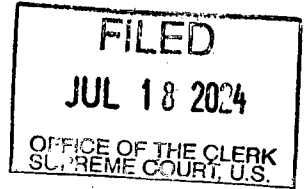


ORIGINAL

24-79

In the
Supreme Court of the United States



JAMES W. A. JACKSON,

Petitioner,

v.

KELLY K. FITZGERALD,

Respondent.

On Petition for a Writ of Certiorari to the
Supreme Court of Rhode Island

PETITION FOR A WRIT OF CERTIORARI

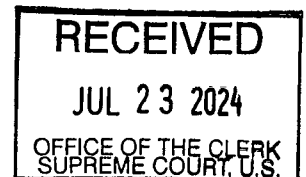
James Jackson
Petitioner Pro Se
81 Balaka Drive
Carlingford, NSW 2118 Australia
(61) 419695049
jjackson_1972@yahoo.com

July 18, 2024

SUPREME COURT PRESS

♦ (888) 958-5705 ♦

BOSTON, MASSACHUSETTS



QUESTIONS PRESENTED

QUESTIONS PERTAINING TO THE DUE PROCESS CLAUSE:

1. Does a defence of UCCJEA 'Simultaneous Proceedings' become moot when one and not all proceedings is dismissed, and where the original jurisdiction dismissal cites the cause as the second and simultaneous proceedings in the Rhode Island Family Court, and thereafter an obligation to desist under the *HCCH 1996 treaty terms* (App.35a). And where the Rhode Island case is yet afoot, and where the HCCH 1996 Article 7 would allow for the matter of child custody to be returned by Rhode Island to Australia and where the Rhode Island Family Court had 62 days from the docketed notice of the case and orders in Australia to then adjudge 'Simultaneous Proceedings'? (*i.e.* well prior to the ultimate original case's dismissal in the Federal Circuit and Family Court of Australia)

2. Should the Rhode Island Family Court have scheduled without delay a Show Cause hearing after February 13, 2020 to adjudge 'Simultaneous Proceedings', when presented with proper Australian Court orders made March 22, 2018 (App.205a), within the case afoot in the original jurisdiction?

3. Should the Rhode Island Family Court have promptly scheduled an evidentiary hearing after February 13, 2020, to adjudge 'Jurisdiction Declined by Reason of Conduct'?

QUESTIONS PERTAINING TO JURISDICTION

4. Are evidentiary hearings required where jurisdiction is contested?

5. Did the Rhode Island Supreme Court err in finding Subject Matter jurisdiction alone is sufficient to make a defence around Personal Jurisdiction unavailing (App.14a)? (*i.e.* when they asserted “[A] state’s power to decide a custody matter does not depend on its having personal jurisdiction over the parties, but rather depends on its ability to adjudicate matters concerning the status of its citizens through quasi in rem jurisdiction.” *Henderson v. Henderson*, 818 A.2d 669, 675 (R.I. 2003) and when the Henderson case greatly differs from the instant case as it involves no foreign citizens, Divorce from Bed and Board and no intentional evasion of due process for 2 years by one party)

6. Is a Defendant’s participation in Rhode Island Family Court for mandated temporary Child Support and Mediation, and when he was of the wrong belief that a finding of fact on Jurisdiction was decreed without him in chambers with then counsel, sufficient to confer upon the Defendant an acceptance or acquiescence of jurisdiction without an evidentiary hearing to allow for review and due process?

Questions Pertaining to Access to Courts

7. Has the press and public’s First Amendment right to witness the proceedings been met? *See Richmond Newspapers, Inc. v. Virginia*, 448 U.S. 555 (1980)

8. When access to Court proceedings is denied by the Court justice is that a violation of due process rights that would invalidate the court’s findings?

9. Are courts obligated to provide foreign national Defendants and their witnesses, who enjoy no lawful residency to the United States, remote video access for hearings to prevent a larger financial and time burden on them that might then unduly benefit the Plaintiff party?

10. Further, should U.S. Defendants who challenge jurisdiction, who reside permanently out of the state of the subject matter jurisdiction and who put forward a case around a substantial time and financial burden for appearance, be thereafter allowed to appear via the Court's video conferencing technology?

11. Do the Due Process Clauses require judges who deny video streaming of a hearing but have an open court room, to declare why, what interest they protect by not streaming, how substantial that interest is and to offer reasonable alternatives for the public or press who may not be in Rhode Island?

QUESTIONS PERTAINING TO PARENTAL RIGHTS

12. Does the Family Court err in not advancing the Defendant's request to identify the biological father and potential support payer and also the discovery of the Plaintiff's reasons for not enjoining the biological father in her petition?

13. Can Child Support payments be ordered without any evidentiary hearing or trial, in violation of involuntary servitude protections of the Thirteenth Amendment, and, further, where both parties minimally seek 50% custody time to support their children per the fundamental parenting rights afforded by the First, Fifth and Fourteenth Amendments?

14. Can Child Support be ordered before a finding of fact on contested jurisdiction is found and decreed?

15. Did the Rhode Island Family Court err, upon Defendant appeal to the Rhode Island Supreme Court, by giving "Full Faith and Credit" to their own orders?

16. Did the Rhode Island Family Court err in making temporary child support orders using the state's Office of Child Support Services standard 'Custodial Parent/Non-Custodial Parent' (CP/NCP) formula instead of the Shared Placement formula, given the Defendant father is a 'non-custodial parent' only by the unjustifiable conduct of the Plaintiff mother and by her retaining the children away from their home country without the Defendant's permission, a parent who would otherwise have continued to have enjoyed shared access?

17. Did the Rhode Island Family Court err by ordering temporary child support payments be made directly to the Plaintiff mother by the Defendant father and not into the account of the court registry pending final orders, as per the Rhode Island General Laws § 15-5-16.2. Child support(e)?

18. Are child support orders enforceable by the Rhode Island Family Court and Office of Child Support Services where the Defendant objects to all government welfare (TANF, SNAP, etc) that might encourage and prolong his children's retention in Rhode Island and, specifically, with regard '42 U.S.C. § 1301 (d).'*Nothing in this chapter shall be construed as authorizing any Federal official, agent, or representative, in carrying out any of the provisions of this chapter, to take charge of any child over the objection of either of the parents*

of such child, or of the person standing in loco parentis to such child.”?

19. Did the Rhode Island Supreme Court err in denying the Defendant’s Petition for Writ of Mandamus, SU-2022-0313-MP, for child visitation and an evidentiary hearing?

20. Is 5 years without an evidentiary hearing or any visitation orders in accordance with the Judicial Oath of Office or is it abjuring the Defendant and his children’s fundamental parenting rights?

LIST OF PROCEEDINGS

RHODE ISLAND PROCEEDINGS

Rhode Island Supreme Court

No. 2022-265-Appeal. (W 19-2200M)

Kelly K. Fitzgerald v. James W.A. Jackson

Date of Final Opinion: February 9, 2024

Date of Rehearing Denial: April 19, 2024

State of Rhode Island Washington, SC Family Court

No. W2019-2200M

Kelly K. Fitzgerald v. James W.A. Jackson, *Sui Juris*

Date of Final Order: July 25, 2022

AUSTRALIA PROCEEDINGS

Federal Circuit and Family Court of Australia at
Sydney

No. (P)SYC7942/2017

James Wilbert Andrew Jackson, *Applicant*, v. Kelly
Kathleen Fitzgerald, *Respondent*.

Date of Final Order: April 15, 2020

TABLE OF CONTENTS

	Page
QUESTIONS PRESENTED	i
LIST OF PROCEEDINGS	vi
TABLE OF AUTHORITIES	x
PETITION FOR A WRIT OF CERTIORARI	1
OPINIONS BELOW	1
JURISDICTION.....	1
CONSTITUTIONAL AND STATUTORY PROVISIONS INVOLVED	2
INTRODUCTION	4
1. The Constitutional Issues Involving	4
2. Jurisdictional Issues Involving.....	6
3. Issues of Equal Access to Courts	7
4. Parental Rights Issues.....	7
STATEMENT OF THE CASE.....	9
A. Statement of Facts	9
B. Summary of Law	18
REASONS FOR GRANTING THE PETITION.....	19
CONCLUSION.....	22

TABLE OF CONTENTS – Continued

Page

APPENDIX TABLE OF CONTENTS**RHODE ISLAND OPINIONS AND ORDERS**

Opinion, Rhode Island Supreme Court (February 9, 2024)	1a
Order Denying Petition for Writ of Mandamus, Rhode Island Supreme Court (December 16, 2022)	18a
Order, State of Rhode Island Washington, SC Family Court (July 25, 2022)	19a

AUSTRALIA OPINIONS AND ORDERS

Order Dismissing Case, Family Court of Australia (April 15, 2020)	22a
--	-----

RECONSIDERATION ORDER

Order Denying Reargument, Rhode Island Supreme Court (April 19, 2024)	24a
--	-----

STATUTES, TREATIES, CONVENTIONS

Hague Convention 1996, Article 7	25a
United Nations Convention on the Rights of the Child Articles 9 & 10	27a

OTHER DOCUMENTS

Memorandum in Support of Petition of the Defendant Appellant for Reargument (March 4, 2024)	29a
Rhode Island Attorney General Notice of Non-Intervention (June 7, 2023)	41a

TABLE OF CONTENTS – Continued

	Page
Appellee, Kelly K. Fitzgerald’s Rule 12A Show Cause Supplemental Statement (April 20, 2023)	43a
Notice of Challenge to Constitutionality of State Statute Pursuant to Rule 32(b) (March 21, 2023).....	46a
Defendant Rule 12A Show Cause Supplemental Statement (March 9, 2023)	53a
Appellee, Kelly K. Fitzgerald’s Rule 12A Counter-Statement (November 21, 2022)	67a
Mandamus Brief, Father’s Memorandum of Law (November 17, 2022)	74a
Defendant Father Rule 12A Statement of the Case (October 8, 2022)	88a
Defendant Affidavit of Jurisdiction (March 10, 2022).....	102a
Defendant Jackson’s Memorandum of Law Filed (February 13, 2020)	144a
Exhibit A. Initiating Application	159a
Exhibit B. Application In a Case	170a
Exhibit C. Affidavit	181a
Exhibit D. Response to Initiating Application.....	198a
Exhibit E. Order	205a

TABLE OF AUTHORITIES

Page

CASES

<i>Henderson v. Henderson</i> , 818 A.2d 669 (R.I. 2003).....	ii
<i>In re Marriage of Sareen</i> , 153 Cal.App.4th 371 (2007)	18
<i>Loper Bright Enterprises v. Raimondo</i> , 603 U.S. ____ (2024).....	21
<i>May v. Anderson</i> , 345 U.S. 528 (1952).....	19
<i>Richmond Newspapers, Inc. v. Virginia</i> , 448 U.S. 555 (1980)	ii
<i>Santosky v. Kramer</i> , 455 U.S. 745 (1982)	19
<i>Troxel v. Granville</i> , 530 U.S. 57 (2000)	19
<i>Wood v. Angel</i> , 707 F.Supp. 81 (D.R.I. 1989).....	19

CONSTITUTIONAL PROVISIONS

U.S. Const. amend. I.....	iii, 2
U.S. Const. amend. V.....	iii, 2, 19
U.S. Const. amend. IX	2
U.S. Const. amend. XIII, § 1.....	3
U.S. Const. amend. XIII, § 2.....	3
U.S. Const. amend. XIV, § 1	iii, 3, 19

TABLE OF AUTHORITIES – Continued

	Page
STATUTES	
28 U.S.C. § 1257(a)	1
42 U.S.C. § 1301	iv
Family Law Act (1975)	5, 20
Hague Convention on Parental Responsibility and Protection of Children, Article 7 (1996)	i, 4, 6, 18, 20
Rhode Island General Laws § 15-5-16.2.....	iv
Rhode Island General Laws § 15-14.1-18	18
Rhode Island General Laws § 15-14.1-20	18
Uniform Child Custody Jurisdiction and Enforcement Act (UCCJEA).....	5, 18, 21
United Nations Convention on the Rights of the Child (UNCRC) (1990)	18, 20



PETITION FOR A WRIT OF CERTIORARI

James Wilbert Andrew Jackson respectfully petitions this Court for a writ of certiorari to review the judgment of the Rhode Island Supreme Court.



OPINIONS BELOW

The Opinion of the Rhode Island Supreme Court dated (February 9, 2024) Reported at App.1a. The Order of the State of Rhode Island Washington, SC Family Court dated (July 25, 2022) Reported at App.19a.



JURISDICTION

The judgment of the Rhode Island Supreme Court was entered on February 9, 2021 (App.1a). Reargument was denied April 19, 2024. (App.24a). The jurisdiction of this Court is invoked under 28 U.S.C. § 1257(a).



CONSTITUTIONAL AND STATUTORY PROVISIONS INVOLVED

U.S. Const. amend. I

Congress shall make no law respecting an establishment of religion, or prohibiting the free exercise thereof; or abridging the freedom of speech, or of the press; or the right of the people peaceably to assemble, and to petition the Government for a redress of grievances.

U.S. Const. amend. V

No person shall be held to answer for a capital, or otherwise infamous crime, unless on a presentment or indictment of a Grand Jury, except in cases arising in the land or naval forces, or in the Militia, when in actual service in time of War or public danger; nor shall any person be subject for the same offence to be twice put in jeopardy of life or limb; nor shall be compelled in any criminal case to be a witness against himself, nor be deprived of life, liberty, or property, without due process of law; nor shall private property be taken for public use, without just compensation.

U.S. Const. amend. IX

The enumeration in the Constitution, of certain rights, shall not be construed to deny or disparage others retained by the people

U.S. Const. amend. XIII**Section 1**

Neither slavery nor involuntary servitude, except as a punishment for crime whereof the party shall have been duly convicted, shall exist within the United States, or any place subject to their jurisdiction.

Section 2

Congress shall have power to enforce this article by appropriate legislation.

U.S. Const. amend. XIV, § 1

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



INTRODUCTION

The Petitioner brings forth important questions of Constitutional and International law with 4 important subject areas.

1. The Constitutional Issues Involving

- a. Mootness interpretation (App.13a)
- b. International simultaneous proceedings – Federal Circuit and Family Court of Australia (App.205a) & Rhode Island Family Court (App.19a), relating to custody of minors
- c. A 2 year non-disclosure of the location of minor children, unilaterally retained in the USA, by the Plaintiff mother and involving formal location efforts between the Australian Attorney General and the US State Department (App.117a), and thereafter the Rhode Island State Police Clearinghouse (App.117a) and National Center for Missing and Exploited Children. (App.122a)
- d. A foreign national Australian Defendant father and US national Plaintiff mother
- e. Disputed habitual residence of foreign-born dual citizen Australian / USA minors
- f. Article 7 of the Hague Convention on Jurisdiction, Applicable Law, Recognition, Enforcement, and Co-operation in Respect of Parental Responsibility and Measures for the Protection of Children (HCCH 1996), in cases of

wrongful removal or retention of children.
(App.25a)

- g. A foreign court that is the original jurisdiction in a child custody petition, from November 29 2017 to April 15, 2020, and where this court does not violate fundamental principles of human rights under the *Uniform Child Custody Jurisdiction and Enforcement Act* (UCCJEA) (App.11a), and there is no criminal record, nor charge of neglect or violence upon the foreign national Defendant.
- h. The second and now surviving jurisdiction is the Rhode Island Family Court with child custody proceedings presently afoot and since July 10, 2019
- i. Two proper and valid subject matter jurisdictions, the original per the Australian 'Family Law Act (1975)' and the later per the UCCJEA.
- j. And in which the foreign national Defendant, in the Rhode Island Family Court, filed a defence in a Memorandum of Law on February 13, 2020 (App.144a), with Exhibits including Australian court orders, citing the UCCJEA's laws related to '*Simultaneous Proceedings*' (App.151a) and '*Jurisdiction Declined by Reason of Conduct*' (App.153a)
- k. The denial of parental rights by a refusal to act, perform judicial duties and hold an evidentiary hearing before a massive reduction in the Defendant's parental rights and a "taking of property" under the name 'child support'.

2. Jurisdictional Issues Involving

- a. A foreign national Defendant who has never married and is not a citizen or resident of the United States (App.103a)
- b. A Defendant who asserts no continuous and systematic contact with Rhode Island (App.106a)
- c. Where the Defendant contests, with docketed evidence, his children were hidden and resettled by the Plaintiff against his expressed wishes, wishes that were made known in writing both before (App.110a) (App.130a) and after the establishment of the original 2017 custody petition in Australia. (App.133a)
- d. Where the Defendant asserts a *ne exeat* right (App.79a) that his children should not be retained outside of their original habitual residence of Australia without his consent, when no court order for custody has been issued, nor any evidentiary hearing held. (*i.e.* denial of parental rights without any due process or order.)
- e. A Defendant who entered an appearance specifically for the purpose of contesting jurisdiction (App.3a)
- f. Where the children and Plaintiff mother's address was kept secret by the Plaintiff to evade the Defendant's US legal service for the return of the children beyond the 12 months stipulated within the *Hague Convention on the Civil Aspects of International Child Abduction*. (App.119.a)

- g. Where the children and Plaintiff mother's address in the USA was only disclosed by the Plaintiff as Hope Valley, Rhode Island on March 22, 2018 (2 years after the mother hid the children, App.117a), to Judge Monahan of the Federal Circuit Court of Australia, and thereafter noted in his orders that the Family Court of Australia would adjudge the father's petition on child custody. (App.207a)

3. Issues of Equal Access to Courts

- a. A civil case hearing conducted by video conference (WebEx)
- b. With U.S. & foreign national litigants, with attorney and court justice all in separate locations
- c. Where the Defendant has requested that the hearing be publicly streamed online for witness by the public, including court watchers, press and witnesses outside of Rhode Island and the USA.
- d. Where the justice declined to publicly stream proceedings but was in an open court room (App.15a)
- e. Where no party sought closure of proceedings

4. Parental Rights Issues

- a. Fundamental parental rights being denied without due process, strict scrutiny and clear and convincing evidence, as required before abridging all 'Fundamental Rights'.

- b. A denied 2022 Petition (App.18a), by Defendant, for Writ of Mandamus to the Rhode Island Supreme Court, for visitation between the Defendant and his children, plus Webex video hearings, including evidentiary hearings (# SU-2022-0313-MP). (App.29a).
- c. Child Support, including Temporary Child Support prior to final orders
- d. And where no claims of parental unfitness have been alleged or adjudicated upon the Defendant
- e. And where the Defendant seeks a restoration of shared parenting, and with that the children returned back to Australia and its jurisdiction
- f. Where the Plaintiff wishes to remain in Rhode Island with the children
- g. And where the case shows Plaintiff has a Permanent Residency VISA in Australia (App.105a), the father has no residency in the United States and the children can live in either country as citizens
- h. And where the father has never consented to the permanent relocation of his children from Australia to Rhode Island (App.105a), nor was any order issued allowing removal of those children from the Australian judicial system and jurisdiction.
- i. Where the Plaintiff made motion for Child Support and, thereafter, made motion for DNA paternity testing

- j. And where the paternity testing shows the Defendant is not the biological father of the eldest child (App.114a)
- k. And where the Defendant has a pending motion to amend temporary Child Support



STATEMENT OF THE CASE

A. Statement of Facts

The Plaintiff mother and Defendant father lived together in Singapore from October 2008 to December 2012, and then Melbourne, Australia December 2012 until their relationship ended November 11, 2015, whilst on vacation to Rhode Island.

The Plaintiff first filed for Divorce in W20190237 January 2019 but later withdrew in August 2020 as the couple were not married.

The Plaintiff, second, filed a Miscellaneous petition for sole custody in W20192200M, April 2019. Still afoot.

The Defendant filed a Petition for a Writ of Mandamus to the Rhode Island Supreme Court for visitation and an evidentiary hearing via Webex, SU-2022-0313-MP. Denied December 16, 2022

The Defendant filed an interlocutory appeal of jurisdiction to the Rhode Island Supreme Court, SU-2022-0265-A. Denied February 9, 2024. Re-argument Denied April 19, 2024.

Prior to proceedings in the Rhode Island Family Court James Jackson was the Plaintiff and Kelly

Fitzgerald the Respondent in a greatly similar custody case (#SYC7942/2017), filed November 29, 2017, with the Federal Circuit and Family Court of Australia. With orders (App.206a) of March 22, 2018, noting the Court would hear the case, that the Defendant mother agreed to co-operate and identifying the then as yet unknown address of the taken children as Hope Valley, Rhode Island. The case was dismissed April 15, 2020, by Judge Rees by virtue of Section 111CD(1)(e) of the Family Law Act of 1975 as it relates to simultaneous proceedings under the HCCH 1996. This ruling a direct result of the RI Family Court's refusal to act, hold any hearing, or communicate with the Australian court as required by UCCJEA § 15-14.1-18. Simultaneous proceedings.

The below table illustrates the father's efforts to get both due process and child access, and it outlines the various court proceedings in Rhode Island Family Court (W#) and Rhode Island Supreme Court (SU#), inclusive of 7 digit e-filing envelope numbers.

Litigant – Date – Envelope – Description – Case

Plaintiff FITZGERALD – 16-Jan-19 – 1878340 – Affidavit of Common Law Marriage – W20190237
Plaintiff FITZGERALD – 1-Feb-19 – 1907165 – Motion for Temporary Allowances – W20190237
Plaintiff FITZGERALD – 26-Apr-19 – 2041439 – Misc Petition for Sole Custody and other relief – W20192200M
Plaintiff FITZGERALD – 11-Feb-20 – 2471947 – Memo of Law – W20190237
Defendant JACKSON – 13-Feb-20 – 2475711 – Memo of Law - Jurisdiction – W20192200M

Defendant JACKSON – 22-Jul-20 – 2673016 – motion for Joint Custody – W20192200M
Defendant JACKSON – 22-Jul-20 – 267955 – Motion to Dismiss - Divorce – W20190237
Defendant JACKSON – 22-Jul-20 – 267983 – Memo of Law - Divorce req Marriage – W20190237
Defendant JACKSON – 22-Jul-20 – 2673002 – Affidavit for Motion to Dismiss – W20190237
Plaintiff FITZGERALD – 22-Jul-20 – Entry of Appearance - Attorney Felicia Manni- Paquette – W20190237
Plaintiff FITZGERALD – 22-Jul-20 – Entry of Appearance - Attorney Felicia Manni-Paquette – W20192200M
Plaintiff FITZGERALD – 10-Aug-20 – Motion to Dismiss - Divorce – W20190237
Plaintiff FITZGERALD – 4-Sep-20 – Request for Production of Documents – W20192200M
Defendant JACKSON – 22-Apr-21 – 3066068 – Motion to Adjudge Contempt - Passports – W20192200M
Defendant JACKSON – 27-Apr-21 – 3073150 – Motion for Visitation to Australia – W20192200M
Plaintiff FITZGERALD – 27-Apr-21 – 3072992 – Motion for Scientific Paternity Test – W20192200M
Defendant JACKSON – 13-Aug-21 – 3235591 – Motion to Adjudge Contempt - Skype – W20192200M
Defendant JACKSON – 13-Aug-21 – Serve Only – Request for Production of Docs – W20192200M

Defendant JACKSON – 13-Aug-21 – Serve Only – Request for Interrogatories upon Plaintiff – W20192200M
Defendant JACKSON – 8-Sep-21 – 3271905 – Motion to Withdraw - Attorney Chris Healey – W20192200M
Defendant JACKSON – 9-Sep-21 – 3274351 – Entry of Appearance - James Jackson – W20192200M
Defendant JACKSON – 10-Sep-21 – 3256567 – Statement of Assets (+ ATO Notices of Assessments) – W20192200M
Defendant JACKSON – 10-Sep-21 – 3276559 – Motion to modify Child Support – W20192200M
Plaintiff FITZGERALD – 10-Sep-21 – 3277376 – Objection to Motion to Amend Child Support – W20192200M
Plaintiff FITZGERALD – 6-Oct-21 – 3314938 – Order - Temp placement of children with Mom – W20192200M
Defendant JACKSON – 8-Oct-21 – 3317805 – Motion to Compel Evidentiary Hearing and Finding Jurisdiction – W20192200M
Defendant JACKSON – 8-Oct-21 – 3317820 – Notice to Court (Due Process) – W20192200M
Defendant JACKSON – 11-Oct-21 – 3319892 – Objection to Temp Orders for lack of Due Process – W20192200M
Plaintiff FITZGERALD – 8-Nov-21 – 3363239 – Objection to Def. Notice to Court – W20192200M
Plaintiff FITZGERALD – 8-Nov-21 – 3363214 –

Objection to Def. Motion to Compel Evidentiary Hearing – W20192200M
Defendant JACKSON – 1-Dec-21 – 3393574 – Notice to Court - Child Support – W20192200M
Defendant JACKSON – 18-Feb-22 – 3495460 – Notice to Court (Errors of plaintiff counsel) – W20192200M
Defendant JACKSON – 10-Mar-22 – 3526487 – Motion to Dismiss - Jurisdiction – W20192200M
Defendant JACKSON – 10-Mar-22 – 3526481 – Memorandum of Law - Personal Jurisdiction – W20192200M
Defendant JACKSON – 10-Mar-22 – 3526469 – Affidavit - Jurisdiction – W20192200M
Defendant JACKSON – 19-Apr-22 – 3587534 – Notice to Court – Orders Require Jurisdiction – W20192200M
Plaintiff FITZGERALD – 27-Apr-22 – 3597554 – Copy of FCoAust. Order of 15 April 2020 – W20192200M
Plaintiff FITZGERALD – 27-Apr-22 – 3597547 – Copy of FCOoAust Decision 15 April 2020 – W20192200M
Plaintiff FITZGERALD – 29-Apr-22 – 3601985 – Lt. Swanson RI State Police letter to Attorney FMP – W20192200M
Plaintiff FITZGERALD – 3-May-22 – 3605347 – RI State Police Report of May 2 2022 – W20192200M
Plaintiff FITZGERALD – 27-May-22 – 3642647 – Proposed Order by Attorney FMP - RI has jurisdiction – W20192200M

Defendant JACKSON – 31-May-22 – 3643210 – Objection to Proposed Orders Dated MAY 27 2022 – W20192200M
Plaintiff FITZGERALD – 31-May-22 – 3644175 – Motion to Enter Order - Jurisdiction – W20192200M Defendant JACKSON – 10-Jun-22 – 3661731 – Motion to Compel Written Findings – W20192200M
Defendant JACKSON – 10-Jun-22 – 3661732 – Motion to Compel Interrogatories – W20192200M
Defendant JACKSON – 10-Jun-22 – 3661733 – Motion to Compel Production of Documents – W20192200M
Plaintiff FITZGERALD – 13-Jun-22 – 3663595 – Objection to Def. Motion to Compel Docs – W20192200M
Plaintiff FITZGERALD – 13-Jun-22 – 3663473 – Objection to Def. Motion to Compel Interrogatories – W20192200M
Plaintiff FITZGERALD – 13-Jun-22 – 3663436 – Objection to Def. Motion to Compel Written Find- ings – W20192200M
Defendant JACKSON – 27-Jun-22 – 3684281 – Defendant's Emergency Motion for Temporary Orders – W20192200M
Plaintiff FITZGERALD – 27-Jun-22 – 3684857 – Objection to Def. Motion Emergency Temporary Orders – W20192200M
Plaintiff FITZGERALD – 15-Jul-22 – 3709930 – Revised Proposed Order - Jurisdiction – W20192200M

Plaintiff FITZGERALD – 15-Jul-22 – 3709927 – Revised Proposed Order - Jurisdiction – W20192200M
Plaintiff FITZGERALD – 15-Jul-22 – 3709927 – Exhibit to Order - FC of Aust Order – W20192200M
Defendant JACKSON – 4-Aug-22 – 3735747 – Notice of Appeal – W20192200M
Defendant JACKSON – 18-Aug-22 – 3748483 – Request for Transcripts – W20192200M
Defendant JACKSON – 13-Sep-22 – 3783607 – Notice to Appellee in Interlocutory Appeal to Supreme Court – W20192200M
Defendant JACKSON – 8-Oct-22 – 3823268 – 12A Statement of the Case – SU-2022-0265-A
Defendant JACKSON – 19-Oct-22 – 3837629 – Motion - Equal Protection of the Law – SU-2022-0265-A
Plaintiff FITZGERALD – 20-Oct-22 – 3837823 – Entry of Appearance – Attorney FMP to RI Sup. Ct – SU-2022-0265-A
Plaintiff FITZGERALD – 20-Oct-22 – 3837879 – Motion for 30-day extension to 12A Counter – SU-2022-0265-A
Defendant JACKSON – 21-Oct-22 – 3839388 – Objection - Motion for Appellee Ext of Time 12A – SU-2022-0265-A
Defendant JACKSON – 9-Nov-22 – 3865023 – Petition for Writ of Mandamus – SU-2022-0313- MP
Defendant JACKSON – 17-Nov-22 – 3876059 –

Memorandum of law supporting petition for writ of mandamus – SU-2022-0313-MP
Plaintiff FITZGERALD – 21-Nov-22 – 3878487 – 12a Counter Statement – SU-2022-0265-A
Plaintiff FITZGERALD – 22-Nov-22 – 3878487 – 12a Counter Statement - Exh.A - July 15 2022 Order – SU-2022-0265-A
Plaintiff FITZGERALD – 22-Nov-22 – 3878487 – 12a Counter Statement - Exh.B - FCoA Apr 15 2020 Order – SU-2022-0265-A
Plaintiff FITZGERALD – 29-Nov-22 – 3885009 – Objection - Equal Protection of Law required – SU-2022-0265-A
Plaintiff FITZGERALD – 29-Nov-22 – 3886137 – Objection - Appellant Petition for Writ Mandamus – SU-2022-0313-MP
Defendant JACKSON – 5-Dec-22 – 3893142 – Response to Appellee's Objection to Motion for Equal Access – SU-2022-0265-A
Defendant JACKSON – 5-Dec-22 – 3893144 – Response to Appellee's Objection to Petition for Writ Mandamus – SU-2022-0313-MP
Defendant JACKSON – 9-Mar-23 – 4017542 – 12A Supplement – SU-2022-0265-A
Defendant JACKSON – 21-Mar-23 – 4031829 – 32B Notice of Challenge – SU-2022-0265-A
Plaintiff FITZGERALD – 21-Mar-23 – 4032231 – Motion extra 30 days for 12A Counter Statement supplement – SU-2022-0265-A
Defendant JACKSON – 7-Apr-23 – 4058083 – Objection to Motion for 30 day 12A Supplement extension – SU-2022-0265-A

Plaintiff FITZGERALD – 20-Apr-23 – 4075769 – Rule 12A Show Cause Supplemental Statement – SU-2022-0265-A
Defendant JACKSON – 28-Feb-24 – 4509028 – Motion for Extension of Time to file petition for Reargument – SU-2022-0265-A
Defendant JACKSON – 4-Mar-24 – 4517316 – Memorandum in Support of Petition of the Defendant Appellant for Reargument – SU-2022- 0265-A
Plaintiff FITZGERALD – 20-Mar-24 – 4541569 – Motion for Extension of Time to File Response/ Objection to Appellant's Motion for Reargument – SU-2022-0265-A
Plaintiff FITZGERALD – 1-Apr-24 – 4558231 – Objection to Reargument – SU-2022-0265-A
Defendant JACKSON – 24-May-24 – 4643823 – Motion for Expedited Findings on Motions, Objec- tions and Remedies to Unjustifiable Conduct. – W20192200M
Defendant JACKSON – 13-Jun-24 – 4670820 – Testimony of Defendant Father (Statement) – W20192200M
Plaintiff FITZGERALD – 13-Jun-24 – 4671326 – Objection to Def Statement of Testimony – W20192200M
Defendant JACKSON – 16-Jun-24 – 4677155 – Notice to Court (Unadjudged motions) – W20192200M
Defendant JACKSON – 24-Jun-24 – 4686169 – DR-6 Financial Statement and 2021-2023 ATO NOA – W20192200M

B. Summary of Law

This case arises out of the due process clauses and *animus remanendi*, in which the Plaintiff was earlier the Respondent (App.198a) in a greatly similar case afoot in a foreign jurisdiction, Australia, for which she holds residency. The original Court in Australia had subject matter jurisdiction until April 15, 2020 (App.22a). The Rhode Island Family Court also claimed subject matter jurisdiction (without an evidentiary hearing), under the UCCJEA, from July 2019, although without a finding of fact order on Jurisdiction until July 25, 2022 (App.19a).

Both Australia and the United States are signatories to the *Hague Convention on Jurisdiction, Applicable Law, Recognition, Enforcement, and Cooperation in Respect of Parental Responsibility and Measures for the Protection of Children (HCCH 1996)* (App.25a), with only Australia ratifying the treaty. Australia signed and ratified the United Nations Convention on the Rights of the Child (UNCRC) in December 1990. The United States has signed the UNCRC in 1995 but has not ratified it. (App.27a)

Rhode Island General Laws § 15-14.1-18. Simultaneous proceedings (App.151a) mirror Section 206 of the UCCJEA, which provides that a court may not exercise its jurisdiction if, when a custody proceeding commences, a proceeding concerning the child's custody is pending in a court of another state having jurisdiction substantially in conformity with the UCCJEA. The Rhode Island Supreme Court affirmed that the Federal Circuit and Family Court of Australia is in conformity with the provisions of the UCCJEA. *In re Marriage of Sareen*, 153 Cal.App.4th 371, 375 (2007). (App.153a).

Parental rights have been determined by this instant Court to be “Fundamental Rights”. *May v. Anderson*, 345 U.S. 528, 533 (1952), *Troxel v. Granville*, 530 U.S. 57 (2000). As such, courts have a duty of diligent due process to terminate, or even lower, a parent’s rights. This Defendant and the minor children enjoy absolute rights, absent proof of unfitness, under Australian law, the US First Amendment, Fourteenth Amendment, Fifth Amendment and this instant courts case law, including that any reduction in parental rights requires all of:

1. *Strict scrutiny, and*
2. *Clear and convincing evidence of unfitness as a parent, and*
3. *full due process.*

Santosky v. Kramer, 455 US 745 (1982).

Other than his children were retained and hidden in Rhode Island, from 2016, this Defendant has no other connection to the state. Personal Jurisdiction over a Defendant requires they have a “continuous and systematic” connection to the state. *Wood v. Angel*, 707 F.Supp. 81 (D.R.I. 1989).



REASONS FOR GRANTING THE PETITION

This Defendant has languished five (5) years in the Rhode Island Family Court without an evidentiary hearing or temporary visitation order, and this long absence has been injurious to both him and his children and mocks the United States Constitution and it’s oath to take public office.

As video conference hearings become more common in civil proceedings the courts and the public would benefit from a ruling as to what constitutes a open, public court room and the consequences if video (*i.e.* virtual) hearings are not open.

Australia and the United States have signed the *United Nations Convention on the Rights of the Child* (UNCRC); however, the U.S. remains the only United Nations member state to have not ratified it. The United States has signed but not ratified the *'Hague Convention on Jurisdiction, Applicable Law, Recognition, Enforcement, and Co-operation in Respect of Parental Responsibility and Measures for the Protection of Children'* (HCCH 1996). Australia has signed and ratified in to its *Family Law Act* of 1975 the *Hague Convention on Jurisdiction, Applicable Law, Recognition, Enforcement, and Co-operation in Respect of Parental Responsibility and Measures for the Protection of Children*. There is a dearth of cases in the United States on international comity for addressing simultaneous proceedings and the UNCRC and the HCCH 1996. There is, therefore, scant guidance for how the states civil courts should consider issues of dual Australian US citizen children's rights to regular, direct contact with both parents on a regular basis (UNCRC Article 9.3 & Article 10.2), or per HCCH 1996 Article 7, addressing wrongful removal or retention of children. The Supreme Court of the United States has made no ruling on Section 206 'Simultaneous Proceedings' of the Uniform Child Custody Jurisdiction and Enforcement Act (UCCJEA), though parental rights are well defined by this court and ignored in this case by both the lower court and Rhode Island Supreme Court simply by refusal to act

and having no “lazy judge” rule or time limits on the denial of parental rights without due process of law. There is confusion in Rhode Island as to whether ‘*Simultaneous Proceedings*’ should have the family courts communicate, if at all, to non-US courts or if the courts should desist immediately from exercising jurisdiction in the plainest interpretation of the Full Faith and Credit Clause (Article IV, Section 1). And if in the interim if the children and the foreign national parent have visitation rights, per UCCJEA *Section 304 Temporary Visitation*.

It is also clear that this U.S. Supreme Court’s case laws respecting parental rights are very often ignored by family courts in all fifty states, and in many cases by them using a “preponderance of evidence standard” to remove parental rights, when this instant court requires a “clear and convincing” evidence standard. And also by largely denying jury trials that act as a check and balance on the “Administrative state” rules, including over Child Support, and that should be further reviewed following the overturned *Chevron* Deference ruling in *Loper Bright Enterprises v. Raimondo*, 603 U.S. ____ (2024), Sup. Ct. No. 22-451. And by favoring one party over the other with, overall, excessive decrees of other than joint, shared parenting time, that generates funding for local courts (i.e. Title IV-D of the Social Security Act) which creates a clear conflict of interest for court justices. Further, sole custody has been greatly shown, by hundreds of social science studies, to be the worst possible situation for children where two parent shared parenting is possible, greatly increasing social pathologies, making this a compelling interest for this court to correct.



CONCLUSION

For the foregoing reasons, Mr Jackson respectfully requests that this Court issue a writ of certiorari to review the judgment of the Rhode Island Supreme Court to prevent ongoing abuses of parental rights by the Rhode Island and other state family/probate courts.

Respectfully submitted,

James Jackson
Petitioner Pro Se
81 Balaka Drive
Carlingford, NSW 2118 Australia
(61) 419695049
jjackson_1972@yahoo.com

July 18, 2024