ORIGINAL

No. 21-1549

IN THE
Supreme Court of the United States

ISAAC D. KOCH,
Petitioner,

v.

ANDELA S. KOCH,
LYDIA R. KOCH,
and JOSIAH D. KOCH,
Respondents.

On Petition for a
Writ of Certiorari to the
Supreme Court of Nebraska

PETITION FOR WRIT OF CERTIORARI

ISAAC D. KOCH
Petitioner
155 Morian St.
Richland, NE 68601
(402) 910-1581

QUESTION PRESENTED

Shall any State, by her Legislature, *heedlessly* dictate with equity's injunction – that any one person is not protected by state and federal Constitutions – until death intervene?

PARTIES

Petitioner, Isaac Koch, was appellant in the lower appellate proceedings and respondent in District Court. Father is current on his child support tax.

Respondents are Andela, Lydia, and Josiah Koch. In our Nebraska's Supreme Court and Court of Appeals, your respondents were appellees. In the trial court that denied the motion and issued the order, they are the petitioners. At law, Andela is wife to husband, Isaac, as of writing. Lydia and Josiah are the biological children of the couple... children of whom each nominal spouse presently shoulders joint legal custody, as the reviewing Court found just. Mother, though custodian of her other children, did not join them to the above-captioned case.

PROCEEDINGS BELOW

Supreme Court of Nebraska, A-21-540, *Koch v. Koch,* hearing denied January 13, 2022, App.12a.

Court of Appeals of Nebraska, A-21-540, *Koch v. Koch,* appeal dismissed November 23, 2021, App.11a.

District Court of Platte County, Nebraska, CI20-504, *Koch v. Koch,* motion overruled May 26, 2021, App.10a.

District Court of Platte County, Nebraska, CI20-504, *Koch v. Koch,* order modifying May 20, 2021, App.6a.

District Court of Platte County, Nebraska, CI20-504, *Koch v. Koch,* order affirming December 21, 2020, no citation.

District Court of Platte County, Nebraska, CI20-504, *Koch v. Koch,* initial order December 10, 2020, App.1a.

BASIS FOR JURISDICTION

Please examine the order of the Nebraska Supreme Court entered January 13, 2022. No orders regarding rehearing or extension exist. The U.S. Constitution, Article III, Section 2, vests jurisdiction in this Court to hear all cases in equity arising under the authority of Constitution aforesaid.

AGREEMENTS

The dispute concerns equity, and the Constitution, Laws, and Treaties are not drawn into question, nor vest any authority for the grievance for which this petition seeks redress.

STATEMENT OF CASE

Your respondents sought a Civil Protection Order proscribing, *inter alia,* all of Petitioner's "communication" and "contact" for "one year". App.4a. Like a gentleman, the petitioner civilly applied to the District Court to modify the order to allow divorce mediation. Again—and now, advising of his wish to answer the respondent's telephone calls, he moved to modify what we aver are unconstitutional provisions in equity within the package of a CPO. But then, District Court denied him a hearing. App.10a. The Court of Appeals dismissed his appeal. App.11a. The Supreme Court of Nebraska denied a hearing. App.12a.

With the expiration of the injunction scheduled, Mr. Koch moved to renew the CPO, for the purpose of appeal, expressly preserving his rights. But it took interest from momma to secure it. He then took an appeal directly *on the powers asserted* by the State. But these events are not in this record, nor are said powers drawn into this question. The only question is:

Cannot either party move to modify an injunction?

DISCUSSION

In the equivalent to a hastily-built theater – a modern marriage – sometimes a fire breaks out. "Fire!" and there is a mad rush to the door. Perhaps, it is incumbent upon the People to ensure that Liberty is not trampled in the mêlée.

State Power orders *one person* to excise his tongue, but *only when* the complainant(s) will hear—or, only when *what the subject* says will *get back to* her. Forget about Marriage.

A State Court tells State Power that it is now a crime for the subject *not to* retreat from the complainant or complainants. Kiss the baby goodbye? You felon!

"But plainly [the world's essential] community[, a family,] cannot be restrained from discussing a subject intimately affecting life within it." *Nebraska Press Ass'n v. Stuart,* 427 U.S. 539, 566 (1976). So the only solution obvious to our legislators seems to be making the CPO "permanent."

Now your political enemy can chase you out of: church – legislature – grocery store – and court.

Even *Hill v. Thomas* declared an injunction overbroad when "the movement of [the protected] could place the [enjoined] in the position of having violated the injunction." 973 P.2d 1246, 1259 (Colo. 1999, *en banc*); aff'd sub. nom., *Hill v. Colorado,* 530 U.S. 703 (2000).

But these orders are nation-wide. And, not because the orders are armed with the word "permanent," they resemble "a 'nuclear weapon' of the law." *Grupo Mexicano de Desarrollo, S. A. v. Alliance Bond Fund, Inc.,* 527 U.S. 308, 332 (1999).

" 'Hey, what's up?' "

"[A] sentence of five-to-fourteen years". *In re Carpenter*, 197 A.3d 865, 871/866; 2018 Vt. 91 (2018).

Rule 10(c) says that when "a state court . . . has decided an important . . . federal question in a way that conflicts with relevant decisions of this Court" it is within the character of the reasons here considered compelling.

Our district court overruled Petitioner's motion to modify without any statutory authority – not that such a statute would have any authority. Our court of appeals struggled to render a real reason to dismiss, we argue, and our state Supreme Court denied further review without explanation.

The misuse of the injunction discourages People to think that laws aren't made in the legislature, and that one's voice is not superior in authority to the Constitution. This style of injunction tarnishes the image of the Court. It sullies the view of the Judge's impartiality. This all leads us all to Congress' intentionalitications to "reform the courts," unaware that Justice is not the problem – abuse of the injunction is. *See* Hayden D. Presley, "A Universal Problem: The Universal Injunction", 81 La. L. Rev. 627 (2021).

"As both the State and the District Court are undoubtedly aware, a party is *always* entitled to move to modify an equitable decree . . . ." *Brown v. Plata*, 563 U.S. 493, 561 (2011; Scalia, J., dissenting; emphasis original).

Doesn't Massachusetts suggest that two living people may not *ask* to attend a funeral? Didn't our state actually call a funeral, "the unusual circumstance"? *Mitchell v. Mitchell,* 62 Mass. App. Ct. 769, 821 N.E.2d 79 (2005). Kind to the life of Petitioner, Ms. Andela's dissolution action requires communication. *Cf. State v. Mott,* 692 A.2d 360 (Vt. 1997).

A "nuclear weapon" *could* be useful when facing "deadbeat dads or plundered pops". *See* Stephen Baskerville, "Is There Really a Fatherhood Crisis?", 8 The Indep. Rev. 485, 495 (2004). But "[t]he Michigan Court of Appeals agreed . . . [that a CPO] 'neede[d] to be specifically limited to the adjudicated speech' . . . ." *Lindke v. Lane,* 19-cv-11905 at 10 (E.D. Mich. Mar. 3, 2021). The Texas Supreme Court noted, "Judges, [otherwise], would be . . . required to examine the content of the speech to determine whether or not the message[, or, say, rescuing your family from, God forbid, a flaming wreck,] could wait a week, two weeks, a month or years until an appeal is prosecuted." *Ex Parte Tucci*, 859 S.W.2d 1, 3 (Tex. 1993).

Would the State have it a crime not to die in an altercation with one's legal adversary? Surely our hard-working State does not mean to suggest a desire to assume his child support obligation!

It is known that "the injunction [may be] transparently invalid or [have] only a frivolous pretense to validity." *Walker v. City of Birmingham,* 388 U.S. 307, 315 (1967). "A judgment entered by a court which lacks subject matter jurisdiction is void. It is a longstanding rule in Nebraska that such a void judgment may be attacked at any time in any proceeding." *Kuhlmann v. City of Omaha,* 251 Neb. 176, 556 N.W.2d 15 (1996), citing *Bradley v. Hopkins*, 246 Neb. 646, 522 N.W.2d 394 (1994), *VonSeggern v. Willman*, 244 Neb. 565, 508 N.W.2d 261 (1993); accord *Strunk v. Chromy-Strunk,* 270 Neb. 917, 708 N.W.2d 821 (2006), citing *Ryan v. Ryan,* 257 Neb. 682, 600 N.W.2d 739 (1999).

This case presents the Court an opportunity to say that its collateral bar rule recognizes that an unconstitutional injunction is unpunishable, for that is

true. And in Nebraska, "[e]very person may freely speak, write and publish . . . the truth . . . ." (Neb. Constitution Article I-5). "[T]he citizen still faces a substantial risk of criminal penalties if proved wrong in collateral . . . attack on the decree's validity." *State v. Coe,* 101 Wash. 2d 364, 371; 679 P.2d 353 (1984, quoting *State ex rel. Superior Court v. Sperry,* 79 Wn.2d 69, 483 P.2d 608, *cert. denied,* 404 U.S. 939 (1971)). "One cannot be punished for contempt for violating an order which a court has no authority to make." *Ex Parte Tucci, supra* at 2 (giving a list of cases where "Texas courts have repeatedly granted habeas relief to release those confined for disregarding an unconstitutional restriction on varying types of expression"). "Nor is Texas alone in recognizing the unduly restrictive nature of a collateral bar rule." *Id* (citing cases from California, Arkansas, Washington, and Arizona).

There is no law against love.

CONCLUSION

This High Court's choice, to affirm that **no** statute can ever secure the authority to create an injunction *valid until death* (us do part), is the perfect solution.

Petiton dated April 13, 2022 with updated page numbers to appendix corrected, May 28, 2022. No change to the substance of the petition was made.

Respectfully submitted,

_____

Isaac D. Koch, petitioner