be GRANTED.

J. **CONCLUSION.**

LXXV. Common law and the Constitution is clear, one cannot be forced into paying child support without a valid contract that was signed without duress. Child support is contractual in nature. Constitutional safe guards must be violated to achieve the enforcement process.

WHEREFORE the Petitioner moves this court to GRANT his writ of certiorari, order the District court to rule in Petitioner's favor and award him all of the remedies that he sought in his lawsuit.

Respectfully Submitted