

No. 24-662

SUPREME COURT OF THE UNITED STATES

RICHARD RYNN, next friend and parent of MR, a
minor,

Petitioner

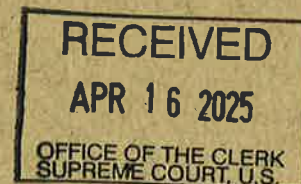
V.

Gregory A Mckay, in his official capacity as
Director of the Arizona Department of Child Safety,
and personally, et al

Respondents

Petition for Rehearing Writ of Certiorari to
The United States Court of Appeals
For the Ninth Circuit

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QUESTIONS PRESENTED

1. Whether the court erred in failing to review and address material evidence from prior state court findings that judgments were "devoid of competent evidence."
2. Whether judgments are void when contradictions exist between the district court's findings (indicating compliance with a doctor's discharge order) and the state court's findings (alleging improper removal), warranting vacatur based on fraud.
3. Whether the court's refusal to permit further pleadings and failure to address critical new evidence of deprivation of rights under color of law and fraud constitutes a deprivation of due process.
4. Whether the court erred in failing to review and address material evidence referencing a fax confirming not an arrival.

PARTIES TO PROCEEDING

State of Arizona, Department of Child Safety, Gregory
Mckay, Desert Vista Behavioral Health Center, UHS,
Quail Run Behavioral Health, La Frontera Empact

DIRECTLY RELATED CASES

Quail Run v Richard Rynn Maricopa County Superior
Court Case No. LC2017-000316 (10/27/2017) Reversed
and Remanded, Devoid Of Competent evidence

Pinal County Superior Court
Case No. S1100JD201700116
Department of Child Safety U.S. Supreme
Court Case No.24A136-----pending

Rynn v First Transit, Et Al, Ninth Circuit
Case No. 23-15869 U.S. Supreme Court
Case No. 24A17-----pending

Rynn et al v Craig Jennings, John Tuchi, et al Ninth
Circuit Case No. 25-1951, -----Pending

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PETITION FOR REHEARING

Pursuant to Rule 44.2, Petitioner requests rehearing of the order denying certiorari based on: (1) improper application of res judicata and claim preclusion; (2) failure to consider material new evidence; (3) denial of an evidentiary hearing; and (4) failure to review Petitioner's Statement of Facts (Dk. 109) and transfer to Ninth Circuit Case No. 25-1951 for correction of factual errors. Petitioners custody rights and deprivation of constitutional rights was not addressed by the court

The district court overlooked key evidence, including the discharge contract, police reports confirming a medical discharge, a DCS fax rather than physical presence, and the absence of a court order on April 24, 2017. It also failed to consider the Superior Court's October 27, 2017 ruling in Case No. LC2017-000316,

which precludes Defendants' claims under res judicata and fraud.

Under Rule 59(a), a new trial is warranted where judgment is contrary to the evidence, based on falsehoods or legal error, or results in a miscarriage of justice. The ruling violated Petitioners' due process rights under the Fifth and Fourteenth Amendments by denying a fair hearing and adjudication on the merits.

Argument

The district court's refusal to file Petitioner's submissions to correct the record, including newly discovered evidence and a motion to correct the record, violates Rule 5(d)(4), Fed. R. Civ. P., and Dk. 112. Rule 25(a)(4) requires that the clerk "shall not refuse to accept for filing any paper... solely because it is not in proper form." The clerk's role is ministerial; procedural issues must be addressed through judicial review, not by rejecting filings. This refusal deprived Petitioner of the opportunity to present critical evidence and correct the record, violating due process. Petitioner respectfully requests that the Court direct the district clerk to file petitioners' documents.

In Support of This Motion, Petitioner States as Follows:

This case presents an exceptionally important question on parental and custody rights during a medical discharge order and the right for the child to return home for safety. There is a clear inconsistency between the decisions of the district court decision in 2018 Rynn v McKay (Dk 59 p. 2) and the higher court appeal Superior court decision Quail Run V Richard Rynn Case No. LC2017-000316 (10/27/2017) *reverse and remand* over the discharge of Petitioners daughter and the Arizona court of Appeals Division Two Case No. 2 CA-JV 2017-0165 decision, Division One Case No: 1 CA- CV 23-0392 July 18, 2024 cited an attempt to remove his daughter despite warnings that it was unsafe, while the District Court found that Petitioners daughter was safely discharged pursuant to a doctor's order, (Dk 59 p. 2) with Petitioner and his wife arriving

at the facility to facilitate the discharge. (Dk 110 p.8-9)
(Dk 108)

This inconsistency remains in dispute of material facts arising case is national significance concerning parental rights in the context of a child's discharge from a medical facility and the impact of deprivation of constitutional rights and safety of parents and children from harm by the government. The District Court's ruling constitutes reversible error due to discrepancies in the court's factual findings and the evidence presented. Notably, the district court refused to allow further filings and appeals and failed to provide an evidentiary hearing despite the conflict between state and federal courts on the discharge order and the fax. Petitioners' personal knowledge of the discharge order on April 24, 2017, and the undisputed fact that the Department of Child Safety did not arrive on that date. (Dk 110 p. 2 line 16-28) This fundamental error

necessitates correction to properly address the 183 claims at issue.

**LEGAL ARGUMENT: MOTION FOR NEW TRIAL
DUE TO ERRONEOUS DISMISSAL WITHOUT
RESOLVING THE COMPLAINT**

The Court's ruling granting Defendants' motion to dismiss (Dk. 71) and denying a new trial (Dk. 110 p. 1-18) failed to resolve the substantive claims presented in the complaint failing to correct the record by failing to review the evidence of petitioners statement of facts (Dk 109) evidence of a police report confirming a fax on April 24, 2017 not an arrival.(Dk. 110 p. 7) Dismissal without addressing the merits of the claims constitutes a fundamental procedural error warranting reconsideration and a new trial.

Legal Error in Granting Dismissal

Under Rule 12(b)(6), dismissal is proper only if the complaint fails to state a valid claim. The Court was

required to accept well-pleaded facts as true and construe them in Petitioners' favor. Dismissing the case without adjudicating these claims constitutes reversible error, as courts consistently hold that such dismissals are improper.

Right to Petition for Redress

Petitioner has a fundamental First Amendment right to seek judicial relief. Under 28 U.S.C. § 1654, individuals may represent themselves and pursue claims in good faith. The Federal Rules of Civil Procedure provide remedies for improper rulings, errors and false statements, including motions for reconsideration, mistrial, and Rule 60(b) relief. As Petitioners' motion adheres to these principles, the Court must allow their claims to proceed without obstruction or prejudice.

**Legal Argument: Fraud on the Court and
Failure to Address Petitioners' Claims and
Ongoing Injuries**

The district court and the Division One's reference in 2024 to "threats to kill everyone" is materially false, prejudicial, and is void due to res judicata, claim preclusion. (Dk 59 p. 2 line 11-12) due to the Superior Court's Case No. LC2017-000316 (10/27/2017) dismissal of those claims as devoid of competent evidence. This misrepresentation reflects a failure to properly review Petitioners' claims and address their ongoing injuries, undermining judicial integrity and warranting correction of prior rulings. This case arises from a deprivation of constitutional rights and fraudulent actions originating on April 24, 2017, and continuing through 2025, involving a breach of contract under color of law. The Court failed to resolve the dispute, as Defendants did not provide evidence of

a treatment plan, doctor's order, or court authorization for treatment on April 24, 2017. (Dk 110 p. 4)

As a matter of law, the Department of Child Safety (DCS) cannot obtain custody or start a treatment by private individuals without a court order and without physical presence at the Quail Run facility on that date. (Dk 110 p. 6) The court's failure to rule on the material facts arising the events on April 24, 2017, and the lack of a court order on April 24, 2017 constitutes a fundamental error. The absence of essential evidence, including Petitioners daughters' doctor-ordered discharge that day, along with unsupported factual assertions by defendants, further undermines prior rulings. Given these errors and fraudulent misrepresentations, judicial review is necessary to correct the record and ensure Petitioners' claims are heard on the merits.

Constitutional Protections

Fourth Amendment: Protects against unreasonable seizures, including the removal of children from parental custody without due process.

Fourteenth Amendment: Guarantees due process and equal protection, requiring procedural safeguards before depriving parents of custody.

Federal Statutes

42 U.S.C. § 1983: Provides a cause of action for individuals whose constitutional rights have been violated under color of state law, including unlawful removal of children without a court order.

Parental Rights Doctrine: Recognized by the U.S. Supreme Court, affirming that parents have a fundamental right to custody and care of their children (*Troxel v. Granville*, 530 U.S. 57 (2000)).

Case Law

Mabe v. San Bernardino County, Dep't of Public Social Services, 237 F.3d 1101 (9th Cir. 2001): Held that officials must obtain a court order or demonstrate exigent circumstances before removing a child from parental custody.

Wallis v. Spencer, 202 F.3d 1126 (9th Cir. 2000): Established that the state may not remove children from their parents without prior judicial authorization unless there is immediate danger.

Key Argument Structure

Legal Standard: Emphasize the constitutional and statutory requirements for a court order.

Lack of Exigent Circumstances: Argue that absent immediate danger, removal without a court order is unlawful.

Due Process Violation: Assert that failure to obtain a court order violates fundamental parental rights.

ARGUMENT

Res judicata and claim preclusion are intended to ensure finality and protect Petitioner from continued litigation based on claims, such as Defendants' allegations of "*threats to kill*", that have already been dismissed for lack of competent evidence. However, the Court failed to acknowledge the new evidence discovered in year 2022 that the complaints and statements filed ex parte by Defendants, the State of Arizona, on April 28, 2017, and reiterated in the Division One decision in 2024 and the district court ruling in 2018, are void under this doctrine. (Dk 110 p. 3 line 15) (Dk 59 p. 2 line 11-12)

Defendants' lawsuit by ex parte on April 28, 2017 lacked jurisdiction by lack of due process, failing to serve Petitioner (Dk 110 p. 3 line 10-21) and stems from the same transactional nucleus of facts that was adjudicated in the April 26, 2017 Quail Run V Richard Rynn Glendale city court case that was appealed to the

Maricopa County Superior Court's decision case No. LC2017-000316 (October 27, 2017), in which the court dismissed allegations of threatened to kill individuals at Quail Run, finding those allegations devoid of competent evidence. Accordingly, any subsequent litigation from defendants based on the same allegations is barred under *res judicata*. But as you can see the defendants continue with the same materially false statements in 2024 see **Court of Appeals Division Two Court of Appeals Case No. 2 CA-JV 2017-0165 decision, and Division One Case No: 1 CA- CV 23-0392 July 18, 2024 decision published online: “, intended to remove her from the facility, and threatened to kill everyone at the hospital,”** Due to the application of claim preclusion Division One court of Appeals decision must be vacated as a matter of law due to the factual findings of the higher court of Appeals Superior court decision in 2017.

Defendants' Use of False Statements to Prolong Litigation

The State of Arizona initiated their case on April 28, 2017, not April 24, 2017, substantiating a lack of a court order for custody. (Dk 110 p. 3) The case was based on false allegations by the Arizona Department of Child Safety (DCS) that Petitioner threatened to "kill everyone" during Petitioners daughter discharge on April 24, 2017.

In April 28, 2017 DCS falsely claimed it took custody of Petitioners due to these alleged threats. This false assertion formed the basis for subsequent rulings by the Pinal County Court, the Arizona Court of Appeals Division One in 2024, and Division Two in 2018, despite the Superior Court's 2017 finding that these claims from defendants lacked competent evidence.

Newly Identified Fraud and Procedural Misconduct Require Reconsideration

These proceedings were grounded in discredited allegations rejected by the court in *Quail Run v. Richard Rynn* (2017) yet persist in *Rynn v. UHS* (2024) and the pending *Washburn v. Rynn* case before the U.S. Supreme Court. (Dk 110 p. 5) Petitioner has endured years of unjust litigation based on these falsehoods, violating due process and constituting fraud upon the court. A new trial is necessary to correct this injustice.

Legal Argument: Fraudulent Statements Render Prior Rulings Invalid

False statements from defendants have materially impacted the proceedings. These falsehoods have further extended to judicial officers, compromising the fairness and integrity of the judicial process. The Superior courts decision in 2017 reversing and vacating the threats from Quail Run substantiate these fraudulent and defamatory misrepresentations, which are documented in state government and federal

government records and other evidentiary sources. (Dk 110 p.5) Fraud upon the court occurs when false statements fundamentally distort the administration of justice, rendering any resulting judgments legally void.

Because prior rulings were tainted by these pervasive falsehoods, they cannot serve as a bar to subsequent litigation. To prevent a miscarriage of justice, all adverse rulings relying on these misrepresentations must be set aside.

Argument Legal Standard Establishing Perjury

Perjury, as defined under 18 U.S.C. § 1621 occurs when a person:(a) Willfully makes a false statement under oath, (b) Regarding a material fact, and (c) Does so with intent to deceive.

False Statement Under Oath

The declarant, DCS petitioner Cathy Cottee submitted a sworn affidavit/testimony in Pinal County

court on April 28, 2017. In this statement, Cottee asserted: “*threats to kill everyone*”. However, documentary evidence from 2017 Superior court decision and witness testimony including police reports contradicts this claim.

Materiality of the False Statement

The false statement is material because it directly affects key issues in the case, which is central to the court’s determination.

Intent to Deceive Defendants had knowledge that the statement of threats to kill everyone was false, as demonstrated by prior inconsistent statements, documentary evidence, deposition testimony, etc.. The deliberate nature of the misrepresentation indicates intent to mislead the court.

Requested Relief Given the foregoing, the court must take appropriate action, including but not limited to:

Referring the matter for perjury prosecution, Striking the false statements from the record.

RELIEF REQUESTED

Petitioner requests court vacate the order of dismissal and grant a new trial pursuant to Federal Rule of Civil Procedure 59(a); and Rule 60. Declare void all prior rulings—including the district court’s 2018 decision and rulings from the Arizona Court of Appeals—premised on the discredited “threats to kill everyone” allegation, as barred by *res judicata*; Hold an evidentiary hearing regarding Defendants’ false statements and their impact on prior judicial findings; and Grant such other relief as may be just and proper in the interests of justice.

STATEMENT OF THE CASE

On April 24, 2017, Petitioner’s daughter was lawfully discharged from the Quail Run facility by physician directive, in accordance with a contractual agreement.

Despite the absence of any court order authorizing state intervention, Court failed to show defendants having any legal authority to seize Plaintiffs daughter during discharge and not return her home. These actions constitute false imprisonment and violations of constitutional due process. (Dk 110 p.8, p. 1-18)

Defendants subsequently made false and defamatory statements, and on April 26 and 28, 2017, obtained ex parte custody orders without the requisite affidavit or evidentiary basis required by Federal Rule of Civil Procedure 65(b). Defendants withheld public records—including the April 28 order and police documentation confirming the Department of Child Safety (DCS) did not appear at Quail Run on April 24—obstructing Petitioners' ability to file timely claims. (Dk 110 p. 8, p. 1-18) A person acting under color of law who commits a constitutional violation, cannot be immunized by state law. Authority: *Martinez v. California* (1980) 444 U.S.

277, 284; *Wallis v. Spencer* (9th Cir. 2000) 202 F.3d

1126, 1144

REASONS FOR GRANTING THE PETITION

I. Ex Parte Orders Violated Rule 65(b) and Due Process

The April 28, 2017 order was issued without an affidavit of irreparable harm and without notice to Petitioners, violating both Rule 65(b) and constitutional due process. (Dk 110 p. 4, 7-8) See *Mathews v. Eldridge*, 424 U.S. 319, 333 (1976); *Granny Goose Foods, Inc. v. Brotherhood of Teamsters*, 415 U.S. 423, 433 n.7 (1974)

II. Withholding of Public Records Prevented Earlier Filing

Defendants failed to disclose material records, including evidence that no DCS personnel were present at the Quail Run facility. This concealment obstructed

Petitioners' access to the courts and violated state and federal public records laws. (Dk 110 p. 4-18)

III. Fraud on the Court Justifies Equitable Tolling

Fraudulent concealment and falsified statements constitute fraud on the court. See *Hazel-Atlas Glass Co. v. Hartford-Empire Co.*, 322 U.S. 238, 246 (1944). Courts consistently toll limitations periods where misconduct prevents timely litigation. Here, Defendants' actions misled the courts and concealed jurisdictional defects involving the judge John Tuchi due to fraud. See Ninth Circuit Rynn V Jennings, John Tuchi Case No. 25-1951.

IV. Ongoing Constitutional Violations Warrant Relief

Petitioners suffered continuing harm as a result of Defendants' false reports, which were discredited in

Quail Run v. Rynn (2017) but perpetuated in subsequent court rulings. See *Hendrickson v. United States*, 791 F.3d 354, 361 (2d Cir. 2015). The continuing violation doctrine applies.

V. District Court Refused to Allow Briefing on Material Disputes

The district court improperly denied leave for supplemental briefing, precluding full review of critical evidence and unresolved factual disputes. See *Beck v. Gomez*, 66 F.3d 850, 855 (9th Cir. 1995). This refusal violated Petitioners' due process rights.

VI. Material Errors and Due Process Violations Require Reversal

The district court erred in finding that DCS appeared at the Quail Run facility on April 24, 2017. Police reports and contractual documents (Dk. 59 at 2:10; Dk. 109 at 3) confirm that DCS merely faxed a request and

did not physically appear. Petitioners' statements and exhibits (Dk. 110 at 2:16–28) directly contradict the court's findings. This misstatement of fact undermines the legal conclusions and deprived Petitioners of adjudication on the merits, violating due process.

The Ninth Circuit and Supreme Court have held that procedural violations and judicial misconduct warrant vacatur. *Liljeberg v. Health Servs. Acquisition Corp.*, 486 U.S. 847 (1988); *United States v. Holtzman*, 762 F.2d 720 (9th Cir. 1985).

Failure to Hold Evidentiary Hearing

When material facts are in dispute, courts must conduct an evidentiary hearing. Failure to do so violates due process.

Fuentes v. Shevin, 407 U.S. 67 (1972): Due process requires a meaningful opportunity to be heard.

Dahlin v. Frick, 623 F.2d 1333 (9th Cir. 1980): Courts must resolve contested facts through hearing.

Welsh v. Wisconsin, 466 U.S. 740, 750 (1984): A child's warrantless seizure from parental custody is unconstitutional.

CONCLUSION

The rulings relied on disproven claims and denied Petitioner a fair hearing. The record reflects factual errors, procedural violations, and constitutional deprivations. Accordingly, Petitioner requests Court: Stay or transfer the matter for resolution in Ninth Circuit Case No. 25-1951; Grant the petition for rehearing; Issue a writ of certiorari; Vacate the lower court's rulings; Remand for a trial on the merits; and Grant any other relief deemed just and proper.

RESPECTFULLY SUBMITTED

this 21st day of March 2025


Richard Rynn

Case No. 24A22

CERTIFICATE OF COMPLIANCE

SUPREME COURT OF THE UNITED STATES

RICHARD RYNN, next friend and parent of MR, a
minor,

Petitioner

V.

GREGORY A Mckay, in his official capacity as
Director of the Arizona Department of Child Safety,
and personally, et al

Respondents

As required by Supreme Court
Rule 33.1(h), I certify that the
petition for a writ of certiorari
contains 2941 words, excluding
the parts of the petition that are
exempted by Supreme Court Rule
33.1(d). I declare under penalty of
perjury that the foregoing is true
and correct.

Executed on March 21, 2025



RICHARD RYNN

CETIFICATE OF SERVICE

A copy of this application was served by U.S. mail to
Defendants listed below in accordance with Supreme
Court Rule 22.2 and 29.3, or 33.2.

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this 21st day of March 2025

By _____
Richard Rynn

CERTIFICATE PURSUANT TO RULE 44.2

Pursuant to Rule 44.2 of the Rules of the Supreme Court of the United States, I hereby certify that the petition for rehearing is presented in good faith and not for delay, and that it is restricted to the grounds specified in Rule 44.1.

this 21st day of March 2025

By 
Richard Rynn