

25-6792

ORIGINAL

In the Supreme Court of the United States

DANIEL SMALLS,

Petitioner,

v.

SOUTH CAROLINA DEPARTMENT OF SOCIAL SERVICES

and TARA PARKER,

Respondents.

On Petition for a Writ of Certiorari

to the Supreme Court of South Carolina

PETITION FOR WRIT OF CERTIORARI

Daniel Smalls

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Petitioner, pro se

QUESTIONS PRESENTED

1. Whether the Fourteenth Amendment's Due Process Clause permits a state court to assert jurisdiction and impose child support obligations on a nonresident absent personal service of process.
2. Whether due process is violated when a state court lacking jurisdiction establishes paternity and imposes lifelong parental obligations based solely on uncorroborated testimony and an adverse inference from refusal to submit to DNA testing, in conflict with other state courts requiring competent evidence of parentage.
3. Whether removal of a litigant from the courtroom while raising jurisdictional objections violates the constitutional right to be heard and constitutes structural error requiring reversal.

TABLE OF CONTENTS

Table of Authorities	ii
Questions Presented	iii
Parties to the Proceeding	1
Opinions Below	1
Jurisdiction	1
Constitutional and Statutory Provisions Involved	1
Statement of the Case	1
Reasons for Granting the Writ	2
I. The South Carolina Courts Exercised Jurisdiction Without Valid Service, Violating Due Process	2
II. Paternity Was Imposed Without Competent Evidence, Contrary to Federal Due Process Standards	3
III. Refusal to Submit to DNA Testing Cannot Substitute for Affirmative Proof of Paternity	4
IV. Removal of Petitioner From Court During Jurisdictional Objections Constituted Structural Error	4
V. This Case Presents Recurring Federal Questions of Exceptional Importance	5
Conclusion	6
Appendix	A-1
Appendix	B-1
Appendix	C-1
Appendix	D-1
Appendix	E-1

TABLE OF AUTHORITIES

Cases

Arizona v. Fulminante, 499 U.S. 279 (1991)	5
Ex parte Jenkins, 723 So. 2d 649 (Ala. 1998)	3
Illinois v. Allen, 397 U.S. 337 (1970)	5
Little v. Little, 290 S.C. 405, 351 S.E.2d 846 (Ct. App. 1986)	5
Mullane v. Central Hanover Bank & Trust Co., 339 U.S. 306 (1950)	2
Reeves v. Ross, 396 S.C. 639, 723 S.E.2d 679 (2012)	3
Roche v. Young Bros., Inc., 318 S.C. 207, 456 S.E.2d 897 (1995)	3
Santosky v. Kramer, 455 U.S. 745 (1982)	3
Stanley v. Illinois, 405 U.S. 645 (1972)	3, 5
Troxel v. Granville, 530 U.S. 57 (2000)	5

Statutes and Rules

28 U.S.C. § 1257(a)	1
South Carolina Code Ann. § 63-17-20(A)	1
South Carolina Code Ann. § 63-17-330 et seq. (UIFSA)	1
South Carolina Rules of Civil Procedure, Rule 4(d)	2
Supreme Court Rule 13	
South Carolina Appellate Court Rules 221.....	1

Constitutional Provisions

U.S. Const. amend. XIV, § 1 (Due Process Clause)	2
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PARTIES TO THE PROCEEDING

Petitioner is Daniel Smalls.

Respondents are the South Carolina Department of Social Services and Tara Parker.

OPINIONS BELOW

- The decision of the South Carolina Court of Appeals entered on May 14, 2025 is unpublished but appears at [cite; Appendix A].
- Order of the South Carolina Court of Appeals Denying Rehearing entered on May 30, 2025 [cite; Appendix B]
- Order of the South Carolina Supreme Court denying certiorari entered August 13, 2025 is unpublished [cite; Appendix C].
- The Clerk's letter dated August 25, 2025, refusing rehearing, is attached as [cite; Appendix D].

JURISDICTION

The judgment of the South Carolina Court of Appeals was entered on May 14, 2025.

A petition for rehearing was denied on May 30, 2025. The South Carolina Supreme Court denied certiorari on August 13, 2025. The Clerk of the South Carolina Supreme Court issued a letter dated August 25, 2025, refusing to accept a petition for rehearing under Rule 221, SCACR.

This Court has jurisdiction under 28 U.S.C. § 1257(a). This Petition is filed within 90 days of the South Carolina Supreme Court's denial of certiorari, as required by Supreme Court Rule 13.

CONSTITUTIONAL AND STATUTORY PROVISIONS INVOLVED

- U.S. Const. amend. XIV, § 1 (Due Process Clause): "No State shall ... deprive any person of life, liberty, or property, without due process of law ..."
- South Carolina Code Ann. §§ 63-17-20(A), 63-17-330 et seq. (UIFSA).
- South Carolina Rules of Civil Procedure, Rule 4(d).

STATEMENT OF THE CASE

This case arises from a paternity and child support proceeding initiated by the South

Carolina Department of Social Services (“DSS”) against Petitioner.

- 1. Lack of Service.** Petitioner was never personally served. Instead, service was attempted on an unrelated adult daughter. Under South Carolina and federal law, such service is void and fails to establish personal jurisdiction.
- 2. No Established Paternity.** DSS admitted on the record that “paternity has not been established.” The child was born after Petitioner’s divorce, and no acknowledgment or judicial determination of paternity exists.
- 3. Reliance Solely on Mother’s Testimony.** The only evidence offered was the uncorroborated testimony of the mother. No documentary, forensic, or scientific evidence supported the claim.
- 4. DNA Refusal Misused as Proof. Petitioner declined to submit to DNA testing.** The Family Court misapprehended this refusal as proof of paternity, shifting the burden to Petitioner rather than requiring the State to prove its case.
- 5. Removal From Court.** While raising jurisdictional objections, Petitioner was ordered removed from the courtroom, depriving him of the right to be present at his own hearing. Despite these constitutional defects, the Family Court imposed child support. The Court of Appeals affirmed, and the South Carolina Supreme Court denied certiorari. The Clerk subsequently refused to accept a petition for rehearing under Rule 221, SCACR. Petitioner now seeks review by this Court.

REASONS FOR GRANTING THE WRIT

- I. The South Carolina Courts Exercised Jurisdiction Without Valid Service, Violating Due Process**

The Due Process Clause requires proper service of process before a state court may assert jurisdiction over an individual. *Mullane v. Central Hanover Bank & Trust Co.*, 339 U.S. 306, 314 (1950).

Notice must be “reasonably calculated, under all the circumstances, to apprise interested parties of the pendency of the action.” Id. Petitioner was never personally served. Instead, service was attempted on an unrelated adult daughter.

South Carolina’s own courts recognize such service as void. *Reeves v. Ross*, 396 S.C. 639, 723 S.E.2d 679 (2012); *Roche v. Young Bros.*, 318 S.C. 207, 456 S.E.2d 897 (1995). A judgment rendered without valid service is void ab initio. By affirming jurisdiction in the absence of proper service, the South Carolina courts denied Petitioner fundamental due process guaranteed by the Fourteenth Amendment.

II. Paternity Was Imposed Without Competent Evidence, Contrary to Federal Due Process Standards

DSS admitted on the record: “Paternity has not been established.” No adjudication or acknowledgement exists. The sole “evidence” was the uncorroborated testimony of the mother.

This Court has long held that due process requires proof by competent evidence before parental obligations may be imposed. *Stanley v. Illinois*, 405 U.S. 645, 658 (1972) (state may not presume parental unfitness without proof). *Santosky v. Kramer*, 455 U.S. 745, 753 (1982) (parental status requires “fundamentally fair procedures”).

Other jurisdictions reject treating refusal of genetic testing as conclusive proof of paternity. See *Ex parte Jenkins*, 723 So. 2d 649 (Ala. 1998). South Carolina’s contrary approach places it in conflict with other states, creating

disuniformity under UIFSA and raising a federal question of national significance.

III. Refusal to Submit to DNA Testing Cannot Substitute for Affirmative Proof of Paternity.

Petitioner expressly declined to consent to DNA testing. The South Carolina courts misapprehended this refusal as evidence of paternity. But declining to participate in compelled genetic testing cannot constitutionally be treated as conclusive proof of parentage.

This Court has consistently rejected burden-shifting presumptions that penalize an individual for asserting rights. *Stanley v. Illinois*, 405 U.S. at 657–58. Refusal to submit to testing may, at most, permit an adverse inference; it cannot replace the State’s burden to prove paternity by competent evidence.

South Carolina precedent also holds that paternity must be proven by competent evidence, not presumption or inference. In *Little v. Little*, 290 S.C. 405, 351 S.E.2d 846 (Ct. App. 1986), the court reversed a paternity finding where no corroborating evidence supported the mother’s claim. The decision confirms that due process requires competent proof of parentage, which was wholly absent here.

IV. Removal of Petitioner From Court During Jurisdictional Objections Constituted Structural Error

The transcript records that Petitioner was removed from the courtroom while raising jurisdictional objections. This violated the constitutional right to be present at one’s own hearing. Removal is permissible only upon necessity

and after consideration of less restrictive alternatives. *Illinois v. Allen*, 397 U.S. 337, 343 (1970).

Here, Petitioner was expelled for asserting jurisdictional defenses, not for disorder. Such a removal is a structural due process violation that undermines the integrity of the proceeding. Structural errors are never harmless. *Arizona v. Fulminante*, 499 U.S. 279, 310 (1991)

V. This Case Presents Recurring Federal Questions of Exceptional Importance

The issues raised are not isolated. Across the nation, child support agencies increasingly pursue nonresidents under UIFSA. The constitutional safeguards at stake—valid service, proof of paternity, evidentiary standards, and the right to be heard—are of pressing federal concern.

If uncorrected, the South Carolina precedent authorizes states to impose lifelong parental obligations on nonresidents:

- without personal service,
- without adjudicated paternity,
- based solely on hearsay testimony, and
- while silencing jurisdictional objections through removal.

These practices conflict with established due process jurisprudence and threaten constitutional limits and ensure that parental obligations are imposed only through procedures consistent with the Fourteenth Amendment.

This Court has repeatedly recognized that the right of parents in the care, custody, and control of their children is a fundamental liberty interest. *Troxel v. Granville*, 530 U.S. 57, 65 (2000). By adjudicating paternity without competent

evidence or jurisdiction, the South Carolina courts disregarded this fundamental constitutional protection.

CONCLUSION

For the foregoing reasons, the Petition for a Writ of Certiorari should be granted.
Respectfully submitted this 6th day of October, 2025.

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By: 

i: a lawful freeman known to use the name Daniel: Smalls In
the Interest of:

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