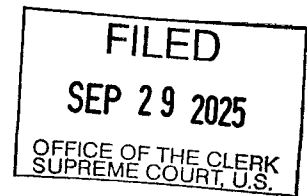


25-5059



No. 25A83

In The
Supreme Court of the United States

Jonathan Zachary Voorhis

Petitioner,

v.

Cindy Digangi, et al.,

Respondents.

On Petition for a Writ of Certiorari To The
United States Court of Appeals for the Third Circuit

Petition For A Writ of Certiorari

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Questions:.

Is a child protective services (CPS) worker entitled to absolute immunity under 42 U.S.C. § 1983 for allegedly fabricating evidence when the record does not clearly establish that the conduct was judicial in nature?

Question left unanswered:

Can a court grant summary judgment before discovery based on a purported absence of evidence, when the plaintiff's complaint identifies material evidence already in the defendant's possession, and the defendant neither disputes nor acknowledges that evidence?

LIST OF PARTIES TO THE PROCEEDINGS

Jonathan Voorhis, petitioner, proceeding pro se, was the plaintiff in the United States District Court for the Western District of Pennsylvania and appellant in the United States Court of Appeals for the Third Circuit.

The following respondents were defendants in the district court and appellees in the court of appeals: Cindy Digangi; Julie Lafferty; Office of Children and Youth; Patrolman Miller; Patrolman Morgenstern; Erie Police Department; City of Erie

Cindy DiGangi, respondent, sued in her official and individual capacities. At all relevant times, she was employed by the Office of Children and Youth.

Julie Lafferty, respondent, sued in her official and individual capacities. At all relevant times, she was employed by the Office of Children and Youth.

Office of Children and Youth, respondent, sued in its official capacity.

Patrolman Miller, respondent, sued in his official and individual capacities.

At all relevant times, he was employed by the Erie Police Department.

Patrolman Morgenstern, respondent, sued in his official and individual capacities. At all relevant times, he was employed by the Erie Police Department.

Erie Police Department, respondent, sued in its official capacity.

City of Erie, respondent, sued in its official capacity.

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Basis for Jurisdiction

This Court has jurisdiction to review the Third Circuit's April 24, 2025, decision on Writ of Certiorari under 28 U.S.C. § 1254(1). The petition is timely filed per the Court's order extending the time to file until October 17th, 2025.

The date the judgment or order sought to be reviewed was entered on April 24, 2025. The Petition for rehearing was denied on May 20, 2025.

On September 11th, 2024, Petitioner filed a timely notice of appeal, of The District Courts September 3rd, 2024, Order and Memorandum, adopting the August 12th, 2024, Chief Magistrate's Report and Recommendation, which granted the dismissal of all petitioner's 42 U.S.C. § 1983 claims against respondent's Cindy Digangi, Julie Lafferty, and The Office of Children and Youth.

Constitutional Provisions

The Fourteenth Amendment, U.S. Const. amend. XIV, § 1 provides in relevant part:

“No State shall . . . deprive any person of life, liberty, or property, without due process of law.”

The Supremacy Clause, U.S. Const. art. VI, cl. 2, provides in relevant part:

“This Constitution, and the Laws of the United States which shall be made in Pursuance thereof . . . shall be the supreme Law of the Land; and the Judges in every State shall be bound thereby, any Thing in the Constitution or Laws of any State to the Contrary notwithstanding.”

Statement of the Case

Petitioner Jonathan Voorhis brought the underlying action under 42 U.S.C. § 1983 by filing the initial complaint in this matter on March 14, 2023. His motion for leave to proceed in forma pauperis was granted on June 14, 2023. On July 24, 2023, Petitioner filed an amended complaint to replace the “Doe” defendants with their true identities.

On November 22, 2023, the Erie County Office of Children and Youth (“OCY”) defendants filed a motion to dismiss. Petitioner filed a timely response on December 8, 2023. A Report and Recommendation was issued by the Chief Magistrate Judge on August 12, 2024, recommending dismissal. Petitioner timely filed objections on August 27, 2024.

On September 3, 2024, the Honorable Judge Susan Paradise Baxter adopted the Report and Recommendation, converted the motion to dismiss into one for summary judgment, and granted it in favor of the defendants. Petitioner timely filed a Notice of Appeal on September 11, 2024.

On April 24, 2025, the United States Court of Appeals for the Third Circuit affirmed the District Court's ruling. Petitioner filed a timely petition for rehearing on May 9, 2025, which the Third Circuit denied on May 20, 2025.

The facts relevant to the questions presented are as follows:

On February 5, 2022, a minor child, A.A.V., was born to Petitioner and Willow Augustine at Saint Vincent Hospital in Erie, Pennsylvania. (App. 66a). After Augustine tested positive for marijuana via a hospital-administered urine analysis, the hospital referred the family to The Office of Children and Youth (OCY). The case was assigned to caseworker Erika Mojica a non-defendant, who was supervised by Appellee Julie Lafferty. The initial case was later closed after OCY determined that substance abuse had been invalidated. (App. 66-67a).

Shortly thereafter, appellees Lafferty and Cindy Digangi allegedly created falsified documents claiming that Augustine was responsible for the death of her daughter, altering official documents to change the cause of death from "pneumonia" to "co-sleeping." (App. 66-67a, 69-72a).

The appellees then opened a second case but intentionally prevented Voorhis from becoming aware of the second case. (App. 68-69a). Voorhis alleges that Digangi and other OCY employees knew that Augustine had mental health issues and hoped the fabricated evidence and Emergency Protective Order would "trigger a mental health crisis situation" (App. 74-76a). On March 23, 2022, two City of Erie police officers - appellees Miller and Morgenstern - accompanied Digangi while she served

an Emergency Protective Order on Augustine. (App. 73a). Augustine committed suicide “within 2 hours of the Administration serving her with the Emergency Protective Order.” (App. 75-76a)

At a subsequent hearing on March 24, 2022, Lafferty, Digangi, and OCY submitted fabricated evidence, false statements and misleading assertions to unlawfully detain A.A.V. and violated Appellant's right to due process. (App. 77a). Voorhis contends that he was never made aware of that hearing or given an opportunity to obtain counsel and prepare evidence to counter OCY's false statements and fabricated evidence. (App. 77a).

On or about July 18 and 19, 2022, the Appellant received official correspondence from the Office of Children and Youth, postmarked accordingly. These documents pertained to the death of Augustine's minor child, V.A. Notably, within these records, the original listed causes of death—bronchitis and pneumonia—were repeatedly crossed out by hand and replaced with “co-sleeping.” See (App. 78a).

Introduction

The respondent left a gap, which to this day, has only been filled by petitioners' assertion that the fabrication of evidence occurred during the investigative phase, and therefore, qualified immunity applies, not absolute immunity. The respondent chose to neither admit nor deny the act of fabricating evidence, nor do they assert a time in which it may have taken place. This gap is in

fact the crux of the 42 U.S.C. § 1983 claim: Employees of the Office of Children and Youth fabricated evidence, to unlawfully detain A.A.V., in a substantial step towards causing the death of A.A.V.'s parents by suicide.

The fact that the fabricated evidence was provided to petitioner by the respondent, which then sparked the lawsuit. Is the reason the District Court Improperly converted the defendants' Rule 12(b)(6) motion into a summary judgment ruling, then held that petitioner had presented "no evidence"—based solely on petitioner's procedural decision to withhold uncontested documents, Pursuant to Federal Civil Procedure Rule 26(b)(2)(i), (ii), and (iii), which limits discovery evidence if the opposing party already has the evidence sought in their possession or could obtain it by due diligence.

Before Discovery could take place, the District Court improperly found respondent had shifted the burden and granted absolute immunity even though, because of respondent's stonewalling, nothing on the record reflects the act of fabricating evidence happened within a judicial advocacy role.

Reasons for Granting the Writ

I. The Decision Below Conflicts with Settled Supreme Court Authority Regarding Summary Judgment and the Burden of Proof Under Rule 56

The decision of the court below granting summary judgment in favor of the appellees directly conflicts with this Court's controlling precedent in *Celotex Corp. v. Catrett*, 477 U.S. 317 (1986), and *Adickes v. S.H. Kress & Co.*, 398 U.S. 144

(1970). Under these rulings, the burden rests initially with the moving party to demonstrate that there is no genuine issue of material fact. Only after that burden is met does the burden shift to the nonmoving party.

In this case, appellees never denied fabricating the evidence at issue, never provided any account of when the fabrication allegedly occurred and never presented a competing factual scenario. They simply stated that appellant had “not provided any evidence” of fabrication (App. 59-60a)—despite being in possession of the very documents in question and refusing to address their contents or origins (App. 61-62a). This was legally insufficient under *Celotex*, which emphasized that a summary judgment movant may not rely solely on the absence of evidence from the nonmovant but must affirmatively demonstrate the lack of a material dispute.

Further, in *Adickes*, this Court held that when the record contains “unexplained gaps” in the movant’s factual narrative, summary judgment is improper. Here, appellees’ failure to even assert when or how the alleged fabrication occurred left a fundamental factual dispute unresolved. The lower court’s conclusion that summary judgment was appropriate ignored this requirement, impermissibly shifting the burden to appellant without appellees having first met their own.

Respondents claimed petitioner had no evidence, See Reply to Response., Document No. 42 at [p. 2-3] (App. 59-60a). Yet relied on a document which derived from the very records petitioner alleges were falsified. See Concise Statement of Material Facts., Document No. 35 at [p. 2 line 4] (App. 61-65a). Critically,

respondents never denied the fabrication or contested the authenticity or admissibility of those underlying records. Rather than addressing the core allegation—that official documents were altered by hand to falsely state the child’s cause of death as “co-sleeping” (App. 66-67a, 69-72a)—respondents pointed to downstream materials based on the same tainted records (App. 61-65a). This tactic did not meet their initial burden under *Celotex*.

The district court nonetheless credited that unexamined, derivative document while ignoring the fabrication allegations at the heart of the case (App. 40-41a). It also faulted petitioner for failing to submit evidence (App. 31-32a) —even though the records in question were produced by the defendants themselves (App. 78a), no challenge to their existence nor admissibility, and neither have the documents ever been subject to adversarial testing (App. 79a). This short-circuited the burden-shifting structure required by *Celotex* and denied petitioner a fair opportunity to litigate. Summary judgment was granted not because the defendants disproved the claims, but because petitioner recognized and challenged the fatal flaw in their tactics — relying on derivative evidence without ever addressing the alleged fabrication at the heart of the case (App. 59-60a, 61-65a).

2. The Judgment Below Violates Fundamental Due Process Principles Under the Fourteenth Amendment

This Court has repeatedly reaffirmed that due process under the Fourteenth Amendment requires fair notice and a meaningful opportunity to be heard. See

Mathews v. Eldridge, 424 U.S. 319 (1976). Appellant received neither. The lower courts relied on assumptions not found in the record —concerning the timing of the fabrication, the content of the evidence, and appellees’ conduct—to justify the dismissal of serious constitutional claims without discovery or trial.

Moreover, in Taylor v. Riojas, 592 U.S. ____ (2020), this Court held that even where precedents are not “materially similar,” officials may be held liable if their conduct was so egregiously unconstitutional that any reasonable person would have known it was unlawful. Fabricating evidence to justify the removal of a child from their parent is such conduct.

Allowing the decision below to stand would authorize courts to dismiss constitutional claims involving fabricated government records based solely on the government’s silence and without engaging in any factual inquiry—fundamentally inconsistent with due process and Rule 56.

3. Petitioner’s Procedural Right to Withhold Evidence and Reject a “Second Chance” for Defendants

Any reliance on Berckelely Inv. Group, Ltd. v. Colkitt, 455 F.3d 195 (3d Cir. 2006), is unavailing. In Berckelely, the moving party satisfied Rule 56 by demonstrating the absence of a genuine dispute of material fact, thereby shifting the burden to the non-movant.

Here, by contrast, respondents never discharged that initial burden. They neither admitted nor denied petitioners' claim that evidence was fabricated during the investigative phase. Without such a showing, they failed to establish that "there is no genuine issue as to any material fact" as required under Rule 56(c). Because respondents never properly framed or supported their motion for summary judgment, *Berkeley* is inapposite and cannot supply the controlling rule.

Petitioner expressly exercised the procedural right to withhold direct evidence during the pre-discovery phase, pursuant to Federal Rule of Civil Procedure 26(b)(2)(i)-(iii), because the documents at issue were already in the possession of the defendants and required no further production. This tactical choice was not only permissible—it was legally protected. The doctrine of judicial economy and fairness permits a litigant to rely on the insufficiency of the opposing party's own filings, without prematurely revealing strategic evidentiary holdings.

Critically, had petitioner introduced the withheld records at the Rule 12(b)(6) summary judgment stage, the defendants would have been afforded an improper procedural "second chance"—pursuant to Federal Rules, relevant Supreme Court precedent or the Pre-trial Judge's Decision. Specifically, defendants could have used petitioner's disclosure as an opportunity to submit a reply brief raising new legal arguments or factual defenses, or to offer a belated theory of when or how the alleged fabrication occurred. Such a maneuver would have prejudiced the petitioner and undermined the adversarial process by forcing petitioner to draft and file a new

opposition on a shifting foundation—learning new legal theories that could have been and should have been advanced in the defendants’ opening motion.

Instead, petitioner justifiably chose to hold the line and expose the fatal procedural and factual deficiency in defendants’ presentation. The defendants failed to meet their initial burden under *Celotex* and *Adickes*; they never denied the core allegation, never contested the authenticity of the disputed records, and never addressed the circumstances of their creation. Petitioner’s decision not to assist them by supplying the very evidence they refused to address is not a failing—it is a rightful assertion of litigation strategy protected by law.

To now penalize petitioner for that strategic and legally justified choice would effectively transform the Rule 56 framework into a one-sided burden-shifting device, permitting defendants to obfuscate, stonewall, and then rely on the court to excuse their silence. It is not the petitioner’s duty to rescue the respondents from their own litigation missteps. This is especially true where the nature of the claim—fabrication of evidence leading to unconstitutional detention and death—implicates grave violations of due process under *Mathews v. Eldridge* and *Taylor v. Riojas*.

Therefore, this Court should grant the writ not only because of the legal and procedural errors below, but to affirm that a pro se litigant may decline to offer the opposition a tactical lifeline in the face of their red herring and failure to meet the burden imposed by controlling precedent. This right is not merely strategic; it is a procedural safeguard essential to the integrity of summary judgment jurisprudence.

4. The Lower Court's Ruling Expands Absolute Immunity Beyond Its Constitutional Limits, further Deeping a Well-Developed Circuit Split on Absolute Immunity for CPS Workers Performing Investigative Functions

This case presents a question of exceptional importance: whether absolute immunity may be extended to shield government actors from liability for fabricating evidence before initiating any judicial proceedings. This Court has long emphasized the narrow scope of absolute immunity. In *Imbler v. Pachtman*, 424 U.S. 409 (1976), and *Kalina v. Fletcher*, 522 U.S. 118 (1997), this Court clarified that absolute immunity applies only to functions “intimately associated with the judicial phase” of legal proceedings. This does not include investigatory conduct or out-of-court fabrication.

Petitioner has consistently alleged that the fabrication at issue occurred prior to the filing of any petition or court proceeding, during the investigatory phase (App. 66-67a, 69-72a, 79a, 80-83a). The record contains no facts or arguments contradicting that timeline. Nevertheless, the courts below granted absolute immunity, thereby extending it beyond its constitutional foundation in violation of *Imbler* and *Kalina*.

This misapplication of immunity threatens to immunize fabrication of evidence by state officials acting under color of law during the investigative phase. It forecloses redress for grievous constitutional violations committed before a court

is involved. Review is warranted to reinforce the limits this Court has set on the doctrine and to prevent lower courts from nullifying them by implication.

The Third Circuit has now broken from this national consensus in two recent decisions:

- In *Ernst v. Child & Youth Services of Chester County*, 108 F.3d 486 (3d Cir. 1997), the court emphasized the importance of protecting children to justify broader immunity for CPS workers, even for out-of-court investigative acts.
- In the instant case *Voorhis v. DiGangi*, the Third Circuit extended that reasoning further, granting absolute immunity despite allegations that caseworkers fabricated cause-of-death evidence before any dependency proceedings had been initiated.

This expansion rests not on function, but on policy preference of expediency, which improperly sidesteps this Court's repeated affirmation that the fundamental rights of families cannot be discarded for bureaucratic expediency. See *Troxel v. Granville*, 530 U.S. 57, 65–66 (2000); *Santosky v. Kramer*, 455 U.S. 745, 753 (1982).

The Third Circuit's decision in *Voorhis v. DiGangi* expands the doctrine of absolute immunity in a manner that directly conflicts with the overwhelming majority of federal circuits. While this Court has extended absolute immunity to prosecutors performing judicial functions, it has never granted such protection to CPS workers conducting field-level investigations, especially where fabrication of evidence is alleged.

Numerous circuits have expressly declined to extend absolute immunity to CPS workers under these circumstances:

- **2nd Circuit:** *Robison v. Via*, 821 F.2d 913 (1987) – no absolute immunity for seizure of children.
- **5th Circuit:** *Hodorowski v. Ray*, 844 F.2d 1210 (1988) – absolute immunity denied for nonjudicial CPS conduct.
- **6th Circuit:** *Pittman v. Cuyahoga Cty.*, 640 F.3d 716 (2011) – immunity limited to in-court advocacy.
- **7th Circuit:** *Brokaw v. Mercer Cty.*, 235 F.3d 1000 (2000) – denied for falsehoods during removal.
- **8th Circuit:** *Whisman v. Rinehart*, 119 F.3d 1303 (1997) – no immunity for due process violations.
- **9th Circuit:** *Beltran v. Santa Clara County*, 514 F.3d 906 (2008) (en banc) – investigatory actions not immune.
- **10th Circuit:** *Snell v. Tunnell*, 920 F.2d 673 (1990) – fabrication during investigation not protected.

Other circuits have applied qualified immunity or denied absolute immunity by implication, including:

- **1st Circuit:** *Penate v. Kaczmarek*, 928 F.3d 128 (2019) – no immunity for administrative misconduct.

- **4th Circuit:** *White v. Chambliss*, 112 F.3d 731 (1997); *Jensen v. Conrad*, 747 F.2d 185 (1984).
- **11th Circuit:** *Jones v. Cannon*, 174 F.3d 1271 (1999) – instructive on qualified immunity for fabricated evidence.
- **D.C. Circuit:** *Butera v. District of Columbia*, 235 F.3d 637 (2001) – no presumption of immunity for government actors.

Petitioner alleged that CPS workers fabricated critical evidence before any judicial proceedings began (App. 66-67a, 69-72a). Respondents did not dispute the timing of this alleged fabrication (App. 59-65a). Nonetheless, the Third Circuit upheld dismissal under absolute immunity, relying on assumptions outside the complaint, outside the parties' briefing, and unsupported by the record. This effectively granted impunity for conduct that other circuits uniformly evaluate under qualified immunity standards.

This is not a mere disagreement over application—it is a doctrinal divide on a recurring constitutional question. Whether absolute immunity can shield state actors who fabricate evidence during field-level investigations implicates the Due Process Clause and the right to familial integrity. The decision below invites unchecked constitutional violations under the guise of child protection—precisely the kind of danger this Court warned against in *Mapp v. Ohio*, 367 U.S. 643, 659 (1961) (“The rights of individuals must not be sacrificed in the name of expedience.”).

Certiorari is warranted to resolve this entrenched split and reaffirm that no official—even in child welfare—may fabricate evidence with constitutional impunity.

5. This Case Presents a Nationally Important Question Involving the Integrity of the Judicial Process and the Rights of Families

This case implicates a core constitutional liberty: the right of parents to the care, custody, and control of their children, which this Court has long held is a fundamental right. See *Troxel v. Granville*, 530 U.S. 57, 65 (2000). When state actors fabricate evidence to separate a family, and courts dismiss the resulting civil rights claims without resolving the timing or truth of that fabrication, it undermines public trust in the judicial system and the constitutional protections it is designed to safeguard.

This Court should grant review to clarify that such conduct is not immune, that factual disputes cannot be ignored at summary judgment, and that fabricated evidence targeting the family unit implicates the most deeply rooted traditions of liberty and due process.

A Growing National Consensus Demands Transparency and Accountability in CPS Investigations

Legislators nationwide are responding to the growing recognition that child welfare investigations must be subject to constitutional safeguards and evidentiary accountability. A clear trend has emerged across states and Congress:

- **GRACIE Act (S. 5549, 2024; reintroduced as S. 659, 2025)** (App. 85a, 86a): Would require recordings of all CPS interviews to qualify for federal funding.
- **Massachusetts Bill No. 294 (2025)** (App. 87a): Proposes mandatory audiovisual recording of all CPS interviews.
- **Delaware HB 195 (2021)** (App. 90a): Mandates full audio and video documentation and record custody protocols.
- **West Virginia HB 2542 (2025)** (App. 91a): Requires audio recordings of public interactions with CPS.
- **California AB-1828 (2013)** (App. 93a): Although not enacted, demonstrated state legislative intent to require audiovisual documentation of all initial interviews with minors, reflecting growing concern over coercive or misleading questioning in child welfare investigations.

These statutes, though varied in scope and origin, demonstrate a widespread bipartisan recognition that child welfare investigations must be subjected to constitutional transparency. The absence of such safeguards in Petitioner's case—where no recordings exist and key documentation was altered—raises profound Fourteenth Amendment concerns. This Court should grant certiorari to determine

whether due process requires such protective measures and to ensure consistent constitutional protections in CPS procedures nationwide.

6. Real Harm: The Lethal and Constitutional Consequences of Procedural Violations in CPS and Custody Cases

A. Tangible Harm: Deaths and Emotional Destruction Caused by Family Separation

The dangers posed by unchecked child welfare interventions are not hypothetical. Courts, legislatures, and juries across the country have recognized that procedural errors in CPS and custody actions can irreparably destroy families—and even lives.

These tragedies mirror the trajectory of petitioner's case—where family separation was pursued without procedural safeguards, documentation, or oversight, and where falsified records were used to justify state action, resulting in irreparable harm.

Beata Kowalski – Forced Separation Resulted in Suicide

In *Kowalski v. Johns Hopkins All Children's Hospital*, No. 2018-CA-005321 (Fla. 12th Jud. Cir.), a jury awarded \$261 million—including \$50 million in punitive damages—to the Kowalski family. The court found that the hospital's actions, including false imprisonment and emotional abuse, contributed directly to the suicide of Beata Kowalski, the mother of a child wrongfully separated from her family.

B. Judicial Recognition of Procedural Harm and Family Integrity Violations

Courts have repeatedly recognized that CPS misconduct—particularly in the absence of due process—can rise to a constitutional violation.

Chi Chao Yuan v. Rivera, 48 F. Supp. 2d 335 (S.D.N.Y. 1999)

Court allowed claims under § 1983 for malicious and unsupported CPS intervention, recognizing that family integrity violations may rise to a constitutional tort.

Crider v. Williams, No. 21-13797 (11th Cir. 2022)

The Eleventh Circuit reversed a dismissal, allowing parents to sue over false jurisdictional claims that led to nearly two years of unjust child separation.

Matter of Emmanuel B. (Lynette J.), 2019 NY Slip Op 05640

The court ruled that delays due to bureaucratic mismanagement (ICPC protocol) without justification violated a father's procedural due process rights to reunification. (Source: <https://law.justia.com/cases/new-york/appellate-division-first-department/2019/6564-14933-16.html>)

Matter of Jaime S., 2005 NY Slip Op 25260

Termination of “reasonable efforts” to reunify a parent with a child was found to strip a parent's access to the child without sufficient justification, showing the

devastating impact of procedural shortcuts. (Source:

<https://casetext.com/case/matter-of-jaime-s>)

DeShaney v. Winnebago County, 489 U.S. 189 (1989)

Though the Supreme Court held there was no constitutional duty to protect against private harm, the case remains a stark example of governmental inaction leading to the death of a child, reinforcing the danger of CPS neglecting duties or failing to act. (Source: <https://casetext.com/case/deshaney-v-winnebago-county>)

C. Constitutional Stakes: A Liberty Interest with Life-or-Death Consequences

The Supreme Court has long held that the parent-child relationship is a fundamental liberty interest protected under the 14th Amendment. See *Santosky v. Kramer*, 455 U.S. 745 (1982); *Troxel v. Granville*, 530 U.S. 57 (2000).

When state actors fabricate evidence, misapply law, or act without procedural safeguards, they do not merely inconvenience families—they destroy constitutionally protected rights and often cause irreversible trauma or death. This is especially true when no audio/video documentation, judicial review, or oversight exists, as in Petitioner’s case.

D. Unchecked CPS Investigations Inflict Severe and Measurable Harm on Families

Beyond the constitutional deficiencies addressed above, the absence of procedural safeguards in child protective services (CPS) investigations has caused

devastating real-world harm to families. These harms are not speculative — they are documented and tragically measurable.

Canadian Journal of Psychiatry (App. 95-100a)

A landmark study published in the Canadian Journal of Psychiatry titled “Suicide Attempts and Completions among Mothers Whose Children Were Taken into Care by Child Protection Services” found that mothers who had a child removed by CPS were more than four times as likely to die by suicide compared to their biological sisters (adjusted Incidence Rate Ratio of 4.46), and nearly three times as likely as mothers involved in CPS but who retained custody (aIRR 3.45). Suicide attempts were also significantly elevated (aIRR 2.15 and 2.82, respectively). See Wall-Wieler et al., Suicide Attempts and Completions among Mothers Whose Children Were Taken into Care by Child Protection Services: A Cohort Study Using Linkable Administrative Data, Can. J. Psychiatry (Feb. 2018), (<https://www.ncbi.nlm.nih.gov/pmc/articles/PMC5846964/>) (App. 95-100a).

This pattern is tragically mirrored in the United States and beyond:

Catherine Kassenoff (New York, 2024) (App. 101-102a) A former federal attorney, Catherine Kassenoff died by assisted suicide in Switzerland after losing custody of her children. In her final message, she wrote that the family court system had stripped her of hope for reunification, leaving death as her only escape. See Melissa Koenig, ‘As if they want you to kill yourself’: Parents rip NY family court system after Catherine Kassenoff’s assisted suicide, scathing

claims, N.Y. Post (July 28, 2023), (<https://nypost.com/2023/07/28/parents-call-court-that-led-to-catherine-kassenoff-suicide-hell/>) (App. 101a). See also Melissa Koenig, Attorney blamed by ex-wife in suicide note resigns from firm, N.Y. Post (June 12, 2023), (<https://nypost.com/2023/06/12/attorney-blamed-by-ex-wife-in-suicide-note-resigns-from-firm/>) (App. 102a).

Savannah Kriger (Texas, 2023) (App. 103a) In the midst of a custody dispute, Kriger killed her 3-year-old son and herself. A 21-second video she recorded before the act suggests extreme mental anguish driven by the legal battle. See Jonathan Limehouse, Savannah Kriger made 21-second video before killing 3-year-old son, USA Today (May 7, 2024), (<https://www.usatoday.com/story/news/nation/2024/05/07/savannah-kriger-murder-suicide/73600364007/>) (App. 103a).

Charmaine McLeod (Australia, 2019) (App. 104a)

Fearing the imminent loss of custody, McLeod drove into oncoming traffic, killing herself and her four children. An inquest later cited untreated mental illness worsened by child protection involvement. See Jessica Black, Queensland mother found to have deliberately killed herself and four children in highway crash near Kingaroy, ABC News (Aug. 21, 2024), (<https://www.abc.net.au/news/2024-08-21/charmaine-mcleod-inquest-findings-kingaroy-queensland/104251116>) (App. 104a).

Martin Romanchick (New York) (App. 105-106a) A decorated NYPD officer, Romanchick died by suicide after being repeatedly denied access to his children and arrested based on unproven allegations. His case reflects systemic procedural failure and gender bias in custody litigation. See *Suspended Cop Takes His Life*, N.Y. Daily News (July 17, 1997), (<https://www.nydailynews.com/1997/07/17/suspended-cop-takes-his-life/>) (App. 105a). See also Glenn Sacks, *Distraught Father's Courthouse Suicide Highlights America's Male Suicide Epidemic*, GlennSacks.com (May 25, 2004), (<https://www.glennsacks.com/column.php?id=25>) (App. 106a).

These cases are not aberrations — they are symptomatic of a systemic failure to provide due process and humane treatment to parents during CPS or custody interventions. The emotional and psychological trauma caused by separation, especially when imposed without proper recordings, documentation, or accountability, can be deadly. Petitioner's case reflects this same pattern: interviews were conducted without oversight, evidence was altered, and safeguards were entirely absent.

Taken together, the empirical data and these real-life tragedies present a compelling case that CPS procedures, when unchecked, can produce lethal consequences. These harms implicate the Due Process Clause, the right to family integrity, and basic human dignity.

This Court should grant certiorari not only to resolve the constitutional split over immunity but also to acknowledge the life-and-death stakes posed by procedural violations in child welfare proceedings. Reform is not only a matter of law — it is a matter of survival.

7. This Case Is A Suitable Vehicle to Define the Limits of Absolute Immunity for Child Welfare Workers and to Address the Legal Treatment of Unexplained Factual Gaps.

This petition presents a procedurally clean and factually compelling opportunity for this Court to resolve two interrelated legal questions: (1) whether child protection workers may invoke absolute immunity for investigatory misconduct, and (2) whether courts may grant summary judgment without honoring the burden-shifting structure of Rule 56, especially when the plaintiff is penalized for withholding evidence that was improperly left unaddressed by the defendants.

In this case, petitioner obtained critical documentary evidence before initiating suit (App. 78a)—it was, in fact, the catalyst for the lawsuit. These documents, originating from respondents' own office (App. 78a), were not submitted at the Rule 12 stage because their authenticity had not been contested, and discovery had not begun. The documents included handwritten alterations to the listed cause of death on official child welfare records (App. 66-67a, 69-72a). Petitioner withheld submitting them into the record under Rules 26(b)(2)(i)–(iii), Petitioner reasonably chose not to submit or authenticate this evidence at that early

stage, not because of a lack of evidentiary value, but because the defendants never denied its authenticity or claimed it would be inadmissible, and discovery had not yet begun.

Rather than resolving that procedural impasse through discovery, the district court converted the defendants' Rule 12(b)(6) motion into a summary judgment ruling, then held that petitioner had presented "no evidence"—based solely on petitioner's procedural decision to withhold uncontested documents (App. 40-41a, App. 31-32a). The court did this without affording any opportunity for discovery or enforcing the defendants' obligation to clarify the authenticity of materials originating from their own office.

This ruling short-circuited Rule 56's burden-shifting framework and created an evidentiary trap: it allowed defendants to both stonewall authentication and benefit from that stonewalling by claiming petitioner lacked admissible evidence. Such procedural maneuvering is directly at odds with *Celotex Corp. v. Catrett*, 477 U.S. 317 (1986), which requires the moving party to first show the absence of a genuine factual dispute.

It also echoes the concerns raised in *Anderson v. Liberty Lobby, Inc.*, 477 U.S. 242 (1986), and *Tolan v. Cotton* 572 U.S. 650 (2014), where courts cautioned against granting summary judgment on the basis of evidentiary ambiguity or suppression caused by the moving party itself.

The underlying facts also implicate a pressing constitutional question: whether absolute immunity extends to child protection workers who fabricate or alter evidence during the investigatory phase, prior to any court proceedings. Petitioner has alleged that respondents materially altered investigative documents, changing the official cause of death from pneumonia to co-sleeping after the fact. These actions were not taken in connection with a court proceeding or prosecutorial advocacy. They occurred during the evidence-gathering phase and bore the hallmarks of investigative misconduct. Under this Court's precedents in *Buckley v. Fitzsimmons*, 509 U.S. 259 (1993), and *Kalina v. Fletcher*, 522 U.S. 118 (1997), such conduct is not shielded by absolute immunity.

Together, these issues—one procedural and one constitutional—make this case an ideal vehicle to:

- Clarify the outer bounds of absolute immunity for child welfare investigators,
- Ensure that summary judgment rulings respect Rule 56's procedural safeguards, and
- Prevent government defendants from manufacturing immunity by refusing to engage in basic discovery obligations.

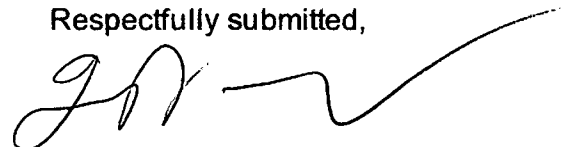
Conclusion

Petitioner respectfully requests that this Court grant the writ of certiorari

Date:

9-26-25

Respectfully submitted,

A handwritten signature in black ink, appearing to be "J.R.", followed by a long horizontal flourish.