No. 20-____

In the Supreme Court of the United States

RYAN PANKOE,

Petitioner,

v.

LAURA PANKOE,

Respondent.

On Petition for a Writ of Certiorari to the Superior Court of Pennsylvania

PETITION FOR A WRIT OF CERTIORARI

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OCTOBER 20, 2020

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QUESTIONS PRESENTED

1. Whether Section 3301(d) of the Pennsylvania Divorce Code, commonly known as unilateral no-fault divorce, is a viewpoint-based statute in violation of the Establishment Clause such that it is void ab initio and proscribes subject-matter jurisdiction from the courts of Pennsylvania to grant a legal action of divorce under this very particular cause of action.

2. Whether Section 3301(d) of the Pennsylvania Divorce Code is contrary to public policy, failing to serve a public purpose in violation of Pennsylvania's Constitution Article III, Section 32, thereby proscribing subject-matter jurisdiction from the courts of Pennsylvania to grant a legal action of divorce under this very particular cause of action.

PARTIES TO THE PROCEEDINGS

Petitioner

- Ryan Pankoe

Respondent

- Laura Pankoe

CORPORATE DISCLOSURE STATEMENT PURSUANT TO RULE 29.6

Pursuant to Rule 29.6, Petitioner affirms that there is no party to the controversy that is a corporation.

LIST OF PROCEEDINGS

Supreme Court of Pennsylvania
No. 54 MAL 2020
Laura Pankoe, Respondent, v. Ryan Pankoe, Petitioner
Date of Order: August 10, 2020

Superior Court of Pennsylvania
No. 1041 EDA 2019
Laura Pankoe, Appellee, v. Ryan Pankoe, Appellant
Date of Order: October 29, 2019
Date of Denying Reargument: January 7, 2020

Court of Common Pleas of Lehigh County, Pennsylvania
No. 2017-FC-1286
Laura Pankoe, Plaintiff, v. Ryan Pankoe, Defendant
Date of Final Order: March 25, 2019

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OTHER AUTHORITIES

PETITION FOR A WRIT OF CERTIORARI

Petitioner Ryan Pankoe respectfully petitions for a writ of certiorari to review the judgment of the Superior Court of Pennsylvania in this case.

OPINIONS BELOW

The opinion of the Penn. Supreme Court, No. 54 MAL 2020, was not provided, and petition for allowance of appeal was denied on August 10, 2020. (App.1a). The opinion of the Superior Court of Penn., No. 1041 EDA 2019, was filed on October 29, 2019. *Pankoe v. Pankoe*, 222 A.3d 443 (Pa. Super. Ct. 2019). (App.2a-15a). The Final Decree of Divorce, (App.50a-51a) and supporting Memorandum Opinion (App.30a-49a) were issued and filed by the Penn. Court of Common Pleas (No. 2017-FC-1286) on March 25, 2019.

JURISDICTION

The order of the Pennsylvania Supreme Court, denying a petition for allowance of appeal, was issued on August 10, 2020. (App.1a). This Court's jurisdiction rests on 28 U.S.C. § 1257.

The present case calls into question the facial validity of a state statute on the ground of its being repugnant to the Constitution, 28 U.S.C. § 2403(b) may apply. Per Sup. Ct. R. 29.4(c), this document has been

served upon the Attorney General of Pennsylvania. The Pennsylvania Court of Appeals did not issue a certificate to the Attorney General regarding the constitutionality of this statute.

CONSTITUTIONAL AND STATUTORY PROVISIONS INVOLVED

CONSTITUTIONAL PROVISIONS

- U.S. Const. amend. I
- U.S. Const. amend. XIV § 1
- Pennsylvania Constitution, Article III, § 32

STATUTORY PROVISIONS

- Pennsylvania Divorce Code, 23 Pa. C.S. § 3301(d)

The full text of these provisions is included in the Appendix at App.55a-57a.

INTRODUCTION

On September 27, 2017, Respondent, Laura Pankoe, initiated a legal action for divorce against her husband, Ryan Pankoe on grounds of "irretrievable breakdown." (App.3a, 16a, 31a). The legal proceeding was conducted in the Commonwealth of Pennsylvania, and relies upon the statutory cause of action 23 Pa. C.S. § 3301(d) of the Pennsylvania Divorce Code. Petitioner, Ryan Pankoe, contested the divorce on grounds that the divorce statute is void and unconstitutional on its face.

(App.8a-9a, 13a, 20a, 22a, 37a-38a, 42a, 44a). The legal action was nevertheless granted in the absence of Ryan's consent, and more importantly in the absence of any default. The Superior Court of Pennsylvania is "cognizant that the trial court did not attribute any 'fault' or wrong-doing to either party." (App.13a). Ryan was provided no legal defense, nor any meaningful consideration of his constitutional challenge against the legislation itself. Pursuant to Section 3301(d), the government of Pennsylvania officially endorsed the Respondent's subjective opinion that the Pankoe marriage was "irretrievably broken." A permanent dissolution in the parties' legal status has resulted from this proceeding. Thus, real and irreparable damage has occurred in the lives of the two parties, as well as in their children's lives, extended family, and the broader community. The consequences of this forced action of divorce by the Commonwealth of Pennsylvania will last a lifetime.

Central to this case is Ryan's contention that the statutory cause of action granting the divorce is a viewpoint-based statute that fails to regulate conduct on its face. (App.8a-9a, 20a, 22a). This means that the legal questions presented in this case are not particular only to the Pankoe marriage, but implicate a systemic and recurring violation of the Establishment Clause of the U.S. Constitution. The Pennsylvania courts have repeatedly alluded to the tripartite system of the separation of powers as the basis for blindly applying the legislative statute. Ultimately, the Pennsylvania courts conclude that the trial court is unable to deny the divorce based on Ryan's [religious] view that his marriage is not "irretrievably broken." However, this line of argumentation deviates from the centrality of

this case, which is to directly challenge the constitutionality of the divorce legislation itself–and this on the basis of constitutional restrictions on legislative power. This indeed implicates the separation of powers, but not in the way that it has been characterized throughout this appeals process. The irony is, of course, that the Pennsylvania trial court granted the divorce based on the Respondent's viewpoint, a viewpoint that aligns itself with the State's established orthodoxy. (App.9a, 20a). Laura initially alleged that her marriage was irretrievable, and Section 3301(d) simply directs that the court provide its stamp of approval. But granting a divorce based on the Respondent's viewpoint is just as unconstitutional as denying the divorce based on the Petitioner's viewpoint. It is precisely because Pennsylvania's operative divorce statute fails to regulate conduct that the statute itself is inherently unconstitutional by design, contrary to public policy, and plainly void. Nevertheless, the Pennsylvania courts have refused to address the constitutional question and have moreover refused to apply the strict scrutiny standard when invoked by the Petitioner during the trial court proceedings.

Section 3301(d) of the Pennsylvania Divorce Code provides a statutory cause of action granting divorces on an individualized basis, for any reason and for no reason at all. The statute simply requires that the plaintiff to a case allege that their marriage is "irretrievably broken." But the Establishment Clause forbids legislation that endorses the beliefs, opinions and viewpoints held by private individuals. It is for this reason that Ryan contends that Section 3301(d) is a viewpoint-based statute that endorses one set of beliefs over another set of beliefs, in violation of the

First Amendment. Ryan's position is supported by the record and confirmed by the trial court's own admission when it states explicitly that, "[t]he Master in Divorce did not err in determining, based on Plaintiff's 'wishes', that the marriage is irretrievably broken." (App.42a). As such, Laura's personal viewpoint was the dispositive factor considered for the legal action of divorce under Section 3301(d).

Affording Ryan relief and protection in this instance will prohibit the egregious practice of unilateral "no-fault" divorce in all cases in the Commonwealth of Pennsylvania, and carries the prospect of prohibiting unilateral "no-fault" divorce throughout the entire nation as Section 3301(d) is a statutory clone with respect to every unilateral "no-fault" divorce statute in this country. Importantly, divorce statutes prescribing a rule of conduct will remain valid grounds for marital dissolution, and will not be affected by this case whatsoever. "No-fault" statutes that require mutual consent will not be directly affected. Only the unilateral "no-fault" statute is at issue.

This case involves the rights of every citizen and non-citizen resident, the right of marriage as a legally binding status, the protection of marital status from unwarranted government intrusion, and the law's ability to protect this fundamental social institution based on public policy and rule of law. The intention here is to restore the State's mandate to regulate civil marriages; not to undermine it or to invite federal intrusion. Yet, police powers are only legitimate to the extent that the law effectuates a general purpose with objective standards and basic terms of liability. Penn.

Const. Art. III, Sec. 32. This case seeks to demonstrate why Section 3301(d) fails to create a regulatory scheme thereby failing to invoke the legitimate exercise of the State's police powers. Fundamentally, Section 3301(d) does not prescribe a rule of action; nor does it create an office or invoke judicial action; nor does it afford any protections against compulsory divorce and the State's predatory actions against the American family.

Ryan is seeking relief in the form of declaratory judgment to render Section 3301(d) a void statute. Concurrently, Ryan wishes to vacate his own divorce decree, in its entirety.

While it is quite rare for legislative statutes to be considered void, it is so in this case for the simple reason that Section 3301(d) lacks the basic element of prescribing a rule of action. As the language of the divorce statute reads, "The court may grant a divorce where a complaint has been filed alleging that the marriage is irretrievably broken . . . " (App.56a). Whether a marriage is "irretrievably broken" is a matter of opinion and viewpoint, and therefore provides *prima facie* evidence to support why Section 3301(d) plainly opposes public policy and fails to confer subject-matter jurisdiction upon the Pennsylvania courts.

Though divorce suits give rise to a legal proceeding in theory, Section 3301(d) does not afford Ryan with the right of defense because there is no defense against viewpoint. There is no exchange of legal obligations between the parties that may be given consideration. Therefore, all judicial proceedings under this statute are illusory and based on legal fiction. Divorce legislation confers limited jurisdiction per statute, but if the operative divorce statute is void, then subject-

matter jurisdiction is absent. The statutory cause of action enacted by the Pennsylvania legislature is unlawful from the time of its passage because it fails to regulate conduct, on its face. In fact, the opposition fully acknowledges that Section 3301(d) does not regulate conduct; and so do the Pennsylvania courts. (App.13a). Moreover, the legislation endorses a particular viewpoint ideology, the view that a marriage is "irretrievably broken." The law discriminates against those who hold a differing opinion on this matter. Necessarily, Section 3301(d) is hostile to Ryan's [religious] view that his marriage is not irretrievably broken. Not only does Section 3301(d) compel the judiciary to grant divorces based solely on viewpoint regardless of which party it favors, but it consistently favors the party who espouses the particular viewpoint the State has chosen to sponsor. Only one type of opinion is acceptable to Pennsylvania in a divorce proceeding. Although the statutory language says the court "may grant a divorce" and "the court shall determine whether a marriage is irretrievably broken," these phrases imply mere illusions of judicial discretion. Judicial discretion is lacking because the statute does not prescribe any rule of action or create an exchange of legal obligations. Thus, the appearance of judicial discretion is simply the exercise of legal force in the absence of subject-matter jurisdiction. Where the statute is void, no subject-matter jurisdiction has been conferred. The creation of civil obligations in marriage is strictly the function of legislative control, and these must be considered by the court during adjudication. *Maynard v. Hill*, 125 U.S. 190, 205 (1888).

Ironically, the Pennsylvania courts have affirmed that, "trial courts are not entitled to grant divorces

based solely on an individual's 'viewpoint.'" (App.12a). However, Pennsylvania has failed to adhere to its own reasoning by granting a divorce based solely upon the Respondent's viewpoint as the dispositive factor.

The ability for the Commonwealth of Pennsylvania to divest Ryan's numerous legal rights established by his marriage, as well as the ability to forcibly alter his legal status, in the absence of any legal infraction or violation of a general rule of liability (or by mutual consent), is scandalous to any society claiming to be free. Among the rights established under the marriage relation are the rights to property, reciprocal support for one's spouse, the ability to exercise religious obligations within a family context, and the protection, maintenance, education and custody of children. *Bingham v. Miller*, 17 Ohio 445 (1848). The Pankoe marriage establishes Ryan's legal right to his wife's "society;" "and to divest such right, without his default and against his will, [is] as flagrant a violation of the principles of justice, as the confiscation of his own estate." *Dartmouth College v. Woodward*, 17 U.S. 250, 330 (1819).

Marriage is a legal status, not an equitable determination. Only incidental matters are of equity. The granting of divorce itself is the subject-matter of judicial action at law, not of equity. *Maynard v. Hill* at 211. But "[e]very judicial action must, therefore, involve the following elements; a primary right possessed by the plaintiff and a corresponding primary duty devolving upon the defendant; a delict or wrong done by the defendant which consisted in a breach of such primary right and duty; a remedial right in favor of the plaintiff, and a remedial duty resting upon the defendant springing from this delict, and finally the

remedy or relief itself." *Page v. Winter*, 240 S.C. 516, 126 S.E.2d 570 (1962).

It is not that Ryan rejects the State's general right to regulate marriage. It is that Section 3301(d) in particular does not create a primary duty devolving upon the Defendant, nor does it contemplate a general delict or wrong done by the Defendant. This is evident in the divorce decree, which is unable to demonstrate how Ryan failed to meet his legal obligations pursuant to the statutory cause of action. Section 3301(d) does not prescribe a general rule of action for those residing in the Commonwealth of Pennsylvania, which violates Pennsylvania's Constitution Article III, Section 32. In other words, Section 3301(d) does not actually regulate anything. To grant a divorce in defiance of these constitutional implications is unlawful because, though the agent is cloaked with judicial identity, they lack judicial capacity and so thusly act in the absence of subject-matter jurisdiction.

". . . [L]egislative powers of the government reach actions only, and not opinions . . . " *Reynolds v. United States*, 98 U.S. 145, 164 (1879). Viewpoint is absolutely free from the state's control, while conduct is not. *Wisconsin v. Yoder*, 406 U.S. 205, 219-220 (1972). The state has every power conferred by its constitution to target the public's conduct with regard to marriage and divorce; but it is absolutely forbidden from targeting or sponsoring particular viewpoints of its residents. This is well-established by this Honorable Supreme Court of the United States, as well as the Commonwealth of Pennsylvania. A divorce "law" that does not regulate conduct simply does not confer subject-matter jurisdiction since viewpoint legislation is strictly prohibited by the Establishment Clause.

The burden of proof rests with the Commonwealth of Pennsylvania as to whether Section 3301(d) serves a public purpose that targets action as distinguished from viewpoint. The divorce decree speaks for itself on this matter. The burden of proof is further heightened with a constitutional standard of due process since it is the,

> [E]xclusive precondition to the adjustment of a fundamental human relationship. The requirement that [the parties] resort to the judicial process is entirely a state-created matter. Thus . . . a State may not, consistent with the obligations imposed on it by the Due Process Clause of the Fourteenth Amendment, pre-empt the right to dissolve this legal relationship [of marriage] without affording all citizens access to the means it has prescribed for doing so. *Boddie v. Connecticut*, 401 U.S. 371, 382-383 (1971).

In marriage, "public interests overshadow private –one which public policy hold specially in the hands of the law for the public good, and over which the law presides in a manner not known in the other departments." *Baker's Executors v. Kilgore*, 145 U.S. 487, 491 (1892). Penn. Const. Art. III, Sec. 32. Therefore, the strict scrutiny standard must be applied to Section 3301(d) since it affects not just one, but several fundamental and public interests.

The Commonwealth of Pennsylvania has refused to meet its hefty burden while improperly attempting to shift this burden onto the Petitioner (App.8a, 15a) despite all legal precedent to the contrary. *Zablocki v. Redhail*, 434 U.S. 374, 383-384, 386, 388, 397 (1978). "If a statute invades a 'fundamental' right . . . it

is subject to strict scrutiny." *Massachusetts Board of Retirement v. Murgia*, 427 U.S. 307, 319 (1976). When fundamental interests such as marriage are involved, the state bears the burden. *Skinner v. Oklahoma ex. rel. Williamson*, 316 U.S. 535, 541 (1942);) *Loving v. Virginia*, 388, U.S. 1, 12 (1967); *Zablocki v. Redhail* at 398.

STATEMENT OF THE CASE

This case involves a facial constitutional challenge to Section 3301(d) of the Pennsylvania Divorce Code, "irretrievable breakdown," more commonly known as "unilateral no-fault divorce," or "compulsory divorce."

A. The Pankoe Marriage

It is undisputed that the parties began their marriage in 2009 as an expression of their mutual intention for a religious union, the civil component of which is recognized and supposedly "protected" by the civil government under state regulation. Ryan and Laura are the parents of two minor children. Laura filed a complaint for divorce on September 27, 2017. She did not allege any misconduct, but instead expressed her subjective belief that her marriage was "irretrievably broken."

The law has proven to be totally ineffective in protecting the legal union of the Pankoe marriage because the divorce decree, pursuant to Section 3301(d), was not predicated on anything Ryan did or did not do as a condition of any rule of law. The action of divorce, therefore, depended upon the sheer force of will by the

Respondent.[1] In the absence of default or assent, the Commonwealth of Pennsylvania has coerced a divorce upon Ryan and his family through proxy of the Respondent's point-of-view. The courts failed to demonstrate legal default on the part of Ryan, primarily because Section 3301(d) does not require a standard of misconduct in order to effect legal action and the divestment of his legal rights. This, in itself, is contrary to the rule of law, and unfortunately converts the State judiciary into an institution perpetuating injustice. The trial court by its Decree and Memorandum failed to exercise its primary responsibility, which is to "say what the law is." *Marbury v. Madison*, 5 U.S. 137, 177 (1803). The trial court discussed numerous facts without identifying any legal liability or conclusions of law whatsoever. (App.30a, 51a). The Pankoe divorce relied solely upon the Respondent's viewpoint that the marriage was "irretrievably broken." Taken to its logical conclusion, this implicitly means that the marriage, from the beginning, has been contingent upon mutual views rather than public law. Pennsylvania admits this without shame when it says that marriage is based on voluntary agreement instead

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[1] *See* Memorandum Opinion of the Court of Common Pleas of Lehigh County " . . . she wanted a divorce . . . " (App.33a). " . . . based on her religious beliefs, she believed a divorce was warranted . . . " (App.33a). " . . . she still wants a divorce . . . " (App.34a). " . . . she desires to have a divorce as soon as possible and that she strongly believes that the marriage is irretrievably broken." (App.40a). " . . . she did not wish to reconcile with [Defendant]." (App.41a). "Thus, the parties have diametrically opposed viewpoints as to the possibility of salvaging the marriage itself." (App.41a). " . . . she does not want to be married to the Defendant." (App.43a, 48a). "The Master in Divorce did not err in determining, based on Plaintiff's 'wishes', that the marriage is irretrievably broken." (App.43a).

of any binding authority of law: "Reconciliation cannot happen without the effort of two willing participants." (App.13a, 42a). This begs the question as to why marriage exists at law to begin with, since there are absolutely no legal constraints beyond the parties' momentary feelings.

The Commonwealth of Pennsylvania has clearly demonstrated that Section 3301(d) has abolished the civil institution of marriage because the law does not establish any marital rights, duties or obligations capable of protection, as it ought. *Maynard v. Hill* at 211. This is true for Ryan as well as for all residents of the Commonwealth of Pennsylvania.

B. Trial Court Proceedings

In response to Laura's action for divorce, Ryan timely raised his constitutional objections. (App.8a-9a, 13a, 20a, 22a, 37a-38a, 42a, 44a). Ryan stated that the "no-fault" statute is unconstitutional because it is "hostile toward his religious views" (App.8a), and that the question as to whether marriage is irretrievably broken "is a philosophical and theological question." (App.46a). These objections were overruled on March 25, 2019. (App.30a, 49a, 52a-53a). The divorce was granted solely on the grounds of "irretrievable breakdown," despite the trial court failing to demonstrate any breach in obligations prescribed by Section 3301 (d). (App.50a-51a). Ryan filed his notice of appeal and timely notified the State's Attorney General of his intention to challenge the constitutionality of the State statute. (App.6a, 30a, 32a).

C. The Superior Court for Pennsylvania

The parties filed their respective briefs. On October 29, 2019, the Superior Court of Pennsylvania regarded Ryan's argument as one in which he was requesting it to endorse his religion. (App.2a-15a). The Superior Court reasoned that to do so would be a violation of the Establishment Clause and cited its relevant ruling, *Wikoski v. Wikoski*, 355 Pa. 409, 513 A.2d 986 (1986). The Superior Court strongly affirmed that, "trial courts are not entitled to grant divorces based solely on an individual's 'viewpoint.'" (App.12a). However, in the appeal briefs as well as in a motion for reargument, Ryan clarified and specifically said this was not his argument. Instead, Ryan has asserted that, by virtue of adhering to Section 3301(d), the Commonwealth has unconstitutionally endorsed the Respondent's viewpoint–indeed, a violation of the Establishment Clause. Rather than recognize that the trial court endorsed Laura's viewpoint that the marriage was irretrievably broken, the Superior Court reframed Ryan's argument to mean exactly the opposite of his stated intention. The Superior Court focused on Ryan's viewpoint as a prospective violation of constitutional law, rather than focusing on the endorsement of Laura's viewpoint as an actual violation of constitutional law. The application for re-argument was denied on January 7, 2020. (App.54a). On February 05, 2020, Ryan sought permission to appeal in the Pennsylvania Supreme Court.

D. Pennsylvania Supreme Court Ruling

On August 10, 2020, the Pennsylvania Supreme Court responded by denying Ryan's petition for allowance of appeal. (App.1a).

REASONS FOR GRANTING THE PETITION

I. SECTION 3301(D) IS A VOID STATUTE AND THEREFORE UNCONSTITUTIONAL FROM THE MOMENT IT WAS ENACTED BY THE LEGISLATURE BECAUSE IT VIOLATES THE RESTRICTIONS ON LEGISLATIVE POWER AS DEFINED BY THE FEDERAL AND STATE CONSTITUTIONS CONFERRING SUBJECT-MATTER JURISDICTION.

The validity of a statute is a question of law. Moreover, a challenge to the facial validity of a statute is the most difficult challenge to mount successfully because an enactment is invalid on its face only if no set of circumstances exists under which it would be valid. *United States v. Salerno*, 481 U.S. 739, 745 (1987). The defect in the statute must be due to something the legislation lacks. Ryan has been able to identify precisely what this inescapable flaw in the legislation is.

The statute immediately under consideration is without the legislative power of Pennsylvania's law-making body because it does not prescribe a rule of action or create any general liability in which the State is regulating public conduct. Instead, the statute targets ideological enemies by sponsoring the viewpoint that a marriage is "irretrievably broken." In other words, the law exclusively favors those who desire the dissolution of their marriages.

Consequently, Section 3301(d) does not serve a neutral purpose and is directly opposed to all views

favoring the enforceability of the institution of monogamous marriage as a civil institution. The divorce statute serves an ideological purpose, aligning itself with the private interests (wants and desires) of unhappy spouses seeking to dissolve their marriages through the force of law. However, this force of law is based purely on emotion as distinguished from any rights or obligations prescribed by the legislature.

Both Federal and State Constitutions place an absolute restriction on legislation of this nature.

In the case of the Federal Constitution, the Establishment Clause of the First Amendment absolutely forbids any legislation that establishes a state-sponsored viewpoint. "Congress shall make no law respecting an establishment of religion." The term "religion" more broadly refers to any ideological viewpoint in the absence of conduct. " . . . [L]egislative powers of the government reach actions only, and not opinions . . . " *Reynolds v. United States* at 164. "It has long been recognized that under the First Amendment . . . freedom of belief is absolute. The law may, however, regulate conduct." *Sharma v. Sharma*, 8 Kan. App.2d 726, 667 P.2d 395 (1983). This provision has been incorporated to apply to the states through the Fourteenth Amendment.

In the second case of the State Constitution, the prohibition on special laws [granting divorces][2] absolutely forbids any legislation granting divorces that serve private, rather than public interests. "The General Assembly shall pass no . . . special law in any case which has been or can be provided for by general

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2 Penn. Const. Art. III, Sec. 7 (1874) enumerates "granting divorces," now known as Penn. Const. Art. III, Sec. 32.

law . . . " Penn. Const. Art. III, Sec. 32. More than merely prescribe general language, the statute must effectuate a public purpose by nature of its function and operation.

A. Establishment Clause

The Supreme Court of Pennsylvania has ruled out any possibility of denying a divorce pursuant to the "no-fault" statute because doing so would be a violation of the Establishment Clause. *See Wikoski v. Wikoski. See also Sharma v. Sharma* at 726-727. The U.S. Supreme Court supports this reasoning under *Reynolds v. United States.* As such, there is no condition under which denying a "no-fault" divorce would be constitutional under Section 3301(d), as this would be to endorse the Defendant's opposing viewpoint. Though Section 3301(d) includes the phrase, "the court shall determine whether the marriage is irretrievably broken," the court is not capable of making a contrary determination in the absence of a generally prescribed liability. The court, by virtue of adhering to the divorce statute, must necessarily endorse one of the party's viewpoints.

The purpose of Section 3301(d) is to circumvent the requirement of mutual consent between the parties. (App.13a). A different provision, Section 3301(c), provides a statutory cause of action based on mutual agreement. Nevertheless, in the event that mutual agreement would ever be contemplated under Section 3301(d), the U.S. Supreme Court has already dismissed this possibility:

> When the contracting parties have entered into the married state, they have not so much entered into a contract as into a new

> relation, the rights, duties, and obligations of which rest not upon their agreement, but upon the general law of the State . . . They are of law, not of contract . . . [the parties'] rights under [marriage] are determined by the will of the sovereign, as evidenced by law. They can neither be modified nor changed by any agreement of the parties.

Maynard v. Hill, 125 U.S. 190, 211 (1888).

Therefore, under the condition that the Commonwealth grants a divorce by mutual agreement of the parties, absent legal misconduct, dissolution of a legal status would still undercut the "public purpose" requirement. One could argue that a statutory requirement of private mutual agreement remains unconstitutional under the Establishment Clause, because instead of one viewpoint, there would be two viewpoints supporting the position that the marriage is irretrievable. The inescapable flaw remains because no general liability of action has been prescribed by the State legislature.

There is only one other circumstance that Section 3301(d) might exist, and this is the situation at hand: whether it is constitutional to grant a divorce based solely upon the viewpoint of the one seeking divorce. Ryan obviously believes that this too is unconstitutional, particularly in light of the reasoning presented in *Wikoski v. Wikoski.*

Therefore, Section 3301(d) is unconstitutional under all situations and circumstances—whether the State favors the defendant, or the plaintiff, or both of them together. The absence of a general liability of action remains the eternal defect in the legislation. Nothing absolves Section 3301(d) from being a

viewpoint-based statute. It is constitutionally infirm by design, and this converts the Commonwealth into a state-sponsor of divorce.

B. Prohibition on Special Laws Granting Divorces

There are currently 50 states that forbid private laws granting divorces in the various state constitutions. Approximately 28 states explicitly enumerate the prohibition of special legislation "granting divorces;" approximately 6 states explicitly enumerate the prohibition of legislative divorces; approximately 9 states prohibit special laws where general laws may be applicable but do not explicitly enumerate the subject-matter of divorce; and the remaining 7 states have similar constitutional provisions that serve similar purposes. Prior to Oregon gaining statehood, the U.S. Congress passed an Act on July 30, 1886, Chapter 818 (24 Stat. 170), restricting the powers of the legislatures of the Territories of the United States from passing special laws "granting divorces." Pennsylvania had previously enumerated "granting divorces," as a specific subject-matter under its constitutional provision in its 1874 Constitution. This enumeration was removed in the Constitution of 1968. Despite this removal of the enumeration, the force of this constitutional provision still remains in effect because the provision reads: "The General Assembly shall pass no . . . special law in any case which has been or can be provided for by general law . . . " Penn. Const. Art. III, Sec. 32.

So despised were special legislative divorces that in his *Treatise on Constitutional Limitations*, Chief Justice Thomas Cooley of Michigan wrote the following:

> A full and complete control of the [marriage] relation in the legislature, to be exercised at

> its will, leads inevitably to this conclusion . . . a relation essential to organized civil society might be abrogated entirely. Single legislative divorces are but single steps towards this barbarism which the application of the same principle to every individual case, by a general law, would necessarily bring upon us.[3]

In the mid-1800s, states began incorporating the special laws clause into their constitutions, enumerating the granting of divorces as one essential subject-matter. The jurisdiction to render judgment or decree of divorce shifted exclusively to the judiciary, meaning that public policy and rule of law thereafter governed the action of divorce. Divorce decrees were no longer subject to the whims and political will of the state legislatures. Instead, the action of dissolution was to be subject to legal proceedings in a court of law; proceedings in which a decree was to be issued through the judicial process based on a general and pre-existent rule of law.

The prohibition on special laws serves a very specific purpose. "State constitutional 'special laws' clauses are express prohibitions on legislation that would provide public benefit to private interests."[4] They effectively mirror the "public purpose" requirement of

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[3] Cooley, Thomas McIntyre, A TREATISE ON THE CONSTITUTIONAL LIMITATIONS WHICH REST UPON THE LEGISLATIVE POWER OF THE STATES OF THE AMERICAN UNION. Boston: Little, Brown, and Company, 1868.

[4] Justin R. Long, *State Constitutional Prohibitions on Special Laws*, 60 CLEV. ST. L. REV. 719 (2012) available at http://engagedscholarship.csuohio.edu/clevstlrev/vol60/iss3/8

the takings clauses. "Just as constitutional texts prohibit states from taking private property without a public purpose, special laws clauses prohibit states from granting public [benefit] without a public purpose." Ibid. In other words, legislation that enables a public authority to grant divorces on an individualized basis, at the petitioner's will, is undeniably prohibited by the State Constitution.

Though divorces are no longer adjudicated by the state legislatures, a more insidious form of special legislation has arisen that mirrors the same concerns that the special laws clause intended to extinguish. During New York's Constitutional Convention of 1867-1868, a gentleman by the name of Mr. T.W. Dwight stated the following:

> Even if we could abolish special legislation, what would be the next step? Suppose we had only general laws, then the effort of an unscrupulous lobby would be to obtain special legislation under the guise of general law . . . if [a man] wishes to release himself from a hated marriage tie, he will seek to alter the general law of divorce. There are gentlemen who hear me who know that this kind of effort has been made already in our Legislature—an effort to obtain a general law to meet particular cases . . . "[5]

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[5] Underhill, Edward F. Underhill (Reporter, Official Stenographer), PROCEEDINGS AND DEBATES OF THE CONSTITUTIONAL CONVENTION OF THE STATE OF NEW YORK, HELD IN 1867 AND 1868, IN THE CITY OF ALBANY, VOLUME I. Albany: Weed, Parsons and Company, Printers to the Convention, 1868.

During New York's constitutional convention of 1915, Mr. Wickersham echoed the same sentiment:

> I am inclined to think that perhaps a greater evil exists in the granting of special advantages by general laws, than in the granting of special advantages by particular laws that make clear what it is that is granted.[6]

The state legislature no longer grants divorces directly; but Ryan's contention is that Section 3301(d) provides public benefit without a public purpose. In other words, a public authority is providing advantage to an individual on account of their own interests as distinguished from a general regulatory scheme targeting the public's conduct. It is Ryan's position that Section 3301(d) is a special law under the guise of a general law. Section 3301(d) compels the courts to grant a public benefit to a private individual, Laura in this case, based on her personal passion for divorce—the very thing the special laws clause intended to forbid. Instead of legislative will, it is the plaintiff's will that becomes self-executing. It does this in a subtle and largely undetectable way. On appearance, Section 3301(d) is a "general law" because the language of the statute is general in form and applicable throughout the entire State. However, a closer analysis reveals an important reality in its actual operation. Section 3301(d) does not regulate conduct. Instead, it aligns itself with an established yet subjective viewpoint, the view that a marriage is "irretrievably

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6 RECORD OF THE CONSTITUTIONAL CONVENTION OF THE STATE OF NEW YORK, VOLUME II. Albany: J.B. Lyon Company, Printers, 1915. Begun and Held at the Capitol in the City of Albany on Tuesday the Sixth Day of April.

broken." This could be for any reason or for no reason at all. Public authority improperly aligns itself insofar as providing public benefit to the private passions and interests of those who espouse the State-sponsored viewpoint.

There is a direct relationship between Ryan's use of the Special Laws Clause and the First Amendment's Establishment Clause. The first clause answers the question "what;" while the second clause answers the question "how." Coupled together, this fully illuminates the nature of Section 3301(d) as a void statute. Section 3301(d) is void because it offers public benefit on behalf of a private interest. How does it do this? By instructing the judiciary to endorse the private view of the person whose opinion claims that the marriage is "irretrievably broken."

C. Statutory Elements of Section 3301(d)

Section 3301(d) contains two statutory elements that must be fulfilled. First, the parties must be living separate and apart for a period of [X]-number of years; 2-years in this case. Second, the plaintiff must provide an affirmation that they believe their marriage to be "irretrievably broken."

The two-year separation requirement is based on the following statutory language: "The court may grant a divorce where . . . an affidavit has been filed alleging that the parties have lived separate and apart for a period of at least [two] year[s] . . . "[7] The separation requirement is wholly irrelevant in considering whether to grant divorce or not. It serves no

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[7] Two-year separation was required at the time of the petition for divorce. The legislation currently requires a one-year separation.

purpose in the action for divorce. It is irrelevant because it is a ministerial requirement; it is an outcome that is compelled by the legislation itself; it is an objective fact that places both parties in a similarly-situated circumstance. Section 3301(d) requires that plaintiffs file an affidavit that affirms a 2-year separation. Every sufficient pleading brought before the trial courts of Pennsylvania must therefore fulfill the legislatively mandated affirmation of a 2-year separation. The 2-year separation is a prerequisite to filing a sufficient pleading for divorce under Section 3301(d). This statutory requirement is a hard and fast rule that governs every situation and case, and deprives the court of discretion as to the time and mode in which it will exert the powers conferred upon it by the legislation. Every Pennsylvania resident is bound by this hard and fast rule. This makes it a non-factor with regard to judicial exercise of discretion because this element places both parties in exactly the same situation. There is nothing that differentiates the parties in this regard. Both parties have been separated for the specified period of time—not just the Petitioner, not just the Respondent. Both parties are in exactly the same situation in terms of living separate and apart. Yet the parties are treated differently under the law—The Commonwealth favors Laura's interests, but not Ryan's interests. The statutory element requiring separation does not establish a legal relationship between the two parties involved. Instead, it is a legislative mandate that is imposed rather than ascertained. It requires no fact-finding beyond determining statutory fulfillment. But as to its merit, the legislature compels this outcome. Thus, the only factor for consideration of judicial discretion before the trial court remains viewpoint only. The [2-year] separation

requirement, compelled by legislation, is a ministerial requirement that is an irrelevant factor as to judicial discretion.

The term discretion denotes the absence of a hard and fast rule. *The Syria, Scopinich v. Morgan*, 186 U.S. 1, 9 (1902). The establishment of a clearly defined rule of action is the end of discretion. Such is the 2-year separation requirement, which is a fixed rule that controls the subject-matter, and therefore the outcome. The duty of the court is ministerial, when the law exacting its discharge prescribes and defines the time, mode and occasion of its performance with such certainty that nothing remains for judgment or discretion. It is a simple, definite duty, arising under circumstances admitted or proved to exist and imposed by law. *Gaines v. Thompson*, 74 U.S. 347, 353 (1869). The requirement that a plaintiff file an affirmation that the parties have been living separate and apart for 2-years does not invoke judicial exercise of judgment, but is rather a clerical determination.

Thus, it is Ryan's contention that the separation requirement does not discredit his argument that viewpoint remains the dispositive factor in determining whether or not to grant a divorce. In fact, it absolutely confirms Ryan's position.

II. SECTION 3301(D) EFFECTIVELY ABOLISHES MARRIAGE AS A CIVIL INSTITUTION AND UNDERMINES THE SOCIAL FABRIC OF THE NATION.

Section 3301(d) is a void statute because "it confers no rights; it imposes no duties; it affords no protection; [and] it creates no office." *Norton v. Shelby County*, 118 U.S. 425, 442 (1886). Because of the existence of Section 3301(d), the Pennsylvania Domestic Relations

Code does not bind married spouses in law. Binding authority is completely absent in the marriage union. There is no existence of any legally established marital rights, duties or obligations. Ryan's divorce decree clearly demonstrates this since his legal status was permanently altered without any finding of any default of any right, duty or obligation established by law. The opposition contends that the Commonwealth of Pennsylvania is not required to find misconduct. Similarly, the State of Pennsylvania agrees that fault is not necessary in an action for divorce. (App.13a). The implications of this are significant. Nobody seems to believe that marriage and divorce should be subject to the rule of law.

It is precisely this absence of legal fault that characterizes Section 3301(d) as a void statute. Without establishing any marital rights, duties or obligations to bind the parties in law, marriage is nothing more than legal fiction. The State has abolished marriage under the guise of law. The very development of organized civil society is under assault. The public conscience as it relates to social relations has become seared for the simple reason that the law has been corrupted. Public morality has been injured because of unilateral "no-fault" divorce and this ultimately affects every area of life, individually and corporately. The law does not give either spouse any confidence that there are boundaries to their marriage; or limits on the conditions under which a dissolution of their marriage is possible. This is a great tragedy given the position of importance that civil marriage has traditionally had in this nation.

"Marriage is one of the 'basic civil rights of man,' fundamental to our very existence and survival."

Loving v. Virginia at 12. Marriage is the highest consideration in law. Co. Lit. 9 b. "It is . . . [the most important social relation] . . . the first step from barbarism to incipient civilization, the purest tie of social life and the true basis of human progress." *Maynard v. Hill* at 211-212. Marriage [is] more than a contract; [it is] the most elementary and useful of all the social relations . . . " *Ibid.* at 212. Marriage [creates] the most important relation in life, [and has] more to do with the morals and civilization of a people than any other institution . . . The legislature prescribes . . . the duties and obligations it creates . . . and the acts which may constitute grounds for its dissolution . . . *Ibid* at 205. The relation of husband and wife is . . . formed subject to the power of the State to control and regulate [the] relation and property rights . . . [as long as it] does not violate those fundamental principles which have been established for the protection of private and personal rights against illegal interference." *Baker's Executors v. Kilgore* at 491. Strong families and marriages are the foundation of every country—, the nuclear family is the spinal cord of societal muscle with children as its nerve center. It is therefore vital that the highest standard of scrutiny be applied when this allegation of the abolishment of marriage has been made.

It is precisely the regulation of public conduct that serves to define and limit the conditions under which a divorce may be permitted given a narrowly-tailored purpose. In contrast, Section 3301(d) is a viewpoint-based statute that places no limits on divorce. Without limits of conditionality, marriage is no longer a viable civil institution in this nation. Pennsylvania, and many other states, have abolished marriage as a civil institution by enacting unilateral

"no-fault" divorce statutes. These are, in essence, nullification clauses. While marriage certainly retains its religious character and moral power, it is no longer a civil institution insofar as offering any legal protection to the parties involved.

This is an insurrection against our nation that uproots the very social unit that serves as a foundation for all other social institutions. Ryan is not debating the wisdom of various divorce statutes that regulate conduct. Far more significant is his accusation against the Commonwealth of Pennsylvania that it has abolished marriage by enacting a divorce statute that renders marriage meaningless. Ryan is in no way attacking the legitimate exercise of the State's police powers. It is the State's police powers that have been corrupted, stripped, and undermined by Section 3301 (d). It is the legislative usurpation of the judicial process that Ryan is highlighting.

III. THIS MATTER IS OF NATION-WIDE IMPORTANCE BECAUSE SECTION 3301(D) IS A STATUTORY CLONE OF UNILATERAL "NO-FAULT" DIVORCE STATUTES THAT EXIST IN NEARLY EVERY STATE IN THE NATION.

The destructive nature of unilateral compulsory divorce is not limited to the Commonwealth of Pennsylvania. It has infected the entire nation. It is estimated that 48 of the 50 United States have legislated unilateral "no-fault" divorce statutes with the identical legal character of Pennsylvania's Section 3301(d). This is due to collusion among the Family Law Sections of the various State Bar Associations who have been responsible for lobbying "no-fault" statutes since before the 1960s. The "no-fault" ground has become the automatic default in divorce cases

rendering all other grounds obsolete either through repeal or by the doctrine of *desuetude*. Seemingly, only two states offer "no-fault" divorce by mutual consent without any option for unilateral "no-fault" divorce.

The following examples are not exhaustive, but are merely representative of the clone-statutes as they exist and are applied in the other states.

A. Alabama

"We indicated in *Dyal v. Dyal*, *supra*, that if the state of incompatibility is declared by either party to exist and the evidence, either objective or subjective, supports the existence of such a state, the court must grant a divorce under the statute." *Kegley v. Kegley*, 355 So.2d 1121, 1123 (Ala. Civ. App. 1977).

B. California

"In view of the mandate that the existence of irreconcilable differences must be pleaded generally . . . it is obvious that the court must depend to a considerable extent upon the subjective state of mind of the parties." *In re Marriage of Walton*, 104 Cal.Rptr. 472, 28 Cal.App.3d 108, 116-117 (1972).

C. Maine

"[[T]here need not be objective guidelines for determination that marriage is irretrievably broken.]" *Mattson v. Mattson*, 376 A.2d 473, 475 (Me. 1977).

D. Massachusetts

"As a 'cause' for divorce, 'an irretrievable breakdown of the marriage' is inherently subjective and,

contrary to the husband's contention, need not be 'objectively documented, tested and proven.' The decision that a marriage is irretrievably broken need not be based on any identifiable objective fact; it is sufficient that a party or parties subjectively decide that their marriage is over and there is no hope of reconciliation." *Caffyn v. Caffyn*, 441 Mass. 487, 495-496, 806 N.E.2d 415 (Mass. 2004).

E. Minnesota

"Where one party urged that the marriage situation was remediable but the other refused to pursue counseling or reconciliation, the subjective factor proving irretrievable breakdown was established and dissolution was granted . . . [T]he courts look at the existing subjective attitude . . . " *Hagerty v. Hagerty*, 281 N.W.2d 386, 388 (Minn. 1979).

F. Mississippi

"A subjective standard is used to determine the effect of the conduct on the offended spouse as, opposed to a normative standard." *Tedford v. Tedford*, 856 So.2d 753, 756 (Miss. Ct. App. 2003).

G. Nebraska

"[T]he allegation that a marriage is 'irretrievably broken' is the sole allegation necessary for dissolution of a marriage." *Else v. Else*, 219 Neb. 878, 367 N.W.2d 701, 703 (1985).

H. New Hampshire

" . . . irreconcilable differences . . . is determined by reference to the subjective state of mind of the parties."

Desrochers v. Desrochers, 115 NH 591, 594, 347 A.2d 150, 153 (1975).

I. New York

" . . . [T]he section 170 (7) ground is inherently subjective in nature, and 'a plaintiff's self-serving declaration about his or her state of mind is all that is required for the dissolution of a marriage on the ground that it is irretrievably broken.'" *Vahey v. Vahey*, 35 Misc.3d 691, 694 (NY Sup. Ct., Nassau County 2012); quoting *A.C. v. D.R.*, 32 Misc.3d 293, 306 (NY Sup. Ct., Nassau County 2011). "[T]here are no defenses and no triable issues of fact . . . " There was an "awareness by the drafters of the legislation that there is no defense to the no-fault ground . . . " *A.C. v. D.R.* at 307. "As the court properly held, there is 'no defense to the no-fault grounds.'" *Palermo v. Palermo*, 2011 NY Slip Op 33607 (NY Sup. Ct., Monroe 2011).

J. West Virginia

"[R]ecent statutory changes encourage private ordering of divorce upon the "no-fault" ground of "irreconcilable differences," W.Va. Code 48-2-4(a)(10) [1977] . . . [T]he Legislature has concluded that private ordering by divorcing couples is preferable to judicial ordering . . . " *Garska v. McCoy*, 278 S.E.2d 357, 362 (W.Va. 1981).

K. Wisconsin

"The conclusion, that it is sufficient that a party subjectively decide that their marriage is over, finds support in the reasoning of other courts." *Marriage of*

John v. Fritz-Klaus, 2018 WI App 39 (Wis. Ct. of App., 1st Dist. 2018).

L. Marriage Has Become Meaningless

It bears repeating that a subjective standard for divorce is overtly contrary to the constitutional requirement that laws "granting divorces" be general and objective. It is precisely this "subjective" standard based on a party's personal "state of mind" that was meant to be irradiated by the constitutional prohibition. Yet these state courts openly admit that "no-fault" divorces are granted based on subjective viewpoint. Individualized consideration of conduct is equally based on subjectivity, which reflects arbitrary and capricious standards. The court cannot individualize the cause of action based on perceived misconduct when the state legislature has not defined a general rule of action created through the divorce statute. Under Section 3301(d), the state legislature has not prescribed a pre-existent liability. The court does not have any constitutional power to "legislate from the bench" insofar as individualizing each case based on what it subjectively views as legal misconduct. This is strictly in the sphere of the state legislature to prescribe; and strictly in the sphere of the judiciary to adjudicate. These are two distinct functions within our tripartite system. Penn. Const. Art. III, Sec. 32.

Pennsylvania is only one of several states to have enacted viewpoint-based statutes granting divorces. It is imperative that constitutional order return to the states so that marriage can be restored as a legitimate civil institution. Presently, marriage is a legal fiction because the "no-fault" statute is incapable of establishing a legally binding union.

Section 3301(d) sponsors a preferred viewpoint as distinguished from general conduct. This is what identifies the statute as viewpoint legislation, and therefore unconstitutional on its face. This is not a dispute as to whether the statutory elements were fulfilled, but whether the elements are inherently viable. Ryan's position is that the statutory elements of Section 3301(d) are inherently flawed and constitutionally infirm from their inception.

CONCLUSION

The Pankoe marriage was dissolved because Laura alleged her marriage to be "irretrievably broken." But this invites the Pennsylvania trial court to endorse her views at the expense of Ryan's views. The key difference between a constitutional divorce statute and an unconstitutional divorce statute is that the former regulates general conduct, while the latter does not. That is the issue here. A divorce statute that fails to regulate conduct and relies upon viewpoint, whether the plaintiff's viewpoint or the judge's viewpoint, is a violation of the Establishment Clause.

This is a unique case that bears no resemblance to any other case challenging "no-fault" divorce. There is no case law that is based on the principles and premise of the herein legal framework and method of argumentation.

Notable cases that attempt to challenge "no-fault" divorce include *Gleason v. Gleason* in New York (1970); *Ryan v. Ryan* in Florida (1973); *Wikoski v. Wikoski* in Pennsylvania (1986); and most recently, *Lecuona v.*

Lecuona in Texas (2018) of which a Writ of Certiorari was submitted to this U.S. Supreme Court on January 03, 2020, but was denied review. Importantly, none of these cases are argued using the legal theory presented in this petition. *Gleason v. Gleason* was argued on the basis of the federal contract clause. New York differentiated private contract law from domestic relations law, concluding that the contract clause was not applicable. *Ryan v. Ryan* was argued on the basis of due process, in which the Florida Court applied the "rational basis" standard of scrutiny saying that marriage involves civil law as opposed to criminal law, which would require a higher standard of scrutiny. In Ryan's view, Florida failed to acknowledge that marriage is a fundamental and public interest that demands strict scrutiny. *Wikoski v. Wikoski* seems to conflate the religious exercise clause with the establishment clause. Nevertheless, the Pennsylvania Court did say that divorce could not be denied on the basis of [religious] viewpoint. This legal reasoning is in favor of the argument presented in this petition; however, Laura as the original plaintiff, rather than Ryan as the original defendant, is the subject under scrutiny. If a divorce cannot be denied based on viewpoint, neither should it be granted based on viewpoint. *Lecuona v. Lecuona* simply presents an odd legal argument. Nevertheless, it does correctly invoke the strict scrutiny standard. The Petitioner fully adopts strict scrutiny as the appropriate standard of review. The legal arguments in *Lecuona v. Lecuona*, however, are radically different than what is presented in this petition.

In summary, the Pennsylvania trial court does not possess subject-matter jurisdiction to grant a divorce

without relying upon a statutory cause of action that confers this jurisdiction. Divorce is a creature of the state. *See Boddie v. Connecticut* at 383. In this case, Pennsylvania relied upon Section 3301(d), which the Petitioner challenged as an unconstitutional and void statute. The Pennsylvania courts have failed at every level to demonstrate that Section 3301(d) regulates conduct, which only affirms the Petitioner's contention that Section 3301(d) is a viewpoint-based statute in violation of the Establishment Clause. Section 3301(d) provides legal favoritism to plaintiffs as a closed-classification, because it is the plaintiff in every case that alleges the view that a marriage is "irretrievably broken."

The Superior Court of Pennsylvania is fully "cognizant that the trial court did not attribute any 'fault' or wrong-doing to either party." (App.13a). This truly begs the question as to how Ryan Pankoe's numerous legal rights have been forcibly dissolved by the government; or whether he had any to begin with.

Section 3301(d) does not create any marital rights, duties or obligations that are capable of legal protection. By removing conduct from the legal equation, Ryan is neither responsible nor assumes any active participation in the permanent decisions being made about his life. Since Ryan is not actively involved in his own marital dissolution and the consequences that follow, tyranny of the State prevails. This is what needs immediate correction.

The Petitioner requests that this divorce statute be declared facially unconstitutional and void *ab initio*. The Petitioner also requests that his own divorce decree be vacated, declared invalid, and that his property and

custodial rights be fully restored to his pre-divorce status.

Accordingly, the petition for a writ of certiorari should be granted.

Respectfully submitted,

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OCTOBER 20, 2020

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OPINIONS AND ORDERS

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ORDER DENYING REQUEST FOR REARGUMENT

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