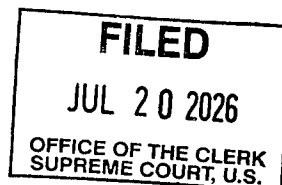


26-5377

No. _____



IN THE
SUPREME COURT OF THE UNITED STATES

ORIGINAL

KEVIN AJENIFUJA,

Petitioner,

v.

ANITA KOEPCKE,

Respondent.

ON PETITION FOR A WRIT OF CERTIORARI TO
THE DISTRICT OF COLUMBIA COURT OF APPEALS

PETITION FOR A WRIT OF CERTIORARI

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QUESTIONS PRESENTED

1. Whether a trial court's unconsented, private (in camera) interview of a minor child in a custody case violates a parent's Fourteenth Amendment Due Process rights.
2. Whether limiting a fit parent to four one-hour, virtually supervised visits per year constitutes a mere restriction or a deprivation of the parent-child relationship, amounting to a de facto termination of parental rights without due process of law.
3. Does disregarding a noncustodial parent's allegation of child neglect, while accepting the custodial parent's claim that the minor children do not desire frequent visits with their father, inescapably contradict the Equal Protection Clause as interpreted in *F.S. Royster Guano Co. v. Virginia*?

PARTIES TO THE PROCEEDING

This petition arises from the District of Columbia Court of Appeals.

Petitioner is Kevin Adebayo Ajenifuja, a citizen of the United States and a resident of the District of Columbia.

Respondent is Anita Ursel Koepcke (formerly Anita Ursel Ajenifuja), a citizen of the United States and a resident of Maryland.

RELATED PROCEEDINGS

District of Columbia Superior Court:

Anita Ajenifuja v. Kevin Ajenifuja, No. 2016-DRB-003509 (Dec. 30, 2024).

District of Columbia Court of Appeals:

Kevin Ajenifuja v. Anita Koepcke, No.25-FM-0049, MOJs (May 4, 2026).

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PETITION FOR A WRIT OF CERTIORARI

Petitioner Kevin Ajenifuja respectfully petitions for a writ of certiorari to review the mandate and judgment of the District of Columbia Court of Appeals.

OPINIONS BELOW

The relevant order of the District of Columbia Superior Court is unpublished but is attached as Exhibit A. The opinion of the District of Columbia Court of Appeals in *Ajenifuja v. Koepcke*, No. 25-FM-0049, MOJs (D.C. May 4, 2026), is available at the D.C. Appeals Appellate E-Filing Portal, and is attached as Exhibit B.

JURISDICTION

The judgment of the District of Columbia Court of Appeals was entered on May 4, 2026. This Court has jurisdiction under 28 U.S.C § 2101(c).

CONSTITUTIONAL AND STATUTORY PROVISIONS INVOLVED

The Fifth Amendment to the United States Constitution states that:

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

The Fourteenth Amendment to the United States Constitution states that:

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

STATEMENT OF THE CASE

A. Legal Background

The Fifth Amendment prohibits deprivation of life, liberty, or property, without due process of law. U.S. Const. amend. V.

1. This Court established that, "fundamental liberty interests" include "the right to marry, to have children, to direct the education and upbringing of one's children, to marital privacy, and to bodily integrity." *Washington v. Glucksberg*, 521 U.S. 702 (1997). "Among the most important of the liberties accorded this special treatment is the freedom of a parent and child to maintain, cultivate, and mold their ongoing relationship." *Quilloin v. Walcott*, 434 U.S. 246 (1978).

2. Since 1969, various state courts have established a due process rule mandating that a minor child not be privately interviewed by the court without the consent of counsel and the involved parties.

We are aware that the practice exists among certain trial courts to conduct private conversations with minors in chambers with the consent of opposing counsel. In the absence of waiver or consent, however, the private interview by the trial court cannot be condoned. To sanction such a procedure would fly squarely in the face of the constitutional right of litigants to a public trial. Nothing in American law allows "private" trials. That custom went out with the abolishment of the Star Chamber, and the right to a public trial was one of the rights wrested from the British Crown and included in our Bill of Rights which remains the fundamental law of our land. The

fundamental principle is that the decision of a court must be based on evidence produced in open court lest the guaranty of due process be infringed. *Ex Parte Berryhill*, 410 So.2d 416 (Ala. 1982).

3. In *Stanley v. Illinois*, 405 U.S. 645 (1972), this Court held that under the Due Process Clause of the Fourteenth Amendment, petitioner was entitled to a hearing on his fitness as a parent before his children were taken from him. Pp. 405 U. S. 647-658. Additionally, in *Santosky v. Kramer*, 455 U.S. 745 (1982), the Court said that before the state can permanently terminate a parent's rights, it must prove neglect or unfitness by "clear and convincing evidence"—a higher standard than the "preponderance of the evidence" used in standard civil cases.

4. Finally, under the establish precedent promulgated by this Court, state court actions are state actions subject to Fourteenth Amendment scrutiny. "Appellant framed his complaint in terms of the denial of equal protection to "fathers"; we expand his complaint to encompass the equal protection of all noncustodial parents who owe a duty of support to a child." *Palmore v. Sidoti*, 466 U.S. 429 (1984).

B. Proceedings Below

On September 16, 2016, the respondent, a Caucasian woman of German descent, filed a Complaint for Legal Separation at the D.C. Superior Court. The respondent made a one-statement allegation that Mr. Ajenifuja, a Black man of Nigerian descent, should be evaluated for mental health. In his counterclaim, Mr. Ajenifuja asserted that "...certain behaviors recently exhibited by Mrs. Ajenifuja and allegations she made in her Complaint may warrant an independent psychological evaluation of her/or custody evaluation to determine a time-sharing schedule that is in their children's best interest." Mr. Ajenifuja later supported his assertions with over thirty pages of documented evidence of the respondent's drug

use and consultation with psychiatrists. The trial court denied Mr. Ajenifuja's request for a mental health evaluation and drug testing for the respondent, despite the compelling evidence he presented, which was in accordance with the requirements outlined in *Schlagenhauf v. Holder*.

Following the appointment of Zoe Sajor and Lolita Youmans as guardians ad litem ("GAL"), Mr. Ajenifuja notified them, the court-appointed psychologists, and the court that the parties' first child experienced psychological abuse during first and second grades at the German School in Potomac, Maryland. Mr. Ajenifuja substantiated these claims with psychological evaluation and speech-language reports from the District of Columbia Public Schools ("DCPS") concerning the child. Rather than investigating these allegations, as mandated by D.C. Code § 4-1321.02, which requires investigation of credible child abuse reports made to a District of Columbia agency or official, Ms. Sajor and Ms. Youmans filed a motion to compel Mr. Ajenifuja to undergo a mental health evaluation. The trial court granted this motion without the evidentiary support required under *Schlagenhauf v. Holder*.

Mr. Ajenifuja appealed the evaluation order; however, the D.C. Court of Appeals determined that the order was non-final and therefore not subject to appeal. Consequently, Mr. Ajenifuja complied and underwent a mental health examination administered by Dr. Seth King, a clinical psychologist with the District of Columbia Department of Behavioral Health ("DBH"). Dr. King refused to release the Minnesota Multiphasic Personality Inventory assessment ("MMPI-2-RF") results, asserting that the results were "too good to be true." During the trial, Dr.

King substituted objective assessment results with personal opinions, which prevented Mr. Ajenifuja from presenting critical evidence to challenge Dr. King's assertions. This conduct constituted an additional violation of due process.

On July 2, 2018, the trial court issued a Permanent Custody Order ("PCO") which awarded sole legal and physical custody of the parties' three minor children to the respondent predominately based on Dr. King's testimonies. Mr. Ajenifuja was allowed visitation on Sundays from 1 to 4:30 p.m., including taking the two young children to school every morning and going to the school aftercare program to review the children's homework and tutor them when needed. The arrangements were functioning smoothly without any issues until the respondent suddenly stopped complying on November 19, 2019.¹

Mr. Ajenifuja filed two motions for contempt of court order after exploring non-adversarial solutions for three years. Instead of enforcing the PCO, Judge Laura Crane modified it and subjected Mr. Ajenifuja to biweekly virtually supervised visits. After one such visit on April 10, 2024, Mr. Ajenifuja received an email from the court that "The other party doesn't want to schedule any further visits until after your court hearing on May 16th." The respondent once again made

¹ Mr. Ajenifuja alleged that the respondent's change in behavior was a result of his complaint about the theft of trade secrets, which he filed with the United States District Court for the District of Columbia on August 2, 2019. Mr. Ajenifuja had discovered that, on August 4, 2014, the respondent had been coerced into providing his trade secrets to specific individuals at the Columbia Heights Community Center in Washington, D.C.

an unfounded allegation that the children only wanted to talk to Mr. Ajenifuja once a month. Mr. Ajenifuja disputed such a claim and asked Judge Crane to summon the parties' middle child as a witness. Unfortunately, Judge Crane conducted a private (in camera) interview of the parties' middle child without the consent of or waiver from the pro se Mr. Ajenifuja, a controversial violation of due process.²

Mr. Ajenifuja did not consent to his minor child being interviewed by the court without his presence or the opportunity to cross-examine her testimony in an open court. Despite this, on June 15, 2024, when Judge Crane insisted on proceeding with the interview without the parties in attendance, Mr. Ajenifuja took proactive steps. He submitted clear instructions and pertinent questions to the trial court for the child's WebEx testimony, in accordance with Judge Crane's request.

Specifically, Mr. Ajenifuja said:

The court should record [EAA's] WebEx testimony as allowed by the District of Columbia laws. A recorded WebEx testimony will preserve her testimony, ensuring its accuracy and reliability for future legal proceedings. A transcript of her testimony alone will not be sufficient for an appellate review if needed. It would be paramount for someone to see her demeanor and attitude during the testimony to

² When Hallie Wells Middle School relocated Mr. Ajenifuja's son's eighth-grade graduation ceremony, scheduled for June 12, 2024, from Clarksburg High School to another high school, Judge Laura Crane made an unprecedented decision. She issued a sua sponte order that banned Mr. Ajenifuja from attending his son's graduation without any stated reason, which constitutes a violation of due process.

assess whether she answered questions asked of her freely or under duress.³

Subsequently, on December 30, 2024, Judge Crane issued a modification order that subjected Mr. Ajenifuja to four one-hour virtually supervised visits yearly, without any possibility of having physical contact with the parties' children.

Mr. Ajenifuja appealed the deprivative modification order on the grounds that it violated his due process and equal protection rights and amounted to a de facto termination of his parental rights without due process.⁴ On May 4, 2026, the D.C. Court of Appeals, with its mandate, affirmed the trial court's judgment.

REASONS FOR GRANTING CERTIORARI

Among the reasons this Court grants writs of certiorari is that different state supreme courts interpret the same federal law or constitutional provision in

³ Mr. Ajenifuja's instructions clearly indicate his reluctance about Judge Crane interviewing his minor child without his presence. A clear indication that Mr. Ajenifuja did not consent to Judge Laura Crane interview. Furthermore, the fairness of the appellate process depends on accurate transcripts of trial court proceedings. The integrity of the judicial system is compromised when someone alters the transcripts to fit their judgment.

⁴ Mr. Ajenifuja also has a First and Fourteenth Amendment violations case pending before the Federal Fourth Circuit, case number 25-1953. The parties' children's high school, Clarksburg High School, banned Mr. Ajenifuja from setting foot on the school grounds without due process. Unlike other school parents, the school administrator denied Mr. Ajenifuja online access to the ongoing academic performance records of the parties' children. All part of coordinated attempts to cut off Mr. Ajenifuja from his children.

conflicting ways. In matters of federal law and the U.S. Constitution, the Supremacy Clause gives the federal judiciary final, binding authority to review state rulings and maintain a uniform interpretation of the Constitution. *Martin v. Hunter's Lessee*, 14 U.S. 304 (1816).

I. There is an Intractable and Acknowledged Horizontal Split

There is a growing and entrenched conflict among state appellate courts (currently close to 5-15) regarding whether a private in-camera or chamber interview of a minor child in a child custody case—conducted without the consent or a formal waiver from counsel and the parties involved—violates due process. Additionally, there is an increasing divergence of state appellate courts' opinions over what constitutes a de facto termination of parental rights without due process. These conflicts, which often arise in family court procedures, warrant immediate review by this Court. The petitioner's case provides an ideal opportunity to address these two significant and frequently recurring constitutional issues.

II. This Case is an Excellent Vehicle for Resolving the Questions Presented.

The procedural posture and factual setting of this case make it perfect for resolving the questions presented. The questions presented were pressed and passed upon by the District of Columbia Court of Appeals, effectively permitting the District of Columbia Superior Court to continue to conduct in-camera interview without the consent of counsel or parties and without preserving the video interview for appellate review.

More than four state appellate courts, including the Supreme Courts of Alabama, Oklahoma, and Wyoming, have ruled that private interviews with minor children cannot take place without the consent or formal waiver from either the parties involved or their legal counsel. In each of these jurisdictions, the courts would have suppressed or denied the use of Mr. Ajenifuja's minor child's in-camera interview as evidence.

On the right side of the debate are the pro-due-process-centric state supreme courts that entirely ban the practice of in-camera or private interviews with a minor without obtaining consent or a formal waiver from counsel and the parties involved, as in *Ex Parte Berryhill*, 410 So.2d 416 (Ala. 1982). Centrist appellate courts support the practice but require that the transcripts of video interviews be provided to the involved parties and counsel after the interview, as established in *Lavene v. Lavene*, 148 N.J. Super. 267 (App. Div. 1977), certif. denied, 75 N.J. 28 (1977). On the left side are child-centric appellate courts that sanction the practice because the welfare and the interests of the children are paramount, so long as the in-camera interview is recorded and sealed for appellate review, like in the *Matter of Lincoln v. Lincoln*, 24 N.Y.2d 270 (1969).

The May 4, 2026 mandate issued by the D.C. Court of Appeals adopts an atypical approach by permitting private interviews of minors without obtaining consent or a waiver from the parties involved or their counsel. Furthermore, the mandate does not require preservation of in-camera interviews for appellate review, as illustrated in *Ajenifuja v. Koepcke*. This significant divergence in judicial

practice underscores the need for authoritative guidance from the Court, given that thousands of minor children are subjected to this procedure. The present case offers the Court a critical opportunity to resolve these issues.

With regard to the second question before the Court, the Supreme Court of Alaska, in *D.H. v. State*, established a benchmark for evaluating the de facto termination of parental rights without due process. In a subsequent decision, however, the court determined that weekly one-hour supervised visits do not necessarily constitute a de facto termination of parental rights. This development prompts further inquiry into whether four one-hour, virtually supervised visits per year for a fit father residing thirty-five miles away, with no authorization for physical contact or communication with his minor children outside these virtual visits, effectively result in a termination of parental rights without due process. Notably, the Supreme Court of Alaska's decision in *J.F.E. v. J.A.S.* was predicated on regular in-person supervised visits, rather than a limited number of virtually supervised visits that preclude physical contact with the minor child.

The D.C. Court of Appeals' ruling indicates that four one-hour, virtually supervised visits per year do not amount to a de facto termination of parental rights, even though incarcerated individuals get more than four virtual visits per year. *D.R.C. v. J.A.Z.*, 31 A.3d 677 (Pa. 2011).

III. This Case Presents a Frequently Recurring Issue of National Importance.

This Court has consistently granted certiorari to address disputes concerning due process, and this petition presents a timely opportunity for similar intervention.

Mr. Ajenifuja emphasizes the urgent need for the Court to provide clear guidance, contending that failure to do so may result in thousands of children experiencing profound disappointment in the judicial system. Moreover, the absence of definitive direction could cause enduring mental or physical harm with lifelong consequences. Prompt and decisive action by the Court is necessary to safeguard these vulnerable individuals.

Furthermore, any state-imposed visitation strategy that permanently isolates a child from a parent constitutes a deprivation of the liberty interest recognized in *Santosky*. "When the State moves to destroy weakened familial bonds, it must provide the parents with fundamentally fair procedures." *Santosky v. Kramer*, 455 U.S. 745 (1982). The lower court's decision represents an abuse of state power by severing, rather than strengthening, Mr. Ajenifuja's family ties. According to the bonding theory of joint custody, when both parents maintain shared access to the child, they are more likely to remain emotionally involved in the child's life.

IV. The Decision Below Violated Due Process and Equal Protection Clauses.

A. Private Interview of a Minor Child, Without Consent from the Parties or a Formal Waiver, Violates Constitutional Due Process.

In a custody or visitation dispute, the question of the propriety of a private interview between trial court and minor child conducted without the consent of both parties has yielded a range of appellate responses. For those courts which have approved the practice, the conditions under which such an interview should be conducted and preserved for the record have varied considerably.

i. Due Process-Centric Views

The Supreme Court of Alabama granted Certiorari to determine, among other issues, whether or not the Court of Civil Appeals had applied the correct standards of law in a factually similar child custody case. The court cited *Cook v. Cook*, 169 S.E.2d 29 (N.C. Ct. App. 1969) directly as persuasive authority in the text of *Ex Parte Berryhill* itself.

We are aware that the practice exists among certain trial courts to conduct private conversations with minors in chambers with the consent of opposing counsel. In the absence of waiver or consent, however, the private interview by the trial court cannot be condoned. To sanction such a procedure would fly squarely in the face of the constitutional right of litigants to a public trial. Nothing in American law allows "private" trials. That custom went out with the abolishment of the Star Chamber, and the right to a public trial was one of the rights wrested from the British Crown and included in our Bill of Rights which remains the fundamental law of our land. The fundamental principle is that the decision of a court must be based on evidence produced in open court lest the guaranty of due process be infringed. *Ex Parte Berryhill*, 410 So.2d 416, 418 (Ala. 1982).

The Supreme Court of Oklahoma arrived at a similar conclusion and further stressed the importance of maintaining fundamental due process in child custody proceedings. Judge Yvonne Kauger stated that:

In determining whether to interview a child without the parents or counsel present and over one of the parent's objection, the trial court must begin with two long-held principles in our law. The first is that court judgments and verdicts are based upon evidence presented in open court with all due process rights guaranteed. This principle of trial in an open court warns against private, secret, or confidential court proceedings. The second is that a parent has basic fundamental due process rights that include the right to be informed of the evidence used by the judge in deciding the contested issues in a case. A parent has a basic right to respond to any evidence that may be adverse to the parent's position. Any variance from these long-standing principles

must not be lightly undertaken. *Ynclan v. Woodward*, 237 P.3d 145 (Okla. 2010).

The Supreme Court of Wyoming ruled that an interview of a minor child not held in open court, in the presence of the parents, is contrary to the basic concepts of an adversarial system, with several implications for due process. The Wyoming Court noted that when a judge interviews a child in private without the consent of a parent, the parent is deprived of due process inasmuch as he or she is unable to hear evidence and is not given an opportunity to explain or rebut statements made by the child.

The Wyoming Court also noted several due process implications which arise in custody litigation such as the parent's right to associate with and rear his or her child [a/k/a a "liberty interest" protected by the Fifth and Fourteenth Amendment to the Constitution of the United States], or to enjoy their children's companionship, and to direct upbringing. When an in camera interview is proposed, other implications also arise such as the right to be apprised of all the evidence upon which an issue is to be decided and the right to examine, explain or rebut such evidence including the right to hear or cross-examine witnesses. *KES v. CAT*, 107 P.3d 779, 785 (Wyo. 2005).

In the landmark custody case, *Gennarini v. Gennarini*, initially filed with the Connecticut Supreme Court but was later transferred to the Connecticut Appellate Court, where it was ultimately decided, the appellate court focused on the trial court's decision to interview a seven-year-old child in chambers without the presence of either parent or their attorneys, despite the father's objections. The Connecticut Appellate Court ruled that

In a custody case, when a parent objects to a private interview between the child and the judge, due process implications arise. *Gennarini v. Gennarini*, 2 Conn. App. 132, 477 A.2d 674 (1984). We find ourselves in accord with those courts which have prohibited such a

practice. We conclude that in the absence of the consent of the parties to such a procedure, it is a violation of due process of law for the trial court to interview a minor child in the absence of the parties and their counsel. *Id.*

The Connecticut Appeal Court based its analysis on the guidelines provided by the Connecticut Supreme Court.

We must begin our inquiry, therefore, with the basic proposition, articulated by our Supreme Court in a closely related context, that in deciding on custody and visitation a court must "exercise [its] authority in a manner consistent with the due process requirements of fair notice and reasonable opportunity to be heard. Without a hearing, a trial court may not adjudicate a question of such vital importance to the parties, and one so inherently fact-bound in its resolution. Before a parent is permanently deprived of legal custody, or any change is made therein, the usual and ordinary procedures of a proper and orderly hearing must be observed." *Strohmeyer v. Strohmeyer*, 183 Conn. 353, 356, 439 A.2d 367 (1981).

ii. Child-Centric Views

In the New York Court of Appeal's seminal case, *Matter of Lincoln v. Lincoln*, the court rejected the argument that private interviews without counsel constitute a deprivation of a litigant's fundamental rights, prioritizing the child's welfare over a strict adversarial process. The highest court in the state of New York approved the procedure of interviewing the child, in the absence of its parents or their counsel to ascertain the child's wishes. The court held that in a custody proceeding, the first concern of the court is the welfare and the interests of the children. Their interests are paramount. The rights of their parents must yield to that superior demand.

The trial court here concluded that the only method by which it might avoid placing an unjustifiable emotional burden on the three children and, at the same time, enable them to speak freely and candidly concerning their preferences was to assure them that their confidences would be respected. This could only be done in the absence

of counsel, and we see no error or abuse of discretion in the procedure followed by the trial court. *Matter of Lincoln v. Lincoln* 24 N.Y.2d 270 (1969).

Here, the New York Court of Appeal recognized that there were "grave risks" in these interviews and cautioned trial courts to not use any information, which has not been previously mentioned and is adverse to either parent, without in some way checking on its accuracy during the open hearing.

In approving the procedure followed by the trial court here, we do not gainsay that there are grave risks involved in these private interviews. A child whose home is or has been torn apart is subjected to emotional stresses that may produce completely distorted images of its parents and its situation. Also its feelings may be transient indeed, and the reasons for its preferences may indicate that no weight should be given the child's choice. Without a full background on the family and the child, these interviews can lead the most conscientious Judge astray. *Id.*

On May 21, 1985, the state of New York passed the Family Court Act § 664, which prohibits judges from conducting in camera (private) interviews with minors in any custody or visitation proceeding unless a stenographic record is made. If an appeal is filed, this stenographic record must be made part of the official appellate record and forwarded to the appellate division under seal.

In like manner, Ohio Appellate Division in *Myers v. Myers*, adopted the following rationale and stated as follows:

The requirement that the in camera interviews be recorded is designed to protect the due-process rights of the parents. The due-process protection is achieved in this context by sealing . . . the transcript of the in camera interview and making it available only to the court for review. This process allows appellate courts to review the in camera interview proceedings and ascertain their reasonableness, while still allowing the child to "feel safe and comfortable in expressing his opinions openly and honestly, without subjecting the child to any

additional psychological trauma or loyalty conflicts." *Myers v. Myers*, 170 Ohio App. 436 (2007).

iii. Centrist Views

Centrist views suggest that judges should have the discretion to conduct private interviews with children, either in their chambers or in camera, to determine the children's preferences concerning custody. These interviews must be recorded, which means a court reporter must be present. The transcript or recording becomes an official part of the case file and is made available to the involved parties promptly.

At the middle appellate level, the New Jersey Superior Court Appellate Division handed down a decisive decision that:

[N]o assertion of fact by the child should be permitted by the judge to influence his decision unless he makes the same known . [or] else due process is not had. The litigant's rights to know, however, must be tempered by the sensitivity with which the child's privacy must be treated. *Lavene v. Lavene*, 148 N.J. Super. 267 (App. Div. 1977)(observing that "[a] private interview out of the present of the contesting parents and their attorneys . assure[s] the child's freedom of expression"), certif. denied, 75 N.J. 28 (1977).

The Appellate Court of Maryland established that a trial judge may, in their discretion, interview a minor child out of the presence of both parents and counsel. However, the court set strict procedural safeguards: The interview must be recorded by a court reporter (unless waived by the parties). Immediately following the interview, the court reporter must read the record back to the judge, attorneys, and the parents, so all parties are aware of what was said. *Shapiro v. Shapiro*, 54 Md.

App. 477 (1983). Citing foundational case, *Marshall v. Stefanides*, 17 Md. App. 364 (1973).

iv. Outlier Views

The Supreme Court of Michigan's decision in *Molly v. Molly* highlighted the confusion among appellate courts regarding in-camera interviews with children in custody cases. The court affirmed some aspects of the lower court's decision while vacating others.

[W]e AFFIRM the decision of the Court of Appeals with the exception of Section III. We VACATE that section and any other statement in the opinion insofar as it holds that all future in camera interviews with children in custody cases "shall be recorded." We are unable to determine on the present record whether Const 1963, art 1, § 17 or U.S. Const, and XIV, § 1 mandate such a requirement. Accordingly, and coincident with this order, this Court is opening an administrative file to examine the extent to which, and the procedures by which, in camera testimony may be taken in custody cases. *Molloy v. Molloy*, 466 Mich. 852 (2002).⁵

The trial court's modification order, issued on December 30, 2024, lacked the support of evidence presented in an open court, and Mr. Ajenifuja was not given the opportunity to respond to the adverse information against him in an in-camera interview. Furthermore, the trial court did not make a sealed video recording of the in-camera proceedings available for appellate review. This situation infringes upon

⁵ The Supreme Court of Michigan's administrative procedure (File No. 2002-13) established clear guidelines for when and how a judge can privately interview a child in chambers. This rule change effectively aligned Michigan with the Child-Centric group, leaving the D.C. Court of Appeals as the sole outlier.

Mr. Ajenifuja's right to a public trial, even when assessed from centrist and child-centric perspectives. In the absence of clear guidance from this Court, it is not surprising that lower courts have adopted varying approaches. Consequently, identical cases have been ruled by some courts as infringing on due process, while others have not.

B. Deprivation of the Parent-Child Relationship Effectively Terminates Parental Rights Without Due Process.

Mr. Ajenifuja's loss of the parent-child relationship functions is an unrecognized termination of his parental rights, occurring without the necessary due process protections. A termination of parental rights is a final and complete severance of the child from the parent and removes the entire bundle of parental rights. *Stanley v. Illinois*, U.S. 405 U.S. 645 (1972). However, under the Fourteenth Amendment, the state cannot permanently deprive an individual of their parental rights without procedural due process. In *Santosky v. Kramer*, this Court established that before a state can permanently terminate parental rights, due process requires: (1) proper notice and a meaningful hearing; (2) the right to counsel; and (3) the state must prove unfitness or severe misconduct by "clear and convincing evidence." *Santosky v. Kramer*, 455 U.S. 745 (1982).

In *Troxel*, the Court found that the application of a Washington nonparental visitation statute to a parent and her family violated the parent's due process rights to make decisions concerning the care, custody, and control of her daughters. *Troxel v. Granville*, 530 U.S. 57 (2000). The Court noted, "so long as a parent adequately cares for . her children (i.e., is fit), there will normally be no reason for the State to

inject itself into the private realm of the family to further question the ability of that parent to make the best decisions concerning the rearing of" the children. *Id.*

Mr. Ajenifuja meets the legal definition of a "fit parent," as demonstrated by his consistent ability to fulfill and exceed his children's physical, emotional, and developmental needs, while ensuring their safety and well-being since birth. However, coordinated court actions have resulted in the removal of Mr. Ajenifuja's meaningful contact with his children, without a formal hearing to terminate his parental rights under the "clear and convincing" evidentiary standard. The state has thereby effected a de facto termination of Mr. Ajenifuja's parental rights without affording him due process. For instance, although the trial court has not formally terminated Mr. Ajenifuja's parental rights, restricting him to four one-hour, virtually supervised visits per year constitutes a de facto termination.⁶

Mr. Ajenifuja argues that subjecting him to four one-hour, virtually supervised visits per year, without any opportunity for physical or emotional contact with his children, significantly impairs his parental rights to reasonable visitation. Mr. Ajenifuja is limited to communicating with his children solely through virtually supervised visits, which hinders meaningful contact. The trial

⁶ Mr. Ajenifuja has a First and Fourteenth Amendment violations case pending before the Federal Fourth Circuit, case number 25-1953. The parties' children's high school banned Mr. Ajenifuja from setting foot on the school grounds without due process. Unlike other school parents, the school administrator denied Mr. Ajenifuja online access to the ongoing academic performance records of the parties' children. All part of coordinated attempts to cut off Mr. Ajenifuja from his children.

court has taken away Mr. Ajenifuja's ability to make decisions regarding his children's education, healthcare, and religious practices. In the case of *D.H. v. State*, the Supreme Court of Alaska held that the lower court's decision effectively negates a parent's right to reasonable visitation, as it creates an insurmountable barrier to maintaining the parent-child relationship.

A termination of visitation rights exists not only where the state formally obtains a termination order but also where the state's decision as a practical matter precludes the parent from exercising his or her right of reasonable visitation. We do not focus on the fact that the state has not expressly denied D.H.'s visitation rights since to do so would elevate form over substance. *D.H. v. State*, 723 P.2d 1274 (Alaska 1986). For these reasons, the standard of review set forth in *K.T.E.* is appropriate in this case since the state's decision here constitutes a de facto termination of D.H.'s right of reasonable visitation. The case must be remanded for the trial court to determine independently whether clear and convincing evidence shows that the children's best interests are served by disallowing parental visitation. *Id.*

The Alaska decision held that state cannot use geographic distance or out-of-state foster placement to effectuate a "de facto termination" of a parent's fundamental liberty interest in visitation without meeting strict procedural due process burdens. Also see *A.H. v. State*, 779 P.2d 1229, 1234 (Alaska 1989) (determining that out-of-home placement is not de facto termination of parental rights absent extreme facts that essentially divest parents of visitation rights).

In re Brittany S., 17 Cal. App. 4th 1399 (Cal. Ct. App. 1993), California courts recognize that unreasonable distance or lack of state facilitation can render reunification services an empty gesture. The court ruled that when a state housing arrangement or failure to facilitate travel effectively prevents contact, it results in

an impermissible de facto termination of visitation, violating the parent's due process rights. The California opinion was validated *in re Amber W.*, 105 A.D.3d 1400, 963 N.Y.S.2d 495 (N.Y. App. Div. 2013). The New York appellate court held that placing children a significant distance away without providing adequate transportation or travel means to an indigent parent effectively functions as a termination of parental access. The state has an affirmative obligation to mitigate geographic barriers to protect the parent-child bond.

Interestingly, in both the Alaska and California cases, the courts did not recommend using virtual visitations as a substitute for preserving the parent-child bond. Judge Calvin S. Drayer, Jr. clearly articulated the reasoning behind this in another custody case, providing compelling reasoning that underscores the importance of in-person connections for healthy family relationships.

A parental duty has been defined as an affirmative duty — that is a duty that requires something. It is not a passive duty. It is an affirmative duty on the part of the parent to love, protect and support a child and to make a genuine effort to maintain communication and association with the child. It requires a parent to preserve and make a reasonable effort to maintain a place of importance in the child's life. *In re J.L.C.*, 837 A.2d 1247 (Pa. Super. 2003).

The Supreme Court of Pennsylvania's opinions in another child custody matter supports Mr. Ajenifuja argument that virtual visits alone are not enough to develop and maintain parent-child bond.

Even if CUA had succeeded in establishing "virtual visitation," it is highly unlikely that Child would have developed a bond with Father under the circumstances. *In re Interest of D.C.D.*, 105 A.3d 662 (Pa. 2014).

In a closely related matter, the Department of Human Services (DHS) removed Christina's two minor children from her custody following concerns her boyfriend, John W., was physically and sexually abusing the children. Notwithstanding those findings, the court gave her weekly one-hour supervised visits, not virtually supervised visits. Christina later claimed in her appeal that the restricted visitation, one-hour weekly supervised visits, constituted a "de-facto" termination of her parental rights. The appellate court held,

We conclude the visitation arrangement put in place in this case did not cause the department to fall short of its obligation to provide reasonable efforts to reunite parent and child. *In the Interest of M.B.*, 553 N.W.2d 343 (Iowa Ct. App. 1996).

Mr. Ajenifuja argues that the Iowa appellate court decision is consistent with the reasoning behind Alabama's decision that when the court sets rules for visitation (such as prohibiting drug use around kids), the rule must only address that specific problem. It cannot be an overly broad rule that destroys the parent-child bond. "[A] trial court may not 'select[] an overly broad restriction that does more than address a particular concern and thereby unduly infringe[] upon the parent-child relationship'" (quoting *Jackson v. Jackson*, 999 So.2d 488, 494-95 (Ala. Civ. App. 2007)).

In instant matter, the respondent totally controlled Mr. Ajenifuja's ability to communicate or visit with the parties' minor children for over seven years. The respondent stopped allowing Mr. Ajenifuja from having any contact with the children on November 19, 2019, and then leveraged this control to support her allegation that the children do not want to have frequent communicate with Mr.

Ajenifuja. Obviously, this is nothing more than an attempt to terminate Mr. Ajenifuja's parental rights under the auspices of "best interest of a child."

In *J.F.E. v. J.A.S.*, the Alaska Supreme Court ruled that "the best interests of the child standard normally requires unrestricted visitation with the noncustodial parent."

We have held that in a child-in-need-of-aid proceeding a parent's right to reasonable visitation cannot be eliminated except upon proof by clear and convincing evidence that the best interests of the child so required. *K.T.E. v. State*, 689 P.2d 472, 478, n. 11 (Alaska 1984). The clear and convincing evidence standard does not, however, apply to restrictions on parental visitation which are not a de facto termination of a parent's right of reasonable visitation. *D.H. v. State*, 723 P.2d 1274, 1277 (Alaska 1986). Supervised visitation is not a de facto termination of reasonable visitation rights. *Id.* at 1278 n. 1 (Rabinowitz, J., dissenting); *Lightbourne v. Lightbourne*, 179 A.D.2d 562, 578 N.Y.S.2d 578 (1992). Based on these provisions and on the statutes dealing with child custody, we infer that the best interests of the child standard normally requires unrestricted visitation with the noncustodial parent. Therefore, an order requiring that visitation be supervised must be supported by findings that specify how unsupervised visitation will adversely affect the child's physical, emotional, mental, religious, and social well-being and the other interests set out at AS 25.24.150. Because the trial court did not make such findings, a remand for this purpose is also required. *J.F.E. v. J.A.S.*, 930 P.2d 409 (Alaska 1996).

In a more recent custody case, the Supreme Court of Appeals of West Virginia held that,

A parent has the natural right to the custody of his or her infant child and unless the parent is an unfit person because of misconduct, neglect, immorality, abandonment or other dereliction of duty, or has waived such right, or by agreement or otherwise has permanently transferred, relinquished or surrendered such custody, the right of the parent to the custody of his or her infant child will be recognized and enforced by the courts. *In re Adoption of H.G.*, 246 W.Va. 115, 866 S.E.2d 177 (2021).

Mr. Ajenifuja asserts to the Court that the lower court's order mandating four one-hour, virtually supervised visits per year, coupled with the coordinated unlawful actions by Clarksburg High School, effectively terminates his parental rights without clear and convincing evidence. There have been no allegations of child neglect, child abuse, substance abuse, or criminal behavior against Mr. Ajenifuja.⁷ The only allegation made against him was by Dr. Seth King, who expressed his subjective opinions during court testimony without providing any supporting MMPI-2-RF assessment data.⁸

In summary, the trial court ordered Mr. Ajenifuja to undergo a mental health evaluation without following the procedural requirements established in

⁷ Mr. Ajenifuja has not taken any prescribed medication in the last twenty-five years, except for Advil 500mg given to him by his dentist when he had a tooth removed fifteen years ago.

⁸ In 2016, as Mr. Ajenifuja began to uncover the horrific acts committed against the respondent and the parties' children, the perpetrators used state power through the D.C. Department of Behavioral Health psychologists to gaslight him and undermine his credibility. After a decade of searching for answers, Mr. Ajenifuja ultimately discovered that on December 7, 1974, Emmett John Rice—father of Susan Rice—Willie Anthony Jones, a U.S. Air Force policeman, and others attempted to drown him at Bar Beach on Victoria Island, Lagos, Nigeria, when he was just 9 years old. They repeated a similar attempt by drowning Mr. Ajenifuja's Rutgers University dormitory flatmate's son in South Africa on December 8, 1991, and made another attempt on his son in Bethesda, Maryland, on October 28, 2011. By a twist of fate, Willie Anthony Jones and Emmett Rice both passed away under mysterious circumstances on March 9, 2008, and March 10, 2011, respectively. Interestingly, Mr. Ajenifuja's birthday is March 9th.

Schlagenhauf v. Holder.⁹ Additionally, the court allowed Dr. King's testimony without giving Mr. Ajenifuja the opportunity to cross-examine the MMPI-2-RF data that underpinned it, and predominantly based its ruling on this testimony. The actions of the trial court contradicted the opinion issued by the Supreme Court of Minnesota.

We do not condemn the practice of using court agencies to make investigations and reports on custody questions. . . . Their use should be encouraged, but care should be taken to give fair notice of the contents of such reports to the parties involved so as to afford them every opportunity to test the credibility of the reporter through cross-examination or otherwise and to meet or answer every adverse fact or inference included therein." *Stanford v. Stanford*, 266 Minn. 250 (1963).

A child custody factual findings mostly based on a DBH psychologist's testimony, without giving fair notice of the contents of the mental health assessment results, violates the basic tenet of fairness and due process, irrespective of the fact that Mr. Ajenifuja did not appeal the PCO issued on July 2, 2018.¹⁰ If the Court opts not to challenge the factual findings based on Dr. Seth King's testimony,

⁹ The Supreme Court of New Jersey in *Matter of M.R.*, 135 N.J. 155 (1994), specifically cautioned against a situation where an attorney appointed as a GAL "assume[s] a hybrid role of attorney/social investigator." *Id.* citing Family Division Practice Committee Report (1994). That is precisely what routinely occurs in family matters, i.e., where an attorney exceeds his or her training and renders a social investigation relative to custody and parenting time.

¹⁰ Mr. Ajenifuja did not appeal the PCO issued on July 2, 2018, because after getting a glimpse of the cruelty that the respondent had suffered over many years, he was hesitant to put her through additional prolonged legal battles. His main concern was to heal the damage done to his family.

it should proactively establish guidelines to govern the future use of psychologists' opinions, particularly in cases where such opinions hinder a defendant's right to effective cross-examination. It is essential to uphold the principle that those who engage in injustice while attempting to settle a dispute forfeit any rewards obtained, regardless of when the injustice is revealed.¹¹

A review of the Supreme Court of Kansas's closing opinions *in re K.R.* could significantly guide the Court in rectifying the legal shortcomings present in the lower court's decision. The Supreme Court of Kansas wrote,

The district court may not cure the legal defect identified here by retroactively supplying findings based on an outdated record. If the State seeks termination following remand, it must proceed in accordance with the statutory framework and establish, based on evidence reflecting current circumstances, that Mother is unfit and that any such unfitness is unlikely to change in the foreseeable future. Termination may not rest on stale evidence or findings made under materially different circumstances. *In the Interest of K.R.*, 582 P.3d 575 (Kansas 2026). Regrettably, we must acknowledge that the district court's legal errors resulted in violations of Mother's constitutional right to due process and significantly delayed permanency for K.R. for several years. *Id.*

c. The Lower Court Overlooked Both the Discriminatory Intent and Impact of Its Actions.

As the Court previously ruled, the Fifth Amendment's Due Process Clause inherently incorporates the same equal protection principles.

¹¹ To support her opinions, Judge Crane stated that "three other judges agreed about Mr. Ajenifuja's delusional tendency." However, Judge Crane failed to mention that those judges based their opinions solely on Dr. Seth King's testimony. The mere repetition of false claims by several judges does not validate those claims.

We have this day held that the Equal Protection Clause of the Fourteenth Amendment prohibits the states from maintaining racially segregated public schools. The legal problem in the District of Columbia is somewhat different, however. The Fifth Amendment, which is applicable in the District of Columbia, does not contain an equal protection clause, as does the Fourteenth Amendment, which applies only to the states. But the concepts of equal protection and due process, both stemming from our American ideal of fairness, are not mutually exclusive. The "equal protection of the laws" is a more explicit safeguard of prohibited unfairness than "due process of law," and therefore we do not imply that the two are always interchangeable phrases. But, as this Court has recognized, discrimination may be so unjustifiable as to be violative of due process. *Bolling v. Sharpe*, 347 U.S. 497 (1954).

The lower court's decision upholds a policy that systematically marginalizes Mr. Ajenifuja, directly contravening the fundamental objective of the Equal Protection Clause: to eliminate second-class citizenship. Furthermore, the lower court's inconsistent and arbitrary application of a seemingly neutral rule of evidence raises serious concerns, as it undermines the protections guaranteed by the Equal Protection Clause of the Fourteenth Amendment. *Yick Wo v. Hopkins*, 118 U.S. 356 (1886). The equal protection clause directs that "all persons similarly circumstanced shall be treated alike." *F.S. Royster Guano Co. v. Virginia*, 253 U.S. 412 (1920). "... there was an arbitrary discrimination amounting to a denial to plaintiff in error of the equal protection of the laws within the meaning of the Fourteenth Amendment." *Id.*

Mr. Ajenifuja raises an important question: Is it fair to rely on a custodial parent's claims about a minor child's preferences after the noncustodial parent has been denied visitation or contact for more than seven years? Mr. Ajenifuja argues that the trial court revoked his visitation rights based solely on the respondent's

allegation that the minor children do not want to communicate with their father frequently. Furthermore, Mr. Ajenifuja contends that the trial court's decision ignored a report of child neglect made against the respondent on October 9, 2022, which he believes denied him equal protection under the law. "It follows that denying such a hearing to Stanley and those like him while granting it to other Illinois parents is inescapably contrary to the Equal Protection Clause." *Stanley v. Illinois*, U.S. 405 U.S. 645 (1972).

Similarly, the Supreme Court of Virginia held that,

In Virginia, we have established the rule that the welfare of the infant is the primary, paramount, and controlling consideration of the court in all controversies between parents over the custody of their minor children. All other matters are subordinate. *Clark v. Clark*, 209 Va. 390 (1968). The rule is to be administered with as much consideration for the tender ties of affection of the parents as possible under the circumstances, and especially when each parent is shown to be a fit and proper custodian of the child. *Id.*

The Supreme Court of Michigan used the "great weight of evidence" standard to review trial court's child custody cases. The Court explained that a reviewing court should not substitute its judgment on questions of fact unless they "clearly preponderate in the opposite direction." The court should review "the record in order to determine whether the verdict is so contrary to the great weight of the evidence as to disclose an unwarranted finding, or whether the verdict is so plainly a miscarriage of justice as to call for a new trial. . . ." *Fletcher v. Fletcher*, 447 Mich. 871 (1994).

[W]e conclude that this Court may review de novo the dispositional ruling of a trial court, but only after we have concluded, as we do here, that the trial court has either made findings of fact

against the great weight of the evidence or committed a palpable abuse of discretion or a clear legal error on a major issue. In this case, the trial court committed the first and third of these prohibitions and we are, therefore, free to review de novo the custody issue. *Id.*

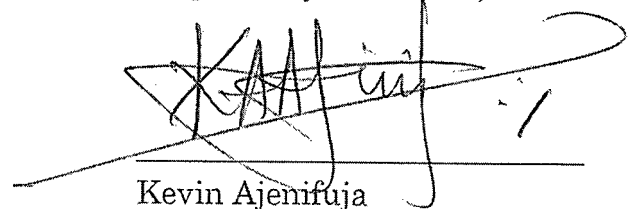
The trial court made findings of fact that are contrary to the overwhelming evidence, committed a clear abuse of discretion, and made significant legal errors on key issues. This case provides the Court with an opportunity to clarify the record, establish a national standard for in-camera or private interviews of minors in child custody proceedings, and define what constitutes a de facto termination of parental rights without due process.

CONCLUSION

For the foregoing reasons, Mr. Ajenifuja respectfully requests that this Court issue a writ of certiorari to review the mandate and judgment of the District of Columbia Court of Appeals.

July 20, 2026

Respectfully submitted,

A handwritten signature in black ink, appearing to read 'K. Ajenifuja', is written over a horizontal line. The signature is stylized and somewhat cursive.

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