25-6617

No. _____

IN THE SUPREME COURT OF THE UNITED STATES

NAQUEA ELAINE JOHNSON,

Petitioner,

v.

STATE OF NEW JERSEY, ET AL.,

Respondents.

On Petition for a Writ of Certiorari to the United States Court of Appeals for the Fourth Circuit

PETITION FOR A WRIT OF CERTIORARI

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QUESTIONS PRESENTED

I. Whether federal courts violate due process and equal protection by denying in forma pauperis status based on gross income that includes mandatory payments under jurisdictionally void orders, when the IFP denial forecloses the § 1983 action seeking to challenge state actors' unauthorized exercise of power and prevents access to discovery documenting the jurisdictional violations.

II. Whether M.L.B. v. S.L.J.'s prohibition on wealth barriers to fundamental rights adjudication extends to § 1983 claims challenging state actors' deprivation of parental rights through jurisdictionally void orders issued without subject-matter jurisdiction and without constitutionally mandated procedural safeguards.

III. Whether state actors violate § 1983 when they exercise authority over an interstate child removal after an appellate court orders a mandatory jurisdictional hearing that never occurs, issue orders without subject-matter jurisdiction, and deprive a parent of fundamental liberty interests without due process, creating a federal question that is not barred by Rooker-Feldman or the domestic-relations exception.

PARTIES TO THE PROCEEDING

Petitioner is Naquea Elaine Johnson, plaintiff-appellant below.

Respondents are: State of New Jersey; Commonwealth of Virginia; New Jersey Division of Child Protection and Permanency, a state agency; Office of Attorney General State of New Jersey, a state agency; United States Department of Justice, a federal agency; Federal Bureau of Investigation, a federal agency; United States Marshals Service, a federal agency; United States Department of Agriculture, a federal agency; National Archives and Records Administration, a federal agency; City of Norfolk Police Department, a municipal law enforcement agency; Matthew Platkin, individually and in his official capacity as Attorney General for the State of New Jersey; Commissioner Christine Norbut Beyer, individually and in her official capacity as Commissioner of NJ Division of Children, Protection and Permanency (DCPP); Honorable Sharifa Rashida Salaam, individually and in her official capacity as Judge of the Superior Court of New Jersey, Essex Vicinage; Lyn Simmons, individually and in her official capacity as Judge of the Norfolk Juvenile and Domestic Relations District Court; Honorable Randolph Carlson, individually and in his official capacity as Judge of the Norfolk Juvenile and Domestic Relations District Court; Honorable Aldo Russo, individually and in his official capacity as Judge of the Superior Court of New Jersey, Essex Vicinage; Alejandro Torres, individually and in his official capacity as Intake Supervisor for Norfolk Juvenile and Domestic Relations Court; James D. Garrett, individually and in his official capacity as Court Appointed Guardian ad Litem; Allison Anders, individually and in her official capacity as legal counsel; Justin Bush, individually and in his official capacity as legal counsel; Tiffany Clarke-Burroughs, individually and in her official capacity as Attorney of Burroughs Family Law LLC; Scott Cohen, individually and in his

capacity as Agency Director of G&L Transcripts of NJ; G&L Transcripts of NJ, a New Jersey Corporation; William Branch, individually and not in his official capacity as an employee of the National Archives and Records Administration; Anson Brett Orr, individually; Dianthe Martinez-Brooks, a/k/a Dawn Orr, individually; Alan Clinton Wilson, individually; Dionne Williams, individually and not in his official capacity as an employee of the United States Department of Agriculture; Tahaja Wilson, individually.

All respondents were defendants-appellees below.

RELATED CASES

United States Court of Appeals for the Fourth Circuit:

- Johnson v. State of New Jersey, et al., No. 25-1661 (4th Cir.)
- Judgment entered September 29, 2025; rehearing en banc DENIED December 23, 2025; mandate issued December 31, 2025. This is the case from which this petition arises.

Johnson v. [Respondents], No. 25-1926 (4th Cir.)

- Related case involving the same parties and underlying facts. Status: TERMINATED for failure to prosecute

Johnson v. [Respondents], No. 25-1627 (4th Cir.)

- Related case involving the same parties and underlying facts. TERMINATED for failure to prosecute

United States District Court for the Eastern District of Virginia:

- Johnson v. State of New Jersey, et al., No. 2:25-cv-00186 (E.D. Va.)

- In forma pauperis application DENIED June 6, 2025.

State Courts:

- Orr v. Johnson, No. FD-07-002874-18 (N.J. Super. Ct., Essex County)
- New Jersey Appellate Division ordered mandatory home state jurisdictional hearing on May 28, 2020. Hearing never occurred. Case voluntarily dismissed in June 2021. Case reopened in October 2021 for "attorney fees" and closed in June 2022.
- Naquea Johnson v. Anson Orr, No. JJ127849-05-00; 04-00; 01-00 - 64-01; 03-00; 01-02 (Norfolk J&DR Court, Virginia) [Jurisdictionally void orders "accepting jurisdiction," custody determinations, visitation determinations, and child support.

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OPINIONS BELOW

The opinion of the United States Court of Appeals for the Fourth Circuit (App. 1a-5a) is unreported. The order of the Court of Appeals denying rehearing en banc (App. 6a-7a) is unreported. The mandate issued December 31, 2025 (App. 8a-9a). The order of the United States District Court for the Eastern District of Virginia denying in forma pauperis status (App. 10a-12a) is unreported. The order of the Court of Appeals granting in forma pauperis status on appeal (App. 13a-14a) is unreported. The order of the Court of Appeals denying in forma pauperis status and mandamus (App. 15a-16a) is unreported. The opinion of the Superior Court of New Jersey, Appellate Division (App. 17a-34a) is unreported.

JURISDICTION

The judgment of the Court of Appeals for the Fourth Circuit was entered on September 29, 2025. (App. 1a-5a). The petition for rehearing en banc was denied on December 23, 2025. (App. 6a-7a). The mandate issued on December 31, 2025. App. 8a-9a. This Court has jurisdiction under 28 U.S.C. § 1254(1).

CONSTITUTIONAL AND STATUTORY PROVISIONS INVOLVED

U.S. Const. amend. XIV, § 1:

> "[N]or 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."

U.S. Const. art. VI, cl. 2 (Supremacy Clause):

> "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."

28 U.S.C. § 1738A (Parental Kidnapping Prevention Act):

"(c) A court of a State shall not exercise jurisdiction in any proceeding for a custody determination commenced during the pendency of a proceeding in a court of another State where such court of that other State is exercising jurisdiction consistently with the provisions of this section to make a custody determination."

28 U.S.C. § 1915(a)(1):

"Subject to subsection (b), any court of the United States may authorize the commencement, prosecution or defense of any suit, action or proceeding, civil or criminal, or appeal therein, without prepayment of fees or security therefor, by a person who submits an affidavit that includes a statement of all assets such prisoner possesses that the person is unable to pay such fees or give security therefor."

42 U.S.C. § 1983:

"Every person who, under color of any statute, ordinance, regulation, custom, or usage, of any State or Territory or the District of Columbia, subjects, or causes to be subjected, any citizen of the United States or other person within the jurisdiction thereof to the deprivation of any rights, privileges, or immunities secured by the Constitution and laws, shall be liable to the party injured in an action at law, suit in equity, or other proper proceeding for redress[.]"

Uniform Child Custody Jurisdiction and Enforcement Act § 202 (Exclusive, Continuing Jurisdiction):

"(a) ... a court of this State which has made a child custody determination consistent with Section 201 or 203 has exclusive, continuing jurisdiction over the determination until:

(1) a court of this State determines that neither the child, nor the child and one parent, nor the child and a person acting as a parent have a significant connection with this State and that substantial evidence is no longer available in this State concerning the child's care, protection, training, and personal relationships[.]"

STATEMENT OF THE CASE

A. Nature of the Case and Proceedings Below

This case does not arise from a domestic-relations dispute, nor does it seek federal review of a state-court custody judgment. Rather, it concerns the unconstitutional exercise of state power by New Jersey and Virginia officials who acted without subject-matter jurisdiction, without the procedural safeguards required by the Fourteenth Amendment, and in violation of the UCCJEA's and PKPA's mandatory jurisdictional framework. This Court has long held that parents possess a fundamental liberty interest in the care, custody, and control of their children, protected by the Due Process Clause. *Troxel v. Granville*, 530 U.S. 57, 65 (2000); *Santosky v. Kramer*, 455 U.S. 745, 753 (1982). State actors may not interfere with that interest absent constitutionally adequate procedures and lawful authority. *Stanley v. Illinois*, 405 U.S. 645, 651 (1972). The jurisdictional violations began with New Jersey's unauthorized assumption of authority based on a fraudulently filed custody and parenting time agreement used to manufacture jurisdiction. J.A.O. was born in the Commonwealth of Virginia on April 20, 2017, making Virginia his home state under the UCCJEA from birth. On April 11, 2018, less than one year after J.A.O.'s birth, New Jersey issued the first custody orders on an emergent ex parte hearing, despite having no home state jurisdiction over a Virginia child. New Jersey never held a hearing to determine home state jurisdiction before assuming authority or legally establishing paternity (App.145a). When the jurisdictional defect was challenged, the New Jersey Appellate Division ordered in May 2020 that a mandatory home state hearing be conducted to determine which state, New Jersey or Virginia, possessed proper jurisdiction. *Orr v. Johnson*, No. A-2874-18, slip op. at 7 (N.J. Super. Ct. App. Div. May 28, 2020) (unpublished). App. 13a-15a. That hearing has never occurred. Despite the New Jersey Appellate Division's explicit order, neither New Jersey nor Virginia has held the mandatory home state hearing. Both states refuse to conduct the hearing because it would establish that Virginia **WAS** the home state from J.A.O.'s birth on April 20, 2017, that

New Jersey's initial exercise of jurisdiction on April 11, 2018, was unauthorized, and that all subsequent orders issued by both states are **VOID**. Virginia subsequently "*accepted*" jurisdiction without holding the mandated hearing (App. 137a – App. 142a). Despite the unresolved jurisdictional defect and the New Jersey Appellate Division's explicit order that a home state hearing be held, Virginia exercised custody and support authority, issued orders, and deprived Petitioner of her parental rights without first holding the mandatory home-state hearing or providing notice and an opportunity to be heard. In December 2022, Virginia not only ordered prospective child support ($600 monthly) which includes ordered retroactive support for periods when it had no jurisdiction, ultimately collecting $22,585.72 through wage garnishment, involuntary compliance with jurisdictionally void orders. App. 45a – 48a. Virginia issued these orders without conducting the home state hearing, without making UCCJEA findings required before a second state may assume jurisdiction, and without determining whether New Jersey's initial assumption of jurisdiction was proper. The criminal classification that was concealed as civil custody for over four years and later said to be a "typographical error:" Petitioner alleges this case involves an interstate child removal on the criminal track disguised as civil custody proceedings. This would explain the New Jersey Division of Criminal Justice's Glomar response to Petitioner's public records request, **neither confirming nor denying** the existence of law enforcement investigative files concerning "*a person who has not been arrested or charged.*" App. 49a. The systematic concealment of records by multiple New Jersey agencies, combined with both states' refusal to hold the mandatory home state hearing, suggests coordinated efforts to shield evidence of jurisdictional violations and potential criminal conduct. The systematic avoidance to grant Petitioner IFP status further supports these coordinated efforts.

Federal Question Jurisdiction

Because New Jersey, then Virginia acted without subject-matter jurisdiction, their orders are **void**, not merely voidable. Void orders are not "judgments" for Rooker-Feldman purposes. *Exxon Mobil Corp. v. Saudi Basic Indus. Corp.*, 544 U.S. 280, 284 (2005). Nor does the domestic-relations exception apply, as Petitioner does not seek modification of custody or support, but rather redress for constitutional violations committed under color of state law.

Petitioner filed this § 1983 action on March 31, 2025, in the Eastern District of Virginia (Norfolk Division), asserting constitutional violations stemming from New Jersey and Virginia state actors' unauthorized assumption of jurisdiction and deprivation of fundamental parental rights without due process. The district court denied Petitioner's application to proceed in forma pauperis on June 6, 2025, finding that Petitioner's monthly income was "*sufficient to allow [her] to pay the requisite filing fees and still provide for the 'necessities of life.'*" App. 10a-12a.

B. The Contradictory IFP Determinations

Petitioner appealed the district court's IFP denial and filed a petition for writ of mandamus. On May 30, 2025, Petitioner filed both a motion to proceed in forma pauperis on appeal and a petition for writ of mandamus with the Fourth Circuit. On June 4, 2025, the Fourth Circuit denied both the IFP motion and the mandamus petition simultaneously. App. 15a-16a. On June 6, 2025, the district court entered its order denying Petitioner's IFP application, finding that Petitioner's monthly income was "*sufficient to allow [her] to pay the requisite filing fees and still provide for the 'necessities of life.'*" App. 10a-12a. On June 23, 2025, the Fourth Circuit granted Petitioner's renewed motion to proceed in forma pauperis on appeal. App. 13a-14a. This determination was based on review of Petitioner's financial affidavit, the identical financial information submitted to the district court and reviewed by the Fourth Circuit just nineteen days

earlier when it denied IFP on June 4, 2025. On September 29, 2025, a panel of the Fourth Circuit (Judges Gregory, Wynn, and Floyd) issued an unpublished per curiam opinion affirming the district court's IFP denial. App. 1a-5a. The opinion explicitly acknowledged the contradiction: "*Although this court granted Johnson's motion to proceed in forma pauperis on appeal, we decline to disturb the district court's order given our deferential standard of review.*" App. 3a n. (emphasis added). The Fourth Circuit thus took three different positions on Petitioner's indigency based on identical financial evidence: (1) June 4, 2025: **Denied** IFP (App. 15a-16a); (2) June 23, 2025: **Granted** IFP, finding Petitioner indigent (App. 13a-14a); (3) September 29, 2025: **Affirmed denial** of IFP, finding Petitioner not indigent (App. 1a-5a.) The Fourth Circuit cited *Dillard v. Liberty Loan Corp.*, 626 F.2d 363, 364 (4th Cir. 1980), which holds that "*the decision to grant or deny in forma pauperis status lies in the discretion of the district court,*" and *DeBlasio v. Gilmore*, 315 F.3d 396, 398 (4th Cir. 2003), for the standard that IFP status is "*only available to a litigant who establishes an inability, due to poverty, to pay the requisite filing fees and still provide for the necessities of life.*" App. 1a-5a. The panel concluded: "*we conclude that the district court did not abuse its discretion in denying Johnson's motion.*" App. 3a. Notably, the opinion stated: *"we might have exercised that discretion quite differently."* Id. (internal quotation marks omitted). On October 14, 2025, Petitioner filed a petition for rehearing en banc. On December 23, 2025, the same panel denied the petition for rehearing en banc. App. 6a-7a. The order noted that "*[n]o judge requested a poll under Fed. R. App. P. 40 on the petition for rehearing en banc.*" App. 6a-7a. The mandate issued December 31, 2025. App. 8a-9a.

C. Petitioner's Financial Circumstances

Petitioner's IFP application, filed March 31, 2025, disclosed the following financial information (App. 35a-39a): Income (Gross): Employment: $5,058.00 per month (City of Norfolk), Child support received: $732.00 per month (from Alan Clinton Wilson), Total gross monthly income: $5,790.00, Monthly Expenses: $4,085.00, Rent/mortgage: $1,600.00, Utilities: $400.00, Food: $125.00, Clothing: $860.00, Laundry: $275.00, Medical/dental: $200.00, Transportation: $75.00, Recreation: $200.00- Other: , $350.00,. Additional Information Disclosed: Two minor dependents relying on Petitioner for support: K.M.W. (daughter, age 15, residing with Petitioner) and J.A.O. (son, age 7, residing with Anson Brett Orr pursuant to jurisdictionally void orders), Child support arrears owed to Petitioner by Alan Clinton Wilson: $1,464.00 (uncollected), - Cash on hand: $0.00, Bank accounts: $0.00, Assets: None, Anticipated legal expenses for current action: $125,000.00, Total spent on litigation to date: over $125,000.00, Bankruptcy discharge: App. 40a-44a, Section 11 Disclosure - Other Information: In response to Question 11 ("Provide any other information that will help explain why you cannot pay the costs of these proceedings"), Petitioner stated: "*Since 2018, I have exhausted my financial resources in a prolonged effort to have my legal rights upheld regarding my child. As I enter the seventh year of this struggle, justice remains elusive. This legal matter is of paramount importance to me as it directly concerns my relationship with and the wellbeing of my child. The financial burden of these proceedings have already bankrupted me, yet, I must continue this legal journey.*" App. 35a-39a.

There is a critical structural deficiency in the IFP form blueprint. The Eastern District of Virginia's IFP form (AO 239) requests gross income "before any deductions for taxes or otherwise" and provides a specific line item for "Child support" under income sources, requesting child support received. However, the form provides no corresponding field for child support paid to others. This structural deficiency meant Petitioner had no designated place on the

form itself to disclose the mandatory child support payments she makes pursuant to Virginia's jurisdictionally void orders. Further, Petitioner pays out mandatory deductions not captured by the form. Although not requested by the IFP form, Petitioner's gross employment income is subject to mandatory deductions totaling $1,843.81 per month, as documented by Petitioner's deductions (App. 50a): Child support paid via involuntary wage garnishment: $600.00 per month (for J.A.O., one of the two dependents listed, pursuant to Virginia orders issued without jurisdiction in December 2022, $22,585.72 paid to date through involuntary wage garnishment), Health insurance: $489.04 per month (POS750 Plan, Delta Plan, and Blue View Vision, mandated by the same jurisdictionally void orders requiring Petitioner to provide health coverage for J.A.O.), Mandatory retirement contributions (VRS Hybrid DC 1% and DB 4%): $332.04 per month, FICA taxes (Medicare and Social Security): $422.73 per month. Petitioner's actual net disposable income: $3,946.19 per month: Net monthly shortfall: $138.81, Petitioner's actual payroll deductions total $1,968.27 monthly when including a Section 457 retirement contribution ($124.46/month), which may be mandatory for government employees. This would reduce net disposable income to $3,821.73 and increase the monthly shortfall to $263.27.

The constitutional double bind is the district court made its IFP determination based solely on the gross income figure of $5,790 monthly without knowledge of $1,843.81 in mandatory deductions because the form does not request that information. The court saw that Petitioner listed two dependents but did not know, because the form did not ask, that she pays $600 monthly via **involuntary wage garnishment** to support one of those dependents (J.A.O.) pursuant to orders issued without jurisdiction, and that the same void orders also mandate she provide health insurance for J.A.O. The court also had before it, Petitioner's: Disclosure of bankruptcy in Section 11 (App. 35a-39a), Bankruptcy discharge order (App. 40a-44a), $125,000

in anticipated legal expenses, Zero cash, zero bank accounts, zero assets. Yet the district court still concluded her income was "*sufficient to allow [her] to pay the requisite filing fees and still provide for the 'necessities of life.'*" App. 10a-12a. This creates an impossible predicament where Petitioner must comply with **jurisdictionally void orders** through **involuntary wage garnishment** ($22,585.72 paid to date) and mandatory health insurance coverage ($489.04 monthly, which covered Petitioner, J.A.O. and K.M.W.), which together reduced her actual disposable income below her monthly expenses. But because the IFP form does not request information about child support paid or employer-mandated deductions, courts evaluate her poverty based on gross income that significantly overstates her ability to pay by $1,843.81 monthly. She is simultaneously required to comply with void orders and denied the information mechanism to demonstrate how those orders affect her financial status. Moreover, one of the two dependents listed on her IFP application, J.A.O., is the very child for whom she pays $600 monthly under void orders, for whom Virginia ordered retroactive support covering periods when it lacked jurisdiction, and for whom she is mandated to provide health insurance. The underlying § 1983 action seeks to challenge the jurisdictional basis of those orders. The IFP denial thus forecloses discovery that would document the jurisdictional violations underlying the very orders that reduce her income below the poverty threshold.

Moreover, there is a conflict of interest during the cert window. The conflict involves Judge Lyn Simmons, named as a defendant in both her **individual** and **official capacity**, the mother of Jerrauld C. "Jay" Jones, Jr., who was elected Virginia Attorney General on November 4, 2025, and will be sworn in on January 17, 2026, during the 90-day certiorari window. As Virginia's Attorney General, Jones will represent both his own mother (sued individually and in her official capacity) and the Commonwealth of Virginia (his mother's employer and a named defendant).

This creates a triple conflict where the state's chief legal officer has a direct familial interest in the outcome of litigation, naming his mother as a defendant for constitutional violations committed in her official capacity as a Virginia judge. Shockingly, the Fourth Circuit denied an explicit request for recusal and to appoint special counsel.

REASONS FOR GRANTING THE WRIT

This Court should grant certiorari under Supreme Court Rule 10. First, the Fourth Circuit's three contradictory IFP determinations on identical evidence within three months, denying IFP on June 4, granting IFP on June 23, then affirming denial on September 29, has so far departed from the accepted and usual course of judicial proceedings as to call for an exercise of this Court's supervisory power. Rule 10(a). Second, the Fourth Circuit decided an important federal question in a way that conflicts with this Court's decision in *M.L.B. v. S.L.J.* by applying *Dillard's* abuse-of-discretion review instead of heightened scrutiny when fundamental parental rights are at stake, affecting parents nationwide. Rule 10(a), (c). Third, whether IFP determinations must consider mandatory deductions, particularly involuntary wage garnishment under jurisdictionally void orders, is an important question of federal law that has not been, but should be, settled by this Court, affecting countless indigent litigants nationwide. Rule 10(c).

I. The Fourth Circuit's Three Contradictory IFP Determinations on Identical Financial Evidence Violate Multiple Due Process Doctrines

This case presents an extraordinary situation where the Fourth Circuit made three different determinations regarding Petitioner's indigency based on the same financial evidence in the same case within three months. This triple contradiction violates law of the case, issue preclusion, fundamental fairness under *Mathews v. Eldridge*, and the prohibition on arbitrary government

action. The sequence of events is undisputed. On May 30, 2025, Petitioner files IFP motion and mandamus petition with Fourth Circuit, submitting financial affidavit showing bankruptcy discharge, $125,000 in legal expenses, zero assets, and two dependents. On June 4, 2025, Fourth Circuit **denies** IFP and mandamus. App. 15a-16a. On June 6, 2025, District court reviews the same financial affidavit and denies IFP, finding income "*sufficient.*" App. 10a-12a. On June 23, 2025, Fourth Circuit reviews the same financial affidavit, now nineteen days after its own June 4 denial, and **grants** IFP on appeal, necessarily finding Petitioner unable to pay fees while providing necessities of life. App. 13a-14a. On September 29, 2025, the Fourth Circuit panel (same court that granted IFP on June 23) **affirms** the district court's denial based on the same financial affidavit, acknowledging it "*might have exercised that discretion quite differently.*" App. 1a-5a. December 23, 2025: Same panel **denies** rehearing en banc; **no judge requests poll** (its worth noting this was the same day Fourth Circuit received a copy of Petitioner's resubmission and supplements for the mandamus). App. 6a-7a. December 31, 2025: Mandate issues, making the contradictory determination **final.** App. 8a-9a. The Fourth Circuit's opinion acknowledges this contradiction but offers no explanation for how identical financial circumstances, including bankruptcy discharge (App. 40a-44a), $125,000 in legal expenses, two dependents, zero assets, and $22,585.72 in involuntary wage garnishment payments under jurisdictionally void orders, can support three opposite factual findings within a single proceeding.

A. Law of the Case Doctrine

When the Fourth Circuit granted IFP status on appeal on June 23, 2025, it necessarily determined that Petitioner met the statutory requirements of 28 U.S.C. § 1915, that she was "*unable to pay*

such fees" while providing "*the necessities of life*." *Adkins v. E.I. DuPont de Nemours & Co.*, 335 U.S. 331, 339 (1948). That determination became the law of the case, binding on the same court in subsequent proceedings. The Fourth Circuit cannot make three contradictory holdings about Petitioner's indigency, **denying** IFP on June 4, **granting** IFP on June 23, then **affirming** denial on September 29, based on unchanged facts. This violates the foundational principle that courts must adhere to their own prior determinations within a single case.

B. Issue Preclusion

The Fourth Circuit's June 23 IFP grant satisfies all elements of collateral estoppel: (1) the indigency issue was actually litigated through Petitioner's IFP motion and the court's review of her financial affidavit; (2) the issue was necessary to the judgment granting IFP status; (3) the determination was final when the court granted IFP; and (4) the parties are identical. *Ashe v. Swenson*, 397 U.S. 436, 445 (1970). The Fourth Circuit should have been precluded from re-litigating Petitioner's indigency on the same evidence. Instead, it made three different determinations on identical facts within ninety days.

C. Mathews v. Eldridge Due Process Analysis

This case fails all three *Mathews v. Eldridge* factors. **First**, the private interest at stake, access to federal courts to vindicate constitutional rights, is substantial. *Boddie v. Connecticut,* 401 U.S. 371 (1971); *Griffin v. Illinois*, 351 U.S. 12 (1956). **Second**, the risk of erroneous deprivation is maximized when identical evidence produces three opposite conclusions, this demonstrates that decisions are not evidence-based but arbitrary. When courts have before them objective proof of bankruptcy (App. 40a-44a), yet reach different conclusions about indigency within months, the process itself is fundamentally unreliable. **Third**, the government has minimal interest in

denying IFP to someone the same court already determined was indigent nineteen days after previously denying IFP. Administrative convenience cannot override access to justice when no additional evidence justifies contradictory results. *Mathews v. Eldridge*, 424 U.S. 319, 335 (1976).

D. Prohibition on Arbitrary Government Action

Due process prohibits arbitrary and inconsistent government action. *Goss v. Lopez*, 419 U.S. 565, 579 (1975). When the same court makes three contradictory factual findings on identical evidence within three months, that is the definition of arbitrary decision-making. If Petitioner's financial circumstances, including bankruptcy discharge, $125,000 in legal expenses, and $22,585.72 in involuntary payments under void orders, were sufficient for IFP status on June 23, those same circumstances cannot justify three different outcomes (denial on June 4, grant on June 23, affirmance of denial on September 29) absent changed facts.

E. Fourth Circuit's Pattern of IFP Inconsistency

This case exemplifies broader Fourth Circuit inconsistency. In *Blakely v. Wards*, 730 F.3d 327 (4th Cir. 2013) (en banc), the Fourth Circuit denied IFP status but then appointed counsel from Georgetown Law Center, creating cognitive dissonance. If a litigant is indigent enough to warrant appointed counsel, how can they simultaneously be denied IFP status? Similarly, in *Nasim v. Warden*, the Fourth Circuit completely reversed itself within months on substantive grounds. 64 F.3d 951 (4th Cir. 1995) (en banc). Here, the Fourth Circuit reversed itself twice on the threshold procedural question of Petitioner's poverty, despite having objective evidence of bankruptcy before it.

F. Undeveloped Area of Federal Law: Mandatory Deductions and Void Orders

This case also highlights an undeveloped area of federal law: whether IFP determinations must consider mandatory deductions from gross income, particularly when those deductions result from jurisdictionally void orders that are the subject of the underlying § 1983 action. Petitioner pays $600 monthly in child support through involuntary wage garnishment pursuant to Virginia orders issued without jurisdiction, $22,585.72 paid to date (App. 45a-48a), including retroactive support for periods when Virginia had no authority. The same void orders mandate she provide health insurance for J.A.O. She also paid mandatory VRS retirement contributions totaling $332.04 monthly and FICA taxes totaling $422.73 monthly. These mandatory obligations reduced her gross income of $5,790 to net disposable income of approximately $3,946.19, $138.81 less than her $4,085 in monthly expenses. Federal poverty determinations in every other context use net income concepts. Bankruptcy law (Chapter 7), SNAP benefits, Legal Services Corporation eligibility, and federal child support law all define "disposable income" as gross pay minus mandatory deductions. Petitioner has found no published circuit court opinion addressing whether § 1915 poverty determinations must account for mandatory deductions versus gross income alone. The Eastern District of Virginia's IFP form (AO 239) requests gross income "before any deductions" and provides no field for child support paid, only child support received. App. 35a-39a. This creates a dilemma where Petitioner must comply with jurisdictionally void orders through involuntary wage garnishment and mandatory health insurance coverage, which reduces her ability to pay court fees, but courts count that money as income available to pay fees. **She is simultaneously required to pay the void orders and penalized for complying with them.** This Court should grant certiorari to resolve these intersecting due process violations and provide guidance on whether IFP determinations must consider mandatory deductions,

particularly involuntary wage garnishment under jurisdictionally void orders, that reduce income actually available to pay fees while providing necessities of life.

II. The Fourth Circuit Misapplied M.L.B. by Using Abuse-of-Discretion Review Instead of Heightened Scrutiny

The Fourth Circuit's application of *Dillard v. Liberty Loan Corp.*'s abuse-of-discretion standard represents a fundamental misreading of this Court's precedent in *M.L.B. v. S.L.J.*, 519 U.S. 102 (1996). When fundamental parental rights are at stake, wealth cannot foreclose access to courts, and heightened scrutiny, not deferential review, applies.

A. M.L.B.'s Heightened Scrutiny Framework

In *M.L.B.*, this Court held that Mississippi could not condition appeals from parental rights termination on ability to pay $2,352.36 in transcript fees, reasoning that "*the size of her pocketbook should not be dispositive when 'an interest far more precious than any property right' is at stake.*" 519 U.S. at 116 (quoting *Santosky*, 455 U.S. at 758-59). Justice Ginsburg's majority opinion emphasized that "*due process and equal protection principles converge*" in cases involving wealth barriers to fundamental rights adjudication. Id. at 120. The Court applied heightened scrutiny, not abuse-of-discretion review, stating: "*In Griffin and Douglas, and in the case concerning involuntary parental status termination, M.L.B., we have placed in a narrow category cases in which the State may not bolt the door to equal justice.*" Id. at 127-28 (emphasis added). **This is a categorical rule, not a matter for judicial discretion.** The Court held that "*classifications based on indigency in the context of judicial proceedings must be 'closely scrutinized.*'" Id. at 120 (quoting *Griffin*, 351 U.S. at 17 n.11).

B. The Fourth Circuit's Legal Error

The Fourth Circuit instead applied *Dillard*'s abuse-of-discretion standard, which predates *M.L.B.* by sixteen years and does not account for *M.L.B.'s* "heightened scrutiny" framework when fundamental parental rights are at stake. App. 1a-5a. By deferring to the district court's "*discretion*" despite the Fourth Circuit's own contrary June 23 determination that Petitioner was indigent (App. 13a-14a), the panel applied the wrong legal standard. *M.L.B.* does not permit courts to exercise "*discretion*" about whether wealth can bar access when fundamental rights are implicated. Rather, *M.L.B.* establishes a categorical rule: "*The State's need for revenue to offset costs, in the circumstances presented here, is an interest the State may pursue, but not by means of a procedure that diminishes an indigent's chances of finding judicial redress.*" 519 U.S. at 123-24. The Fourth Circuit's statement that it "*might have exercised that discretion quite differently*" (App. 3a) reveals the error. Under *M.L.B.*, there is no "*discretion*" to deny access based on wealth when fundamental parental rights are at stake. The Court must apply heightened scrutiny and cannot "*bolt the door to equal justice.*"

C. This Case Violates Both Due Process and Equal Protection

The Fourth Circuits IFP denial violates both the Due Process Cause and the Equal Protections Clause. Under *M.L.B.*, "*due process and equal protections principles converge*" when wealth barriers foreclose access to fundamental rights. 519 U.S. at 120. The three contradictory determinations on identical evidence violate procedural due process by constituting arbitrary government action. The wealth-based denial of access violates equal protection by creating **two classes of litigants - those who can pay** $405, **and - those who cannot**, with fundamentally different access to vindicate constitutional rights. As this Court held in *Griffin v. Illinois*, "*[t]here can be no equal justice where the kind of trial a man gets depends on the amount of money he*

has." 351 U.S. at 19. When state action creates wealth-based classifications that foreclose access to courts for vindication of fundamental parental rights, heightened scrutiny applies under both Due Process and Equal Protection Clauses.

D. Petitioner's Fundamental Parental Rights Are at Stake

Petitioner's § 1983 action challenges the deprivation of her fundamental parental rights through an interstate child removal classified as criminal on court transcripts, accomplished under the guise of jurisdictionally invalid proceedings. The underlying facts involve: New Jersey's initial exercise of jurisdiction on April 11, 2018 over a Commonwealth of Virginia child born on April 20, 2017, without holding a home state hearing or making jurisdictional findings; Virginia's subsequent exercise of jurisdiction after New Jersey Appellate Division ordered a mandatory home state hearing (*Orr v. Johnson*, No. A-2874-18, slip op. at 7 (N.J. Super. Ct. App. Div. May 28, 2020)) that never occurred (App. 17a-34a); - Both states' refusal to hold the ordered home state hearing, which would establish that Virginia **was** the home state from birth, and that New Jersey's erroneous declaration of jurisdiction was blatantly unlawful; Deprivation of Petitioner's parental rights without notice, hearing, or due process; Concealment of Division of Child Protection and Permanency (DCPP) records for a Virginia child that remain concealed, Issuance of child support orders, including retroactive support, totaling $22,585.72 collected through wage garnishment (App. 45a-48a), all without jurisdiction. These facts implicate the same fundamental parental rights recognized in *Troxel*, *Santosky*, and *Stanley*. Petitioner cannot confirm whether New Jersey formally terminated her parental rights because New Jersey's Division of Child Protection and Permanency (DCPP) refuses to release records absent a court order (May 30, 2023, letter, App. 51a), and Petitioner's IFP denial forecloses the federal

discovery that would compel production of those records. The concealment of DCPP records, combined with both states' refusal to hold the mandatory home state hearing, suggests coordinated efforts to shield evidence of jurisdictional violations and constitutional deprivations that may include formal termination proceedings conducted without jurisdiction. Additionally, Norfolk Juvenile and Domestic Relations Court (Norfolk JDR), alleges the case files have been sealed, Yet, when asked to produce a copy of a sealing order, then the allege the case is not sealed. Petitioner has not seen J.A.O. in person since August 2023, over two years, because exercising visits in Virginia risk DCPP claims that will be withheld from Petitioner without ever given access, without ever including Virginia CPS - only in-camera review denials. Further, exercising visits in New Jersey would constitute submission to the jurisdiction she challenges as unauthorized. Petitioner cannot confirm formal termination due to DCPP's refusal to release records and the IFP denial that forecloses federal discovery to compel production.

E. M.L.B.'s Principle Extends to Functional Deprivation

Lower courts have construed *M.L.B.* narrowly, limiting its holding to formal termination proceedings. This creates an irregularity **where a parent can appeal complete termination for free but must pay to challenge loss of all contact with children through other means.** This Court should clarify that *M.L.B.*'s principle extends to functional deprivations of parental rights, not just procedural labels. When state actors use jurisdictionally void proceedings to accomplish an interstate child removal classified as criminal on court transcripts, depriving a parent of fundamental rights without due process, *M.L.B.*'s prohibition on wealth barriers applies.

F. Turner v. Rogers Does Not Diminish M.L.B.'s Protection

In *Turner v. Rogers*, 564 U.S. 431 (2011), this Court declined to require appointed counsel when an indigent defendant faced incarceration for civil contempt in child support proceedings, instead requiring "*alternative procedural safeguards.*" But *Turner* applied *Mathews v. Eldridge* balancing rather than *M.L.B.*'s categorical approach. Petitioner's case differs from *Turner* in critical respects. She seeks access to federal court to challenge jurisdictionally void orders, not representation in state civil contempt proceedings. The question is not whether she must be provided counsel, but whether a $405 filing fee can foreclose her federal constitutional claim challenging state actors' unauthorized exercise of power. Moreover, Petitioner has bankruptcy discharge (App. 40a-44a), has spent over $125,000 on litigation, has zero assets, and faces a $138.81 monthly shortfall even before considering the filing fee. Under *M.L.B.*'s heightened scrutiny, these circumstances mandate IFP status when fundamental parental rights are at stake.

G. The Void Orders Create a Unique Barrier

Petitioner faced an extraordinary dilemma. To date, she has paid $22,585.72 through involuntary wage garnishment pursuant to child support orders issued without jurisdiction, including retroactive support for periods when Virginia had no authority. App. 45a-48a. These payments reduce her ability to pay the $405 filing fee. But the district court counted that income as available to pay fees, creating a circular trap where she must comply with void orders through wage garnishment, which makes her appear financially able, which denies her access to court to prove the orders are void. Moreover, the IFP denial forecloses discovery that would document the jurisdictional violations. Petitioner alleges systematic concealment of evidence and violations of federal protective mandates including the Parental Kidnapping Prevention Act. Without discovery, she cannot prove these allegations; without IFP status, she cannot access discovery.

The jurisdictional fraud resulted in complete separation. Petitioner has not touched her baby, (soon to turn nine-years-old in April) J.A.O.'s face, kissed his cheeks, or spent even thirty-minutes of time with him since August 2023 because exercising visitation requires vulnerability for more concealed allegations, or traveling to New Jersey and submitting to the jurisdiction she challenges, a situation Norfolk JDR casted as refusal to exercise visitation during litigation in February 2025. The IFP denial forecloses the federal action that would resolve the jurisdictional question, perpetuating both the financial burden and the separation. This Court should grant certiorari to resolve whether *M.L.B.*'s prohibition on wealth barriers extends to § 1983 claims challenging jurisdictionally void orders that deprive parents of fundamental rights without due process, and to clarify that heightened scrutiny, not abuse-of-discretion review, applies to IFP determinations when fundamental parental rights are at stake. The IFP denial perpetuates a unique constitutional violation where Petitioner cannot access evidence proving lack of jurisdiction without submitting to the very jurisdiction she challenges. New Jersey's Division of Child Protection and Permanency confirmed it possesses records related to this case but refuses to release them absent "*a signed court order with proper protections.*" App. 51a. These records would establish whether New Jersey had any factual basis for assuming jurisdiction over a Virginia child on April 11, 2018, which they did not. Petitioner is left with an impossible choice. To obtain a court order compelling DCPP to produce records, Petitioner must: (1) File in New Jersey Courts (submitting to New Jersey jurisdiction); OR, (2) pursue federal discovery through her §1983 action. But, filing in New Jersey means submitting to the jurisdiction she challenges as void; AND federal §1983 discovery means foreclosed by IFP denial. The constitutional violation is clear. **A state cannot condition access to evidence of jurisdictional defects on submission to the defective jurisdiction**. This would allow states to insulate jurisdictional

violations from review by withholding proof of those violations unless the challenging party waives the right to challenge. This violates Due Process: right to challenge jurisdiction requires access to evidence of jurisdictional facts; PKPA: federal law mandating home state jurisdiction cannot be enforced if evidence of home state is concealed; and Rooker-Feldman: federal courts retain jurisdiction over VOID orders but cannot exercise that jurisdiction if evidence of voidness is withheld pending state court submission. Without IFP status to pursue federal discovery, Petitioner is trapped and she cannot prove New Jersey lacked jurisdiction without either (1) submitting to New Jersey's jurisdiction (waiving her objections), or (2) accessing federal courts (denied by IFP denial).

III. This Case Presents a Federal Civil Rights Claim, Not a Custody Dispute Subject to Rooker-Feldman or the Domestic Relations Exception

The lower courts' denial of IFP appears premised on an implicit mischaracterization of this action as a domestic-relations matter rather than a federal civil-rights claim. This mischaracterization is legally erroneous and warrants this Court's review.

A. Rooker-Feldman Does Not Apply to Void Orders

The Rooker-Feldman doctrine bars federal district courts from exercising appellate jurisdiction over final state-court judgments. *Exxon Mobil Corp. v. Saudi Basic Indus. Corp.*, 544 U.S. 280, 284 (2005). But Rooker-Feldman applies "*only to cases brought by state-court losers complaining of injuries caused by state-court judgments rendered before the district court proceedings commenced and inviting district court review and rejection of those judgments.*" Id. Petitioner's § 1983 action does not seek review of valid state-court judgments. Rather, it challenges state actors' unauthorized assumption of jurisdiction after a New Jersey appellate

court ordered a mandatory home state hearing that never occurred. *Orr v. Johnson*, No. A-2874-18, slip op. at 7 (N.J. Super. Ct. App. Div. May 28, 2020). App. 17a-34a. Because Virginia and New Jersey acted without subject-matter jurisdiction, their orders are void, not merely voidable. Void orders are not "judgments" for Rooker-Feldman purposes. The Full Faith and Credit Clause likewise does not require recognition of void orders. U.S. Const. art. IV, §1. Because New Jersey and Virginia acted without subject-matter jurisdiction, their orders are void ab initio and entitled to no full faith and credit from other states or federal courts. A void order is a legal nullity that binds no one. This Court has never extended Rooker-Feldman to bar challenges to orders issued without subject-matter jurisdiction.

B. The Domestic Relations Exception Does Not Bar Federal Question Jurisdiction

The domestic-relations exception to federal jurisdiction is "*a narrow one.*" *United States v. Johnson*, 114 F.3d 476, 481 (4th Cir. 1997). It does not bar federal-question jurisdiction over constitutional claims arising from state domestic-relations proceedings. Id. Petitioner does not ask the federal court to issue custody orders, modify support, or adjudicate domestic status. She seeks damages and declaratory relief under § 1983 for constitutional violations: deprivation of parental rights without jurisdiction, without notice, without hearing, and without due process. These are definitive federal questions.

C. PKPA and UCCJEA Violations Create Federal Claims

The Parental Kidnapping Prevention Act, 28 U.S.C. § 1738A, is a federal statute enacted pursuant to the Full Faith and Credit Clause that mandates interstate recognition of custody determinations and prohibits simultaneous proceedings. The Supremacy Clause makes these federal PKPA requirements binding on state courts. U.S. Const. art. VI, cl. 2. State courts have no

discretion to disregard federal jurisdictional mandates. While this Court held in *Thompson v. Thompson*, 484 U.S. 174 (1988), that the PKPA does not create a private federal cause of action, Thompson does not preclude § 1983 claims for constitutional violations that occur through PKPA violations. The Fourth Circuit recognizes that exclusive and continuing jurisdiction under the UCCJEA persists until the original state affirmatively determines that neither the child nor a parent maintains a significant connection with that state and that substantial evidence is no longer available there. *Miller v. Miller*, 240 F.3d 392, 398 (4th Cir. 2001). The jurisdictional violations are foundational and deliberate. J.A.O. was born in Virginia on April 20, 2017. Under the UCCJEA, Virginia was J.A.O.'s home state from birth. On April 11, 2018, less than one year after J.A.O.'s birth, New Jersey issued the first custody orders without making any finding that it was the home state and without conducting a hearing to determine whether Virginia or New Jersey had proper jurisdiction over a Virginia child. New Jersey never made findings required under UCCJEA § 201 (home state jurisdiction) or § 204 (temporary emergency jurisdiction). New Jersey simply assumed jurisdiction without lawful authority. Without home state jurisdiction. Without significant connection jurisdiction. Without an opportunity to obtain an attorney and present evidence. Without notice of Petitioner's rights, including the right to consent to jurisdiction. Without valid and explicit jurisdictional findings. Without proper service. And without documented communications with Virginia, because New Jersey's jurisdictional foundation was obtained through fraud and constitutional violations. When this jurisdictional defect was challenged, the New Jersey Appellate Division recognized the problem and ordered on May 28, 2020, that a mandatory home state hearing be conducted. App. 17a-34a. Both states violated the Supremacy Clause by refusing to comply with federal PKPA mandates requiring exclusive jurisdiction and prohibiting simultaneous proceedings. That hearing has never

occurred. New Jersey never made findings that it was the home state before issuing its initial orders on April 11, 2018. New Jersey never issued any order affirmatively terminating its improperly assumed jurisdiction. Virginia never made UCCJEA findings before assuming jurisdiction in December 2022. And neither New Jersey nor Virginia ever held the home state hearing ordered by the New Jersey Appellate Division in May 2020. App. 17a-34a. Both states refuse to hold the hearing because it would establish: (1) Virginia was the home state from J.A.O.'s birth (April 20, 2017) through the initial New Jersey Court Order (April 11, 2018); (2) New Jersey had no authority to issue orders on April 11, 2018; (3) All subsequent orders issued by both states are void ab initio; (4) Evidence exists of coordinated jurisdictional fraud to accomplish an interstate child removal under criminal classification, because holding the hearing would expose the scheme, adverse government actions, and intentional constitutional neglect. The systematic refusal to hold the mandatory home state hearing, now over five years after the New Jersey Appellate Division's order, demonstrates that both states are deliberately shielding accountability for multiple constitutional violations. These jurisdictional defects are not mere technical errors; they rendered both Virginia's and New Jersey's exercise of authority ultra vires and unconstitutional from the inception of New Jersey's involvement. The refusal to hold the ordered hearing perpetuates the violations and prevents judicial determination of the foundational jurisdictional question.

D. Procedural and Substantive Due Process Violations

Procedural due process requires notice and a meaningful opportunity to be heard before the state may interfere with fundamental liberty interests. *Mullane v. Central Hanover Bank & Trust Co.*, 339 U.S. 306, 314 (1950). Petitioner received notice acknowledging *"a jurisdictional dispute*

under the UCCJEA as to whether NJ or Virginia has proper jurisdiction" and stating that Norfolk Virginia Family Court anticipated a "*conference call*" to discuss the jurisdictional issue. App. 52a-58a. On the morning of the conference, Petitioner's attorney called and asked if Petitioner wanted to attend, despite it previously scheduled as "attorney's-only" conference. When Petitioner immediately sought to confirm the nature of the proceeding by confirming it was an "attorneys-only" conference, her attorney confirmed "*uh-huh.*" Relying on this representation, Petitioner did not attend. Despite the attorney's confirmation that this was an attorneys-only proceeding, and Petitioner's consequent absence, later court filings falsely suggested Petitioner herself was in attendance. Petitioner only learned of the outcome through her attorney, who announced in a "celebratory" manner that Virginia Judge Carlson had purportedly "*accepted*" jurisdiction. When Petitioner specifically questioned whether New Jersey retained "exclusive and continuing jurisdiction" under the UCCJEA, her attorney dismissed the concern, stating "that didn't matter, we have jurisdiction." This attorneys-only conference was not the mandatory home state hearing ordered by the New Jersey Appellate Division. App. 17a-34a. Virginia purported to "*accept*" jurisdiction without conducting an evidentiary hearing, without Petitioner's personal participation, without making the UCCJEA findings required before a second state may assume jurisdiction, and without conducting the home state determination required by the New Jersey appellate court. The court relied on flawed Guardian ad Litem reports to determine either state could have claimed home state, but this is factually false and a perfect example of the court conducting fraud on the court. Petitioner was denied any meaningful opportunity to be heard personally on the threshold jurisdictional question affecting her fundamental parental rights. The Fourth Circuit recognizes a parent's substantive due-process right to familial integrity. *Jordan v. Jackson,* 15 F.3d 333, 342 (4th Cir. 1994). State actors may

not arbitrarily interfere with the parent-child relationship. When Virginia and New Jersey exercised jurisdiction they did not possess, issued orders without authority, including retroactive support orders totaling $22,585.72 collected through wage garnishment (App. 45a-48a), and deprived Petitioner of parental rights without constitutional safeguards, they violated substantive due process. This Court should grant certiorari to clarify that § 1983 claims challenging jurisdictional violations and due process deprivations in the context of interstate child removal classified as criminal on court transcripts present federal questions not barred by Rooker-Feldman or the domestic-relations exception.

CONCLUSION

This Court should grant certiorari under Supreme Court Rule 10. **First**, the Fourth Circuit's three contradictory IFP determinations on identical evidence within three months, denying IFP on June 4, granting IFP on June 23, then affirming denial on September 29, has so far departed from the accepted and usual course of judicial proceedings as to call for an exercise of this Court's supervisory power. Rule 10(a). **Second**, the Fourth Circuit decided an important federal question in a way that conflicts with this Court's decision in *M.L.B. v. S.L.J.* by applying *Dillard's* abuse-of-discretion review instead of heightened scrutiny when fundamental parental rights are at stake, affecting parents nationwide. Rule 10(a), (c). **Third**, whether IFP determinations must consider mandatory deductions, particularly involuntary wage garnishment under jurisdictionally void orders, is an important question of federal law that has not been, but should be, settled by this Court, affecting countless indigent litigants nationwide. Rule 10(c). This case presents three questions of exceptional importance to the federal judiciary and constitutional access to justice.

First, whether federal courts violate due process by making three contradictory IFP determinations on identical financial evidence, including bankruptcy discharge, within a single proceeding, and whether IFP poverty determinations must consider mandatory deductions, particularly involuntary wage garnishment under jurisdictionally void orders, that reduce income actually available to pay fees while providing necessities of life. **Second**, whether the Fourth Circuit erred by applying Dillard's abuse-of-discretion standard instead of *M.L.B. v. S.L.J.*'s heightened scrutiny when fundamental parental rights are at stake, and whether *M.L.B.*'s prohibition on wealth barriers extends to § 1983 claims challenging jurisdictionally void orders that functionally deprive parents of fundamental rights without due process. **Third**, whether state actors violate § 1983 when they exercise authority over an interstate child removal without subject-matter jurisdiction, after an appellate court orders a mandatory jurisdictional hearing that never occurs, and without constitutionally mandated procedural safeguards, creating federal questions not barred by Rooker-Feldman or the domestic-relations exception.

The Fourth Circuit's Three Contradictory Determinations

The Fourth Circuit made three different determinations regarding Petitioner's indigency within three months based on identical financial evidence: (1) June 4, 2025: Denied IFP (App. 15a); (2a-16) June 23, 2025: Granted IFP (App. 13a-14a); (3) September 29, 2025: Affirmed denial of IFP (App. 1a-5a). This triple contradiction, based on unchanged facts including bankruptcy discharge (App. 40a-44a), $125,000 in legal expenses, zero assets, two dependents, $1,843.81 in mandatory monthly deductions, and $22,585.72 in involuntary wage garnishment payments, violates law of the case, issue preclusion, fundamental fairness, and the prohibition on arbitrary

government action. The panel's acknowledgment that it "*might have exercised that discretion quite differently*" (App. 1a-5a) underscores the arbitrariness of the result.

National Importance and Others Similarly Situated

This case has national significance beyond Petitioner's individual circumstances. The question whether IFP determinations must account for mandatory deductions, including involuntary wage garnishment under jurisdictionally void orders, affects countless indigent litigants nationwide who face the same structural deficiency in IFP forms that count gross income without accounting for mandatory obligations. The question whether *M.L.B.* 's heightened scrutiny applies to functional deprivations of parental rights affects parents across all fifty states who challenge unconstitutional deprivations of custody through means other than formal termination. And the arbitrary application of IFP standards, exemplified by the Fourth Circuit's three contradictory determinations on identical evidence, undermines confidence in the federal judiciary's commitment to equal justice under law.

Timing and Conflict of Interest

Notably, Jerrauld C. "Jay" Jones, Jr., was elected Virginia Attorney General on November 4, 2025, after the Fourth Circuit's September 29 opinion but before the court denied rehearing en banc on December 23, 2025. The mandate issued December 31, 2025, seventeen days before Jones assumes office on January 17, 2026. As Attorney General, Jones will represent both his own mother, Judge Lyn Simmons (a named defendant sued individually and in her official capacity for the jurisdictional violations at issue), and the Commonwealth of Virginia. Despite this conflict becoming apparent before the rehearing decision, no judge requested a poll under Federal Rule of Appellate Procedure 40. Further, the Fourth Circuit denied a motion to recuse

Jerrauld C. "Jay" Jones from the case and to appoint special counsel to prevent him from accessing case records – both requests were denied on December 23, 2025.

The Fourth Circuit's Misapplication of M.L.B.

The Fourth Circuit's application of *Dillard's* abuse-of-discretion standard rather than *M.L.B.*'s heightened scrutiny represents a fundamental misreading of this Court's precedent when fundamental parental rights are at stake. *M.L.B.* establishes a categorical rule against wealth barriers, not a matter for judicial discretion.

IFP Denial as Evidence Concealment and Shield for Jurisdictional Fraud

The IFP denial does not merely impose a financial burden, it forecloses access to the discovery necessary to prove the jurisdictional violations and potential criminal conduct alleged in the § 1983 complaint. Petitioner alleges systematic concealment of evidence, including court transcripts, jurisdictional findings, child protective services records, and law enforcement investigative files.

Evidence of Concealment by Multiple New Jersey Agencies:

New Jersey's Division of Child Protection and Permanency confirmed it possesses records related to this case but refuses to release them absent "*a signed court order with proper protections.*" App. 51a. These DCPP records would establish: (1) Whether New Jersey conducted any investigation before assuming jurisdiction over a Virginia child on April 11, 2018; (2) Whether formal termination proceedings occurred (which Petitioner cannot confirm due to record concealment); (3) The factual basis, if any, for New Jersey's initial exercise of jurisdiction over J.A.O., who was born in Virginia and lived in Virginia. New Jersey's Division of Criminal

Justice responded to Petitioner's public records request by invoking law enforcement confidentiality, stating it "*can neither confirm nor deny the existence of records*" and citing the need to maintain confidentiality "*for records regarding a person who has not been arrested or charged.*" App. 49a. This Glomar-style response, the same response used for classified national security matters, suggests law enforcement investigative files exist concerning this case but are being shielded from disclosure. This supports Petitioner's allegation that this case involves an interstate child removal on the criminal track disguised as civil custody proceedings.

Both States Refuse Mandatory Home State Hearing to Shield Accountability

The concealment is particularly egregious because both New Jersey and Virginia refuse to hold the home state hearing explicitly ordered by the New Jersey Appellate Division on May 28, 2020. App. 17a-34a. The hearing would establish that: (1) Virginia was J.A.O.'s home state from birth (April 20, 2017); (2) New Jersey had no authority to issue orders on April 11, 2018; (3) All subsequent orders by both states are void; (4) The jurisdictional violations were foundational and deliberate, not technical errors. The systematic refusal to hold this hearing, now over five years after it was ordered, demonstrates coordinated efforts by both states to shield evidence of jurisdictional fraud and constitutional violations.

Federal Discovery Foreclosed by IFP Denial

Without discovery through the federal § 1983 action, Petitioner cannot compel production of documents establishing: (1) Whether New Jersey made any jurisdictional findings before assuming authority over a Virginia child on April 11, 2018; (2) Whether Virginia made UCCJEA findings before assuming jurisdiction in December 2022; (3) Why neither state has held the home state hearing ordered in May 2020; (4) What DCPP records exist regarding New Jersey's

involvement with a Virginia child; (5) What law enforcement investigative files exist (suggested by Glomar response); (6) Whether formal termination proceedings occurred without Petitioner's knowledge; (7) The factual and legal basis for orders compelling $22,585.72 in wage garnishment payments. The IFP denial thus perpetuates the very constitutional violations it prevents Petitioner from remedying. Petitioner is encapsulated - required to comply with void orders through involuntary wage garnishment, which reduces her income below the poverty threshold, which causes IFP denial, which forecloses discovery to prove the orders are void.

The Constitutional Double Bind

Moreover, Petitioner has paid $22,585.72 through involuntary wage garnishment pursuant to jurisdictionally void child support orders, including retroactive support for periods when Virginia lacked jurisdiction. App. 45a-48a. The same void orders mandate she provide health insurance for J.A.O., costing an additional $489.04 monthly. These mandatory obligations reduce her gross income to net disposable income $138.81 below her monthly expenses. Yet courts count this garnished income as available to pay fees. She is simultaneously required to comply with void orders and penalized for complying with them.

The Underlying Jurisdictional Fraud

The Fourth Circuit's contradictory IFP determinations denied Petitioner access to federal court to challenge systematic jurisdictional violations that began when New Jersey first exercised authority over a Virginia child: April 20, 2017: J.A.O. born in Virginia (Virginia becomes home state); April 11, 2018: New Jersey issues first custody orders without home state jurisdiction, without jurisdictional findings, without hearing, unauthorized assumption of authority over Virginia child less than one year old; May 28, 2020: New Jersey Appellate Division orders

mandatory home state hearing to determine proper jurisdiction; 2020-2025: Neither New Jersey nor Virginia holds the ordered hearing, deliberate refusal to establish jurisdictional facts that would expose both states' violations; December 2022: Virginia issues child support orders including retroactive support, still without holding mandatory home state hearing, without UCCJEA findings, $22,585.72 collected to date through involuntary wage garnishment; May 30, 2023: New Jersey DCPP confirms records exist but refuses release absent court order, shields evidence of involvement with Virginia child; January 19, 2023: New Jersey Division of Criminal Justice issues Glomar response, suggests law enforcement investigative files exist but are concealed. Both states' refusal to hold the mandatory home state hearing shields accountability for jurisdictional violations spanning seven years. The IFP denial forecloses federal discovery that would compel production of concealed records and establish the systematic nature of the constitutional violations.

The New Jersey Appellate Division's sanitization of the record in *Orr v. Johnson*, No. A-4212-18 (N.J. Super. Ct. App. Div. May 28, 2020), violated Petitioner's First and Fourteenth Amendment rights by creating a false narrative that is now weaponized to deny court access. The opinion entirely omitted Judge Sharifa Rashida Salaam's threat when Petitioner stated "*I am not leaving my son to that man*": "All right, well you may subject yourself to being arrested, but." (Emergency Hearing Transcript at 757:17-18) (App. 59a-135a). This judicial coercion, threatening arrest to compel a Virginia mother's submission to unauthorized jurisdiction, appears nowhere in the published decision, violating due process under the Fourteenth Amendment and obscuring the jurisdictional defects that render all subsequent orders void. More critically for First Amendment right to petition and Fourteenth Amendment equal protection in IFP access, the Appellate Division affirmatively misrepresented that Petitioner "*had all submissions well before*

the January 2019 hearing." Orr, slip op. at 18. This false statement has been directly cited in IFP denials to block Petitioner's court access. Federal courts rely on this language to deny discovery, reasoning that she received adequate process in state court and thus can afford litigation costs. In reality, Petitioner continues seeking basic court records to this day, records that have been systematically altered to conceal their true nature. The records Petitioner has been able to obtain reveal systematic alteration that directly implicates concealed child welfare agency involvement. Official transcripts for hearings on April 11, 2018, April 18, 2018, May 30, 2018, and September 5, 2018, the precise period when New Jersey initially asserted jurisdiction over a Virginia child, were originally labeled "Criminal Division, Family Part" on the cover page. (G&L Transcription Letter, Nov. 23, 2023, App.136a). When Petitioner discovered this designation and questioned it, the official transcription company, G&L Transcription of NJ, issued a letter dismissing the "Criminal Division" label as a "typographical error" and provided "corrected transcripts" now labeled "Chancery Division, Family Part." (Id.) This explanation is facially implausible and raises serious Fourteenth Amendment due process concerns. The transcription company certifies it "*received the transcript order and sound files directly from the Essex County Family transcript unit" and that "[t]his case has no relationship to any criminal case*." (Id.) Yet the alleged "*typographical error*" appeared on four consecutive hearing transcripts spanning five months, the exact period when DCPP involvement would have been most active and when jurisdictional determinations were being made. The "Criminal Division" designation strongly suggests these were child protection or dependency proceedings, not the private custody dispute they were later characterized as. When Petitioner raised this documented record alteration in federal proceedings, courts cited it as evidence her claims were frivolous or conspiratorial, justifying IFP denial. Yet the alteration is not speculative, it is confirmed by the official transcription company's

own letter. This creates an impossible First Amendment right-to-petition violation: Petitioner possesses documentary proof from the court's own transcription service that official records were altered during the jurisdictional period, yet raising this fact is treated as evidence her claims lack merit. The constitutional questions raised by the "Criminal Division" designation cannot be answered without court-ordered discovery, the very relief being denied through IFP rejection: (1) Was New Jersey DCPP involved from inception, treating this as a child protection matter rather than a custody dispute between parents?, (2) Were there parallel criminal, protective, or dependency proceedings that were later concealed through record alteration?, (3) If DCPP was involved, why were those proceedings never disclosed to Petitioner, violating her Fourteenth Amendment due process rights to notice?, (4) Why would four consecutive transcripts during the critical jurisdictional period bear the identical "*typographical error*"?, and (5) Why were DCPP records contemporaneously sealed and remain inaccessible if this was a straightforward private custody case? The very documents needed to prove Fourteenth Amendment due process violations, complete unaltered transcripts, proof of service (or lack thereof) on a Virginia citizen, DCPP records explaining the "Criminal Division" designation, agency correspondence, remain inaccessible without court-ordered discovery, which requires the IFP status being denied based on the Appellate Division's misrepresentation that Petitioner already "had all submissions." The opinion's dismissal of service defects violates fundamental Due Process Clause protections. While acknowledging Petitioner "*alleged she was not served with all the supporting papers*," the court dismissed this by stating she "addressed them" in writing. *Orr*, slip op. at 17-18. This reasoning treats Fourteenth Amendment jurisdictional requirements as waivable through coerced participation. Proper service on a Virginia citizen for New Jersey orders is a constitutional prerequisite under the Due Process Clause that cannot be satisfied by threatening arrest if the

parent doesn't participate. Yet the sanitized appellate opinion, omitting the arrest threat, falsely claiming complete records, and ignoring the "Criminal Division" alteration, is now cited as proof of procedural adequacy to deny IFP access. This creates a First Amendment right-to-petition violation through an impossible IFP barrier. First, federal courts deny IFP based on the Appellate Division's representation that state proceedings satisfied Fourteenth Amendment due process and that Petitioner "*had all submissions.*" Second, Petitioner cannot prove these due process violations without obtaining the complete unaltered records and DCPP files that would explain why transcripts were originally designated "Criminal Division." Third, when Petitioner presents documentary evidence of record alteration from the official transcription company, courts characterize this as frivolous conspiracy theory rather than the documented fact it is. Fourth, obtaining discovery to answer the questions raised by the "Criminal Division" designation requires court-ordered relief, which requires IFP status, the very relief being denied based on misrepresentations about record completeness and characterizations of documented alteration as frivolous. Fifth, this denial of IFP access violates equal protection under the Fourteenth Amendment as established in *M.L.B. v. S.L.J.*, 519 U.S. 102, 124 (1996), fundamental parental rights cannot be conditioned on ability to pay, yet Petitioner is being told she must either accept demonstrably altered official records or pay litigation costs to prove what the transcription company has already confirmed in writing. The appellate sanitization thus violates multiple constitutional guarantees: it conceals due process violations (Fourteenth Amendment) in the published opinion while simultaneously providing language that courts cite to deny the right to petition (First Amendment) and equal court access (Fourteenth Amendment Equal Protection). When an appellate court omits judicial threats of arrest, falsely represents that a litigant received complete records, fails to address documented systematic record alteration from "Criminal

Division" to "Chancery Division" during the jurisdictional period, and those misrepresentations are then used to deny in forma pauperis access to discover why records were altered and what they concealed, the result is a coordinated deprivation of First and Fourteenth Amendment rights that this Court recognized in *M.L.B.* as fundamental and non-waivable in parental rights cases. Under the First Amendment, Petitioner cannot be denied the right to petition for redress based on courts' refusal to credit documentary evidence from the official court transcription service. Under the Fourteenth Amendment Due Process Clause, she cannot be deprived of parental rights through proceedings whose records were systematically altered without explanation. Under the Fourteenth Amendment Equal Protection Clause, she cannot be denied court access to challenge these violations based on inability to pay when she possesses documentary proof that the violations occurred.

The Constitutional Crisis

This case distills a single question: Can poverty be used as a shield to protect unconstitutional government action from judicial review? The Fourth Circuit answered, yes. It made three contradictory determinations about Petitioner's poverty on identical evidence. It denied her access to federal court while her son remains separated from her by orders she cannot afford to challenge. It foreclosed discovery that would expose government evidence concealment by using that concealment to make her claims appear meritless. It counted involuntary payments under jurisdictionally void orders as "*income available*" to challenge those very orders. This Court has held that "*there can be no equal justice where the kind of trial a man gets depends on the amount of money he has.*" *Griffin v. Illinois*, 351 U.S. 12, 19 (1956). It has held that wealth barriers to fundamental parental rights receive heightened scrutiny. *M.L.B. v. S.L.J.*, 519 U.S. 102, 120

(1996). It has held that states cannot deny court access based solely on inability to pay when fundamental interests require judicial resolution. *Boddie v. Connecticut*, 401 U.S. 371, 374 (1971). Yet here, Petitioner, who obtained bankruptcy discharge, paid $22,585.72 under allegedly void orders, and has been granted IFP status by the very court that later affirmed its denial, is told her poverty is insufficient to access federal courts. Seven years into seeking accountability for what she alleges is an interstate child removal accomplished through jurisdictional fraud, Petitioner faces a stark reality: constitutional rights exist on paper but disappear in practice when courts treat poverty as a discretionary barrier rather than an objective fact. If this case does not warrant certiorari review, then *Griffin's* promise of equal justice is hollow, *M.L.B.*'s protection of parental rights is illusory, and *Boddie's* guarantee of court access is conditional on judicial impulse. The intersection of IFP denials with jurisdictionally void orders creates a constitutional crisis that violates *Jones v. Flowers*, 547 U.S. 220 (2006), and *M.L.B. v. S.L.J.*, 519 U.S. 102 (1996). This Court held in *M.L.B.* that access to challenge parental rights determinations cannot be conditioned on ability to pay. Id. at 124 ("In proceedings to terminate parental rights, the State cannot bolster its case by pointing to the abject poverty of the targeted parent"). Yet Petitioner faces an impossible barrier: courts deny her IFP status because orders requiring payment exist, but those orders are void for lack of subject matter jurisdiction, the very issue she seeks to litigate. Jones requires meaningful opportunity to be heard before deprivation of fundamental rights. 547 U.S. at 226-27. Instead, Petitioner has been forced to pay $22,585.72 under allegedly void orders while being denied access to challenge their validity without payment. This inverts due process: void orders cannot create enforceable payment obligations, yet those same void orders are cited as proof Petitioner can afford court access. When fundamental parental rights are at stake, this stalemate pay under void orders to prove they're void, violates the bedrock

principle that "*choices about... the upbringing of children*" cannot be conditioned on financial capacity. *M.L.B.*, 519 U.S. at 116.

The petition for a writ of certiorari should be **granted**.

Respectfully submitted,

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Dated: January 7, 2026

CERTIFICATE OF SERVICE

I, Naquea Elaine Johnson, hereby certify that on January 7, 2026, I served true and correct copies of the Petition for Writ of Certiorari, Motion to Expedite Consideration, Application to Proceed In Forma Pauperis, and Appendix by depositing them in the United States mail, first-class postage prepaid, addressed to the following:

NOTE: The underlying case was dismissed at the pleading stage when the district court denied Petitioner's application to proceed in forma pauperis. No defendants were served with process in the district court action, and no parties appeared in opposition to Petitioner's IFP application or appeal. Service is being made on the sovereign entities with institutional interests in this litigation and on the primary individual parties central to the underlying dispute, in accordance with Supreme Court Rule 29.

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I declare under penalty of perjury under the laws of the United States that the foregoing is true and correct.

Executed on January 7, 2026.

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