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IN THE SUPREME COURT OF THE UNITED STATES

DOCKET NO.

Supreme Court, U.S.
FILED

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OFFICE OF THE CLERK

CORY SULLIVAN,
Petitioner

v.

JESSI SKELTON,
Respondent

ON PETITION FOR A WRIT OF CERTIORARI TO THE SUPREME COURT
OF PENNSYLVANIA

PETITION FOR WRIT OF CERTIORARI

Cory Sullivan QP0930
SCI Benner Township
301 Institution Drive
Bellefonte, PA, 16823

QUESTIONS PRESENTED

A. WHETHER THE GOVERNMENT PURSUANT TO THE COMMONWEALTH'S RULES OF APPELLATE PROCEDURE, SPECIFICALLY RULES OF PROCEDURE INVOLVING CHILD CUSTODY MATTERS, VIOLATE DUE PROCESS UNDER THE FOURTEENTH AMENDMENT OF THE UNITED STATES CONSTITUTION?

SUGGESTED ANSWER: YES

B. SHOULD THIS COURT GRANT THE WRIT WITH RESPECT TO THE LOWER COURTS CONTINUOUS DENIAL OF PETITIONER'S DUE PROCESS CLAIMS BECAUSE:

(1) THE CHANGING OF PROCEDURE WITHIN THE UNITED STATES POSTAL SERVICE, RELATING TO HOW LEGAL MAIL IS NOW PROCESSED AND DATED IS CAUSE FOR REVIEW;

(2) THE COMMONWEALTH'S RULING IN THIS CASE, THE EQUIVALENCY OF INVOLUNTARILY TERMINATING A FATHER'S PARENTAL RIGHTS, WERE CONTRARY TO CLEARLY ESTABLISHED STATE AND FEDERAL LAW;

(3) THERE ARE EVIDENTIARY ERRORS THAT AMOUNTED TO A DEPRIVATION OF DUE PROCESS, AND THE HOLDINGS OF THE LOWER COURTS CONFLICT WITH PROCEDURE AND SEVERAL DECISIONS OF STATE AND FEDERAL COURTS?

SUGGESTED ANSWER: YES

LIST OF PARTIES

**CORY JOSEPH SULLIVAN,
Petitioner**

**JESSI ALANNA SKELTON (ACEVEDO),
Respondent**

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The order of the Supreme Court of Pennsylvania denying writ of mandamus to review the merits appear at **Appendix 'A'** to the petition and is *unpublished*.

The order of the Supreme Court of Pennsylvania denying allowance of appeal to review the merits appear at **Appendix 'B'** to the petition and is *unpublished*.

The order of the Superior Court of Pennsylvania denying reconsideration of order to review the merits appear at **Appendix 'C'** to the petition and is *unpublished*.

The order of the Superior Court of Pennsylvania denying Application for Reconsideration/Reargument *En Banc* to review the merits appear at **Appendix 'D'** to the petition and is *unpublished*.

The memorandum of the Superior Court of Pennsylvania appears at **Appendix 'E'** to the petition and is *unpublished*.

The order and opinion of the Common Pleas Court appears at **Appendix 'F'** to the petition.

JURISDICTION

The date on which a petition for Allowance of Appeal to the Supreme Court of Pennsylvania was *denied* on February 17, 2026, case no. **30 MM 2026** and a copy of that order appears at 'Appendix' B'.

The jurisdiction of this Honorable Court is invoked under **28 U.S.C. §1254(a)**.

CONSTITUTIONAL AND STATUTORY PROVISIONS INVOLVED

FOURTEENTH AMENDMENT-- DUE PROCESS- SECTION I

"All persons born or nationalized 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 or 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 protections of the law."

The fundamental right to make decisions regarding the care, custody, and control of one's children is "one of the oldest of the fundamental rights protected by the Due Process Clause." *Troxel v. Granville*, 530 U.S. 57, 67, 120 S.Ct. 2054, 147 L.Ed. 2d 49 (2000).

PENNSYLVANIA RULES OF APPELLATE PROCEDURE §2542(a)(2)

"In children's fast track appeals, an application for reargument shall be filed with the prothonotary within 7 days after the entry of the judgment or other order involved."

The Supreme Court has cautioned that the Rules of Procedure "are not, and were not intended to be a rigid code to have inflexible meaning irrespective to the circumstances." *Fallen v. United States*, 378 U.S. 137, 142, 84 S.Ct. 1689, 12 L.Ed. 2d 760 (1964).

The United States Supreme Court adopted a rule that treated a prisoner's mailing of a notice of appeal as the equivalent of "filing" the notice. *Houston v. Lack*, 487 U.S. 266, 108 S.Ct. 2379, 101 L.Ed. 2d 245 (1988).

Holding that admission of evidence may violate due process where the evidence is so inflammatory as to "undermine the fundamental fairness of the entire trial." *Keller v. Larkins*, 251 F.3d 408, 415 (3rd Cir. 2001)

STATEMENT OF THE CASE

A. PROCEDURAL HISTORY

The instant matter involves the denial of a Father's constitutionally protected right to custody of his five children, in the Schuylkill County Common Pleas Court of Pennsylvania. The underlying denial of Father's complaint for custody by way of Order of Court was issued on March 13, 2025. (*See Appendix 'F'*)

On February 5, 2024, Father sought shared legal custody and supervised physical custody of his children, attempting to maintain a relationship with his children during his incarceration. Two pretrial hearings took place, in which the Trial court allowed Mother to introduce the transcripts from a criminal trial as evidence in the civil custody matter. Father objected to the admission, arguing that the transcripts were void of testimony from the named minor children in the custody matter, contained highly prejudicial, unproven statements by the Mother, and needlessly presented cumulative evidence. Father argued that the prejudicial evidence would be used against him in the custody matter. Furthermore, the Trial court refused to appoint professionals and denied Father the ability to call any witnesses or use evidence to assist him in the development of a full and complete record in the child custody matter. Ultimately, the Trial court denied Father any and all forms of custody.

Father thereafter filed a Notice of Appeal, along with his Rule 1925 Statement of Matter Complained of on Appeal to the Superior Court, pursuant to Pa.R.A.P. 1925(a)(2)(i), on March 24, 2025. The Superior court affirmed the Trial court's denial of Father's complaint for custody on November 26, 2025. (*See Appendix 'E'*). Father filed a timely Application for Reconsideration/Reargument En Banc on December 4, 2025, which was denied on December 29, 2025, the Superior Court ruled that the petition was filed untimely. (*See Appendix 'D'*). Father filed a petition for reconsideration for Court Order, which was denied on January 6, 2025. (*See Appendix 'C'*). Father thereafter filed a petition for Allowance of Appeal, and a petition for Writ of Mandamus to the Pennsylvania Supreme Court, both motions were denied on February 17, 2026. (*See Appendix 'A'*).

The Superior court's memorandum was issued on November 26, 2025, at No. 439 MDA 2025. Father did not receive the Higher court's decision at the prison until December 1, 2025. Upon review, the Father's Application for Reconsideration/Reargument was not docketed until December 8, 2025, the date the prothonotary's office received the motion, and not the date in which Father's mailed it from the prison. In Father's reconsideration petition, he argued that the Superior court's opinions were easily refuted by the record of the case. The Commonwealth's courts have not followed well established caselaw and rules of

court aimed at procedures in place for matters involving parents and incarcerated citizens.

B. FACTUAL HISTORY

Cory Sullivan (hereinafter "Petitioner/Father") and Jessi Skelton (hereinafter "Respondent/Mother"), had five children together: S.P.S (DOB: 10/6/2013), T.R.S. (DOB: 10/19/2014), C.K.S. (DOB: 1/16/2016), R/M/S (DOB: 7/27/2017) and S.G.S. (DOB: 8/29/2019). On December 23, 2019, a physical altercation between Mother and Father took place at Father's home. Father was arrested and charged with aggravated assault. However, twenty-five days later, on January 17, 2020, over eighty charges were filed against Father, almost all of the offenses were sexual in nature as a consequence of allegations made by Mother. Father was rearrested, denied bail and remained incarcerated. On March 7, 2022, following a 5-day jury trial, Father was acquitted of a voluminous amount of the offenses. Father was however, found guilty of particular offenses including aggravated assaults, strangulation, endangering welfare of children and terroristic threats. On June 13, 2022, Father was sentenced to an aggregated term of incarceration of 210 to 420 months. On January 5, 2024, Father, pro se, filed a direct appeal in the criminal matter. On February 5, 2024, Father, pro se, filed his complaint for custody. On August 9, 2024, the Superior court reversed a multitude of Father's convictions in the criminal matter.

Petitioner, at all times sought shared legal custody and supervised physical custody of his children. At a custody conciliation conference Respondent remained opposed to any and all forms of custody being awarded to Father. The matter was scheduled for a hearing before the Honorable Judge James P. Goodman. Two pretrial hearings were held, in which the Trial court allowed Respondent, represented by counsel, to admit criminal trial transcripts into evidence, over the objection of the Petitioner. Father argued that the evidence was prejudicial, would create a bias and that the Trial court would use the allegations in which Petitioner was acquitted of against him in the custody matter. The Trial court ruled that it would only consider Petitioner's convictions and, would not use any of the allegations in which he was acquitted of or any offense he was never charged with in the court's custody analysis.

Additionally, the Court denied Petitioner's request to appoint professionals in the matter, and the ability to call any witnesses or the use of any evidence, all of which would have assisted in the development of a full and complete record. Petitioner argued that he was being treated this way by the Court because of his pro se status, and due to his incarceration.

Trial commenced on February 7, 2025 and on February 28, 2025. On March 13, 2025, the Trial court denied Petitioner's complaint for custody. The Trial court made numerous misrepresentations of facts in its custody analysis. Moreover, the

Trial court continuously used the offenses in which Petitioner was acquitted of, and allegations he was never charged with in making its determination for custody, a direct violation of the Court's previous ruling.

Petitioner filed a timely appeal, but the Superior court concluded that Petitioner did not include certain issues in his initial Rule 1925 Statement of Matter Complained of on Appeal, and instead filed a Amended Rule 1925 Statement, untimely and without leave of court, therefore waiving the issues for appellate review. (*See Sup. Ct. Op.*, at 11 and 29). Petitioner set forth that he filed a Notice of Appeal, along with a Statement of Matter Complained, pursuant to Pa.R.A.P. 1925(a)(2)(i) and Pa.R.A.P. 905(a)(2); (*See Pet. Initial 1925 Statement*, 3/24/25). It is clear from the record, along with Petitioner's first 1925 Statement that he **"requested permission be granted to supplement the Statement of Matters Complained of on Appeal, if necessary, when the notes of testimony from relevant proceedings were obtained."** *Id.* at 13. (emphasis added). Petitioner explained that he did not have any of the transcripts needed to file a complete 1925 Statement. The Trial court measuredly ignored Petitioner request. Petitioner states as true that there is no State procedural rule, specifically requiring an additional and separate motion to amend be filed, when a party already sought permission to do so. Petitioner included this significant and incontestable fact in his Application for Reconsideration/Reargument *En Banc*, but the Superior court

erroneously deemed that Application untimely.

The Trial court effectively terminated Petitioner's parental rights to his children, but did so through the procedural context of the Uniform Child Custody Act, as a calculated way to circumvent the 'burden of proof' requirements necessary in Involuntary Partenal Termination proceedings, pursuant to 23 Pa.C.S. §2511-2512. Petitioner pleaded this point, in his Application for Reconsideration, and in his direct appeal brief. (*See Pet. Brief*, 5/21/25, at 49-51.) Petitioner argued that the custody order was not in the best interest of the children, and that the Trial court's custody order did not strive to assure the children maintained a healthy relationship with their father. Petitioner provided extensive support for his legal arguments. *Id.* at 50.

Petitioner avows that the custody order, for all practical purposes ends the relationship between him and his five young children. Petitioner adfirmarees that denial of any custody was neither required, nor in the best interest of the children, as the Trial court acknowledged that Petitioner did not and does not pose any threat to his children. (*See Tr. Ct. Op.*, 4/17/25 at 8). Petitioner adfirmarees that the custody order is punitive in nature, unconstitutional and jarring as it prevents him from having any parental relationship with his five children, or at minimum, legally being able to obtain any information about his own children.

By deeming Petitioner's Application for Reconsideration/Reargument

untimely, and refusing to give the aforementioned issues efficacious review, the Superior court of Pennsylvania violated the Commonwealth's Rules of Appellate procedure, along with the 'prisoner mailbox rule', which has been adopted by State and Federal courts all over the country. Thus, is a direct violation of Petitioner's Due Process rights guaranteed by the Fourteenth Amendment of the United States Constitution.

REASONS FOR GRANTING WRIT

Petitioner puts forth that this Honorable Court face the task of addressing whether the government pursuant to the Pennsylvania Rules of Court, specifically Pennsylvania's Rule of Appellate Procedure Rule 2542(a)(2), creates a jurisdictional bar which precludes litigants seeking to file pro se appeals, thus violating their Due Process Rights under the Fourteenth Amendment of the United States Constitution. Moreover, does a changing in policy at the United States Postal Service, effecting the new practice regarding how mail is tracked and dated, disrupt key components of legal mail and court procedure, and raise questions about whether the evidentiary function postmarks provide to the courts.

Additionally, the Commonwealth's rulings in this case, the equivalent to involuntarily terminating a Father's parental rights were contrary to and involved unreasonable applications of clearly established State and Federal law. Furthermore, there are evidentiary rulings that violate due process, which this court should resolve.

The matter presents several questions as to whether the statutory construction and language of the ~~statute~~ in the Pennsylvania Rules of Court for "children's fast track" appeals, violate Due Process of litigants in the Commonwealth. The dismissal of the matter, when actions were timely filed, and other state claims that were not given efficacious review, due to the time

restrictions put in place by the Commonwealth's rules of court were erroneous. Neither the Pennsylvania Surpeme Court, nor the United States Court of Appeals for the Third Circuit has squarely addressed the issues. In considering this issue, and being mindful of all child custody matters, this Honorable Court will conclude that the current statutory language in the Commonwealth's rules of court is inappropriate, violates due process, nor does relevant caselaw and statute support the decisions of the Lower courts in this matter.

Petitioner is a United States citizen, and although incarcerated, and unrepresented by counsel, should be afforded the same due process rights as all other United States citizens. Petitioner diceres that the Lowers courts have violated his due process rights under the Fourteenth Amendment, in which he was denied his rights to his five children. Petitioner lays bare that a parent's superior right to custody of their children is an acknowledgement that parents and children have a recognized, unique and legal interest in, and a constitutionally protected right to each other's companionship. The parent has a right to raise their children, yet children have a corresponding right to be raised by their parent. The right to make decisions regarding the care, custody and control of one's children is one of the oldest fundamental rights protected by the Due Process Clause.

FOURTEENTH AMENDMENT --DUE PROCESS VIOLATIONS

Petitioner affirms that the government through its legislation interprets the statutory construction of statutes' with the plain language of the statute. Henceforth, Petitioner avers that the time limits in which a litigant has to respond/file a petition under the children's fast track appeal, pursuant to Pa.R.A.P. 2542(a)(2) are unendurable, and that when established, the legislature could not have considered situations in which, as here, the parties are pro se, incarcerated litigants. Petitioner's averment is that parents seeking custody of their children, must do so in the procedural context the legislature enacted under the Uniform Child Custody Jurisdiction Act. Therefore, the litigants under direct review are beholden to Pa.R.A.P. 2542(a)(2), which states; "In children's fast track appeals, **an application for reargument shall be filed with the prothonotary within 7 days after the entry of judgment** or other order involved." (emphasis added).

The Superior court's memorandum in this matter was issued on November 26, 2025, at No. 439 MDA 2025. Petitioner received the decision at the state correctional facility on December 1, 2025. Petitioner mailed his Application for Reconsideration/Reargument *En Banc*, four days later on December 4, 2025. Petitioner attached attested copies of the 'postage order' slips from the prison to the motion (*See Attached 'A'*). On December 29, 2025, the Superior court, per curiam, denied the motion, ruling that it was untimely. The petition was docketed on

December 8, 2025, the date that the prothonotary's office received the petition, and if using that date, would be untimely pursuant to Pa.R.A.P. 2542(a)(2).

The plain language of this subsection provides that an application for reargument "shall" be filed within 7 days, as such litigants are beholden to the statutory construction and plain language of the statute. *See In Interest of S.U.*, 204 A.3d 949, 960 n.8 (Pa. Super. 2019) (*en banc*) (noting that "[r]egarding statutory construction, the Pennsylvania Supreme Court has stated...the plain language of a statute is in general the best indication of the legislative intent that gave rise to the statute"); *see also Lorino v. Workers' Comp. Appeal Bd.*, 266 A.3d 487, 493 (Pa. 2011) (reasoning that "[t]he term 'shall' establishes a mandatory duty, whereas the term 'may' connotes an act that is permissive, but not mandated or required").

As with all issues of statutory construction, "we begin with the language of the statute." *Barnhart v. Sigmon Coal Co.*, 534 U.S. 438, 450, 122 S. Ct. 941, 151 L. Ed. 2d 908 (2002). The first step "is to determine whether the language at issue has a plain an unambiguous meaning with regard to the particular dispute in the case." *Id.* (quoting *Robinson v. Shell Oil Co.*, 517 U.S. 337, 340, 117 S. Ct. 843, 136 L. Ed. 2d 808 (1997)). We "proceed from the understanding that [u]nless otherwise defined, statutory terms are generally interpreted in accordance with their ordinary meaning." *Sebelius v. Cloer*, 133 S. Ct. 1886, 1893, 185 L. Ed. 2d

1003 (2013) (alteration in original) (*quoting BP Am. Prod. Co. v. Burton*, 549 U.S. 526, 534, 124 S. Ct. 1023, 157 L. Ed. 2d 1024 (2004) ("[w]hen the statute's language is plain, the sole function of the courts--at least where the disposition required by the text is not absurd--is to enforce it according to its terms." (internal quotation marks omitted))). "We refer to standard reference works such as legal and general dictionaries in order to ascertain the ordinary meaning of words." *United States v. Geiser*, 527 F.3d 288, 294 (3rd. Cir. 2008) (referencing various dictionaries, including Black's Law dictionary, Webster's Ninth New Collegiate Dictionary, and Webster's Forth New International Dictionary).

The Pennsylvania Superior court deemed Petitioner's Application for Reconsideration/Reargument "untimely", without further commentary. Henceforth, it can only be surmised that the deadline for a 'timely' application would have been December 2, 2025. Counting from November 26, seven days, would have fallen on December 2, 2025. One would have to ignore that November 29 and 30, fell on a Saturday and Sunday. However, the statute is void of any language excluding Saturdays, Sundays and holidays. Using this timeline, in order for Petitioner to have filed a 'timely' Application for Reconsideration/Reargument En Banc, after he recieved the Superior court's decision at the prison on December 1, 2025, he would have had to of crafted a response, and had his motion arrive at the prothonotary's office less than 24 hours later, all from the confines of prison.

Even the most polished, masterly attorneys would have been unable to accommodate such a task. Additionally, under such an unworkable time limit, a litigant would be unable to file a motion requesting an extension of time to file a timely motion. It is unequivocal that this timeline and objective is gelastic at best, and must be revised.

Notwithstanding, Petitioner sought reconsideration from both the Superior court of Pennsylvania, and the Supreme Court of Pennsylvania, all to no avail, as all of his motions were quickly denied without further commentary. In all of Petitioner's motions, he argued that it was a clerical error that attributed to his motion being deemed untimely. Petitioner avowed that under the circumstances of the case, he had done all that could reasonably be expected to get the motion to its destination within the required 7 days. Moreover, Petitioner argued that the court's ignored the statutory construction of the rules of court, specifically rules applied to incarcerated individuals. Pa. R.A.P. 121(f) which states; "a pro se filing submitted by a person incarcerated in a correctional facility **is deemed filed as of the date of the prison postmark on the date the filing was delivered to the prison authorities for purposes of mailing as documented by a properly executed cash slip or other reasonable verifiable evidence.**" *See also Fed. R.A.P. 4(c).*

The time limits imposed within Pa.R.A.P. 2542(a)(2) cannot create a

breakneck review for a petitioner. Instead, efficacious review is a guarantee under Due Process Clause. The infeasible time restraints contained within the statutory construction on the Pennsylvania Rules of Appellate Procedure, specifically 2542(a)(2) are indecorous, even if represented by competent counsel. However, for a *pro se*, prisoner movant the rules are unobtainable and unconstitutional.

PRISONER MAILBOX RULE

In the landmark cases of *Fallen v. United States*, 348 U.S. 139, 84 S. Ct. 169, 12 L. Ed. 760 (1964) and *Houston v. Lack*, 487 U.S. 266, 108 S. Ct. 2379, 101 L. Ed. 2d 245 (1988), the United States Supreme Court adopted a rule that treated a prisoner's mailing of a notice of appeal as the equivalent of 'filing' the notice. The Court first considering the dilemma of a prisoners "filing" documents via the mail in *Fallen* and concluded that Rule 37(a), which required the filing of a notice of appeal with ten days, could not be read literally to bar Fallen's appeal, which arrived after the expiration of the ten-day period, because, under the circumstances of that case, Fallen "had done all that could reasonably be expected to get the letter to its destination with the required 10 days." *Fallen*, 378 U.S. at 144, 84 S. Ct. 1692. Expounding further upon this concept in *Houston v. Lack*, the Court offered the following commentary on the matter:

"...[S]uch prisoners cannot take the steps other litigants can take to monitor the processing of their notices of appeal and to ensure that the court clerk receives and

stamps their notices of appeal before the 30-day deadline. Unlike other litigants, pro se prisoners cannot personally travel to the courthouse to see that the notice is stamped "filed" or to establish the date on which the court received the notice." ..."[p]ro se prisoners cannot take any of these precautions; nor, by definition, do they have lawyers who can take any of these precautions for them. Worse, the pro se prisoner has no choice but to entrust the forwarding of his notice of appeal to prison authorities whom he cannot control or supervise and who may have every incentive to delay." (paragraph breaks added).

Unskilled in law, unaided by counsel, and unable to leave the confines of prison, the only information the pro se prisoner will likely have is the date he receives any filings via mail, which is controlled by the prison. If there is any delays in the normal operating procedures within the prison, which are abundant and frequent, it would bar a pro se prisoner from effectively meeting the procedural time limits currently in place under 2542(a)(2). Considering that the children's fast track appeal procedure deals exclusively with child custody matters, and would almost always involve matters dealing with a parent's constitutionally protected right to their children, those rights must be protected by the Due Process Clause.

The prisoner mailbox rule has been expressly adopted in Pennsylvania and extended to the documents filed by pro se prisoners. According to *Com. v.*

Diclaudio, 210 A.3d 1070, 1074 (Pa. Super. 2019) "the prisoners mailbox rule provides that a pro se prisoner's document is deemed filed on the date he delivered it to prison authorities for mailing."; *see also Com. v. Jones.*, 549 PA 58, 700 A.2d 423, 426 (Pa. 1997) the pro se prisoner "bears the burden of proving that he or she in fact delivered the appeal within the appropriate time period"..."[a]ccepting any reasonable verifiable evidence of the date a prisoner places his filing in the control of prison authorities". *Id.*

Petitioner diceres that his case mirrors *Fallen* because under the circumstances of this case, Petitioner "had done all that could reasonably be expected" to get the motion to its destination with the required 7 days. Moreover, Petitioner states as true that he complied with the precedence set in *Jones* in that he provided the Superior Court with attested copies of the 'postage order' slips from the prison, as verifiable evidence of the date he placed hid filings in the control of prison authorities. Furthermore, Petitioner finds the language applicable in *Com. v. Patterson*, 2007 PA Super 241, 931 A.2d 710, 714 (Pa. Super. 2007), that court "declined to quash an appeal as untimely when the notice of appeal was filed three days after the deadline by a pro se, incarcerated appellant, even though the record lacked postmarked envelope definitively noting the date of mailing".

Petitioner states as true that the prisoner mailbox rule has been expressly adopted by our Federal courts and extended to the documents filed by pro se

prisoners. According to *Pabon v. Mahanoy*, 654 F.3d 385, 391 n.8 (3rd Cir. 2011). "The federal 'prisoner mailbox rule' provides that a document is deemed filed on that date it is given to prison officials for mailing." *Moody v. Lockett*, 2009 U.S. Dist. LEXIS 38382, 2009 WL 1270225, at *4 n.2, "absent proof of the exact date of delivering the habeas petition to the prison authorities, the court will presume the date whereon [the petitioner] signed his petition is the date he gave the prison authorities his petition for mailing."; *Hostler v. Groves*, 912 F.2d 11581161 (9th Cir. 1990) (applies *Houston* "to notices of appeal filed in non-habeas civil cases by incarcerated prisoners acting pro se."); *United States v. Giddings*, 740 F.2d 770, 771 (9th Cir. 1984) (Federal inmates who mailed the notice of appeal four days after he received the sentence order "did all that reasonably could be expected.").

In examining the procedural posture of the present case, the Pennsylvania Superior court treated Petitioner's Application for Reconsideration/Reargument *En Banc* as a nullity, finding the motion untimely. The Pennsylvania Superior Court's decision, that the motion was not a "valid" petition, was affirmed by Pennsylvania's Supreme Court on February 17, 2026. Consequently, the courts analysis elevates what is essentially a ministerial act of the Clerk of Courts to a substantive legal factor which not only controls the timeliness of a litigants petition but also his substantive right to seek relief. Petitioner finds the holding of

both courts, and this posture contrary to the fundamental concepts of due process as well as the essential premise of the prisoner mailbox rule.

Since the act of actually docketing the petition is an act outside of the control of the litigant, it would seem contrary to due process concepts to hinge a litigant's valuable right to this act. Stated alternatively, it would seem inconsistent with notions of fundamental fairness if a litigant could lose valuable rights due solely to the acts, or failure to act, of an administrative office. Fundamental concepts of fairness would suggest the need to focus upon the actions of the litigants as they relate to the **preservation or loss of essential rights**. It is unlikely that this concept permeates the so-called "prisoner mailbox rule" by mere happenstances. The act of 'filing' a document is far more a legal construct that focuses as much, if not more, upon the act of the litigants in placing the document in the hands of the appropriate ministerial office then to the actual act of docketing the receipt of the document.

UNITED STATES POSTAL SERVICE NEW PRACTICE

On December 24, 2025, the United States Postal Service (USPS) rolled out a new practice regarding how mail is tracked and dated. "While for more than 70 years a postmark has been a reliable way of proving when an individual met a deadline for filing items such as a ballot, tax return, or legal document, a postmark no longer indicates the first day the USPS received a piece of mail.

Instead, under a technical change to the USPS's Domestic Mail Manual (DMM608.11), a postmark will now reflect when mail reaches one of its processing centers--which could be several days after it is first picked up by a letter carrier or dropped off at a mailbox. The mail service's shift on postmarks came about through *Delivering for America* (DFA), a ten-year cost-cutting plan approved in 2021." (Sources: *Brookings Institution* & *CNBC*).

According to research by the Brookings Institution, many legal and administrative processes have depended on the "evidentiary convention" of knowing that a postmark could be used as proof of when mail was sent. Like the prisoner mailbox rule, "a document is deemed filed on the date it was given to prison officials for mailing." Doing away with the certainty's associated with a postmark, then, disrupts a key component of legal mail and court procedure. The only solution proposed by the USPS is out of reach for all prisoners, USPS has advised senders to physically request a hand-stamped postmark from a post office retail counter. Not only is this a constraint for anyone who can not easily access a post office, like an incarcerated individual, it also does not resolve the legal ambiguity produced by the USPS declaring that postmarks are not representative of when mail was sent.

Petitioner raises the question about whether the changing of procedure by the United States Postal Service, that a postmark no longer indicates the first day

the USPS received a piece of mail, and whether the statutory and administrative framework must now reassess the role postmarks play in court filings altogether.

In the case sub judice, Pennsylvania's Highest Court decided an important question, the implementation of the prisoner mailbox rule, and when it would or would not apply. By refusing to hear the merits of this case, the Pennsylvania Supreme Court's holding conflicts with several other State's courts of last resort, several other United States Court of Appeals decisions, and conflicts with relevant decision of this High Honorable Court.

PARENT'S CONSTITUTIONAL RIGHTS

This matter involves the severance of a parent's constitutionally protected, fundamental right to make decisions pertaining to the care, custody and control of his children. That consequence, the permanent destruction of the fundamental relationship between parent and child, is so drastic that in it has been coined "the civil equivalent to the death penalty." *See In re Adoption of C.M.*, 667 Pa. 268, 255 A.3d 343, 362 (Pa. 2021). The right to make decisions regarding the care, custody and control of one's children is "one of the oldest fundamental rights protected by the Due Process Clause." *Hiller v. Fausey*, 588 Pa. 342, 904 A.2d 875, 885 (Pa. 2006) (*citing Troxel v. Granville*, 530 U.S. 57, 67, 120 S. Ct. 2054, 147 L. Ed. 2d 49 (2000)).

This fundamental right "does not evaporate simply because [parents] have

not been model parents of have lost temporary custody of their child..." *Santoksy v. Kramer*, 455 U.S. 745, 754, 102 S. Ct. 1388, 71 L. Ed. 2d 599 (1982). The United States Supreme Court has, in fact, recognized that "persons faced with forced dissolution of their parental rights have more critical need for procedural protections than do those resisting the state interventions into ongoing family affairs. When the state moves to destroy weakened familial bonds, it must provide the parent with fundamentally fair procedures." *Id.* at 753-54. If a party seeks to terminate parental rights, due process requires the production of at least clear and convincing evidence, which is the highest standard of civil proof, to support its allegations. *Id.* A lower standard is not constitutionally sufficient. *Id.* Imposing this high burden of proof is "one way to impress the factfinder with the importance of the decision and thereby perhaps to reduce the chances that inappropriate terminations will be ordered." *Id.* at 764-65. (quoting *Addington*, 441 U.S. at 427); *see also In re T.R.*, 502 PA 165, 465 A.2d 642 (Pa. 1983).

The matter before this Honorable Court is not a matter of parental termination, in reality an Orphan's Court denied an earlier petition to terminate Father's parental rights, deeming Respondents petition as frivolous. This is a child custody matter, in which Petitioner sought shared legal custody and supervised physical custody of his five young children. Petitioner is currently incarcerated and sought custody, seeking reunifications' with his children and seeking the

ability to maintain some sort of contact with his children. Ultimately, the Trial court entered a custody order so restrictive, repugnant and impeding that it is tantamount to termination of Father's parental rights. Throughout litigation, the Trial court repeatedly abused its discretion with various evidentiary rulings that were clear errors of law.

In parental termination proceedings, Pennsylvania law commands the State to produce clear and convincing evidence that the statutory ground for termination exist, pursuant to 23 Pa.C.S. §2511(a), which entails consideration of the impact termination of parental rights will have on a child's well-being, namely "the development, physical and emotional needs and welfare of the child." 23 Pa.C.S. § 2511(b); *see also In re Adoption of C.M.*, 255 A.3d at 359. Accordingly, the Superior court defers to the Trial judges if "the factual findings are supported by the record and the court's legal conclusions are not the result of an error of law or an abuse of discretion." *Id.* at 362 (*quoting In re Adoption of S.P.*, 616 Pa. 309, 47 A.3d, 826-27 (Pa. 2017)).

In deciding to uphold the rulings in this case, tacitly endorses the Lower court's opinion and gives the impression that clear and convincing evidence can be based solely on a credibility finding, because that is the only basis for the Trial court's conclusions in a voluminous amount of rulings in this matter. The evidentiary standard for termination of parental rights is 'clear and convincing',

and it is indisputable that clear and convincing evidence is the most robust standard of civil proof. The opinions rendered in this case do not demonstrate an understanding of the heightened importance of that standard, especially in the context of terminating a fundamental right. The opinion provided by the Trial court in Father's case, which was retold by the Superior court, focused on the troubled earlier history of the case, and focused on alleged conduct Father was acquitted of and/or never charged with. Father was barred by the Trial court from presenting evidence which was favorable to him and adverse to the Respondent.

Mother attempted to have Father's parental rights terminated, but that endeavor was quickly declared null and void by the appropriate Orphan's court. Displeased with the other court's decision, the Trial Judge in this child custody matter circumvented the proper authority of the Orphan's Court, and effectively eliminated Father's parental rights through a child custody order, as a way to maneuver the 'clear and convincing' standard needed in termination proceedings. The Trial court's decision revolved around the Respondent's testimony from the criminal proceedings, which the Superior court found sufficient to support both court's decisions. However, a review of the transcripts from the custody trial, and that of the earlier criminal trial, reveal that the Trial court's conclusions lacked support in its evidentiary rulings, and were in fact contradicted by specific, competent testimony in the criminal matter along with other witnesses, which the

Trial court strategically ignored, and then barred Petitioner from using as evidence. All of which was affirmed by the Superior Court.

Petitioner reiterates that "[s]pecificity and corroboration are crucial to the foundation of competent evidence" and that "[c]redibility is not a substitute for competency." *In re Adoption of C.M.*, 255 A.3d at 369-70. The Trial court relied extensively and exclusively on testimony from hearings that predated the February 2025 custody proceedings in its conclusions for custody. Specifically and repeatedly, the Court referred to evidence presented in the criminal matter, more than five years prior, and not new evidence or circumstances. The Trial court, in allowing certain evidence, stated it would not consider offenses that Petitioner was acquitted of, or conduct in which he was never charged when making its determination for custody. Petitioner prepared his entire case, ensured by the Trial court that it would not use this information. The Trial court did exactly what it said it wouldn't do, Petitioner attempted to challenge this abuse of discretion, but the Superior court refused to recognize the contrary decisions presented in the Trial court's custody order and opinion, and failed to review the issue entirely.

ERRONEOUS EVIDENTIARY RULINGS--VIOLATE DUE PROCESS

For a petitioner to prevail on a claim that an evidentiary error amounted to a deprivation of due process, he must show that the error was so pervasive as to have denied him a fundamentally fair trial. *Keller v. Larkins*, 251 F.3d 408, 415

(3rd Cir. 2001) (holding that admission of evidence may violate due process where the evidence is so inflammatory as to "undermine the fundamental fairness of the entire trial."); *Bisaccia v. Attorney General*, 623 A.2d 307, 313 (3rd Cir. 1980) ("when it must be said that the probative value of such evidence, though relevant, is greatly outweighed by the prejudice to the [party] from its admission, the use of such evidence [] may rise to the posture of fundamental fairness and due process of law.").

The thrust of Petitioner's argument is that criminal trial transcripts contain prejudicial, unproven statements and by the Trial court allowing the evidence, and then using selective portions of the evidence, was not only harmful but undermined the fundamental fairness of the entire custody proceedings. The Trial court did not ignore the prejudicial statements and allegations, as it previously said it would, and then made its custody decision based off of that information.

Petitioner avows that the inclusion of the criminal trial transcripts created not only a partiality, but a strong bias, which was evident by the Trial court restricting Petitioner from developing a full and complete record, by denying him the ability to call witnesses or introduce any evidence favorable to him and adverse to the Respondent throughout the custody proceedings. Petitioner further argued that the admission of the transcripts should be considered a violation of due process. In particular, the Due Process Clause of the United States

Constitution entitles a person to an "impartial and disinterested tribunal in both civil and criminal cases." *See Marshall v. Jerrico Inc.*, 466 U.S. 238, 242, 100 S.Ct. 1610, 64 L. Ed. 2d 182 (1980). "Even absent proof of actual bias, the Constitution protects against the **probability of prejudice**." (emphasis added); *See Caperton v. A.T. Masset Coal Co. Inc.*, 556 U.S. 868, 881, 128 S. Ct. 2252, 173 L. Ed. 2d 1208 (2009) (proving that the inquiry "asks not whether the judge is actually, subjectively bias, but whether the average judge in his position is 'likely' to be neutral, or whether there is an unconstitutional 'potential for bias'") (*citing Mayberry v. Pennsylvania*, 400 U.S. 455, 465-66, 91 S. Ct. 499, 27 L. Ed. 2d 532 (1971)).

Petitioner argued in the Lower courts that the criminal trial transcripts presented a clear violation of the Pennsylvania Rules of Evidence, specifically **Pa.R.E. 401, 403 and 404(b)(1)**. The transcripts were unfairly prejudicial, confused the issues of the custody matter, needlessly presented cumulative evidence and introduced 'prior bad acts' that Petitioner was never charged with. In addressing Petitioner's claims regarding the transcript evidence, the Superior court declared that Petitioner failed to identify any information that was inappropriate for the custody matter, claiming that Petitioner stated he was "largely exonerated in the criminal proceedings--a claim not supported by the record." (*See Sup. Ct. Op.*, at 15 (*citing Tr. Ct. Op.*, 4/14/25 at 4). Futher contending that "none of the

dropped charges involved the minor children at issue." *Id.*

A untaught review of the record will lay bare that Petitioner never claimed to have been 'largely exonerated' in the criminal proceedings, but instead highlighted the amount of dropped, withdrawn and acquitted offenses (*See Attached 'C'*). Petitioner's averment is that the introduction of the transcripts from the criminal proceedings caused him to suffer prejudice. Petitioner addressed this issue in his appeal brief and in pretrial filings (*See Pet. Mem.*, 7/16/24--*Exhibit 'C'*) establishing his claims before both the Lower courts. Unquestionably, Petitioner's claims are supported by the record, proving that the prosecution in the criminal proceedings **withdrew and dropped** over fifty (50) charges pertaining to his children. The conclusion of the Superior court is unequivocally refuted by the record and evidence of the case.

The Superior court's opinion make lucid the prejudicial effects of allowing the criminal trial transcripts into evidence, as the Superior court's memorandum commits over four (4) pages rehashing the criminal matter. Petitioner expressed that these custody proceedings were not the appropriate forum to consider certain issues. Along with the voluminous amount of dismissed, withdrawn and acquitted offenses and the various reversed convictions by the Higher court itself, Petitioner informed the Court's that the criminal proceedings are still under review and advised the Courts of the Post-Conviction Relief proceedings at No. CP-45-

CR-249-2020. *Id.* Perplexingly, the author of the Superior court's memorandum, a first-year Justice, whom also sat on the merits panel of Petitioner's criminal direct appeal, seemed unconcerned with Petitioner's claims, and instead took issue with Petitioner's description of the reversed convictions in the criminal matter.

Petitioner diceres that the Trial court's evidentiary ruling that allowed the introduction of the transcripts were so arbitrary and prejudicial that it denied him a fair trial, and was a violation of his due process. "A [] petitioner may therefore raise a [] claim based on a state law evidentiary issue only where he can show that the admission of the evidence in question denied him due process under the Fourteenth Amendment by depriving him of the "fundamental element of fairness in [his] trial." *Wilson v. Vaughn*, 533 F.3d 208, 213-14 (3rd Cir. 2008), *cert. denied*, 566 U.S. 1170, 129 S. Ct. 1916, 173 L. Ed. 2d 1066 (2009); Thus, a due process violation will only occur in the context of a state court's evidentiary ruling when that ruling was "so arbitrary or prejudicial that it rendered the trial fundamentally unfair." *Scott v. Bartkowski*, No. 11-3365, 2013 U.S. Dist. LEXIS 121661, 2013 WL 4537651, at 9* (D.N.J. Aug, 27, 2013) (*citing Romano v. Oklahoma*, 512 U.S. 1, 12-13, 114 S. Ct. 2004, 129 L. Ed. 2d 1 (1994).

DENIED APPEALLTE REVIEW

Petitioner sought review from the Superior court which ultimately refused to give efficacious review. The Superior court concluded, *sua sponte*, that Petitioner

did not include several of his claims with his Rule 1925 Statement, stating that he "filed an untimely, Amended Rule 1925 Statement", thus refusing to give his claims appellate review (*See Sup. Ct. Op.*, at 11 & 29). Petitioner attempted to argue this point clearly in his Application for Reconsideration/Reargument *En Banc*, which the Superior court deemed untimely. Petitioner pointed to his initial Rule 1925 Statement, in that motion, he informed the Court that he was still in need of the notes of testimony from relevant proceedings in order to file a complete and accurate appeal (*See Pet. 1925 Statement*, 3/24/25, at 13). However, the Trial court ignored Petitioner's request, and the Superior court claimed the issues were ineligible for review on appeal.

Confoundedly, in it's memorandum the Superior court addressed two of Petitioner's claims in tandem (*See Sup. Ct. Op.*, 11/26/25 at 15). The issues being two separate and distinctive issues; The first being, "*whether the trial court erred in allowing the introduction of the criminal trial transcripts into evidence...*", which the Higher court concluded that the Trial court did not abuse it's discretion. The other issue being, "*whether the Trial court erred in using information and allegations in which Petitioner was acquitted of in its determination for custody, violating that Court's previous ruling*" (*See Pet. 1925 Statement*, 3/24/25).

The Superior court failed to address the latter of the issues, depriving Petitioner meaningful appellate review. Vexatiously, the Superior court claimed

that Petitioner did not challenge the Trial court's reasoning that it would only consider his convictions, thereby finding no merit for relief (*See Sup. Ct. Op.*, 11/26/25 at 16). But that was not Petitioner's claim, his claim is that the Trial court abused its discretion by **using offenses and allegations** he was never charged with, and acquitted of in the Trial court's custody analysis, a direct contradiction to that Court's previous ruling. Throughout the custody proceedings, Petitioner had no objection to the court considering his convictions, his concern was that he would be predisposed for things he was never charged with. However, the Trial court repeatedly stated it would not consider any allegation or offense that Petitioner was acquitted of and never charged with. Petitioner included the transcripts from the relevant proceedings in his appeal brief (*See N.T.*, 6/27/24, at 24-30; *see also N.T.*, 9/20/24. at 11-12).

It is abundantly clear from the Trial court's custody analysis and order that the Court, continuously used the offenses and allegations that Petitioner was acquitted of and never charged with against him. Petitioner suffered prejudice from this intentional action, and the Trial court's opinion involves a gross abuse of discretion, and is unreasonable. Furthermore, it was an error of law for the Trial court to go against its previous ruling. Petitioner included this specific issue within his Application for Reconsideration/Reargument *En Banc*. However, as mentioned above, the Superior court denied that petition. Thus, Petitioner's issues

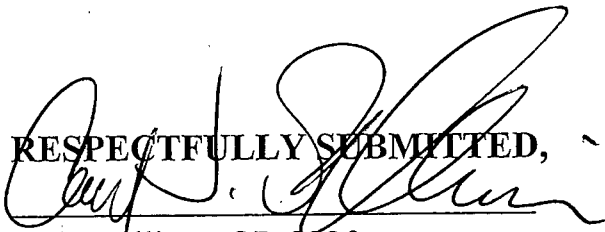
were never given efficacious review from the Higher courts.

Otherwise, to the extent Pennsylvania law lacks clarity with respect to effective appellate review standards, when the appellate court commits an error of law. Petitioner sought review from the Pennsylvania Supreme Court to resolve this uncertainty, pursuant to **Pa.R.A.P. 1114(b)(4)**, to no avail. Thus, Petitioner asks that this High Honorable Court grant the writ because the Commonwealth's Courts in this case denied Petitioner's claims based on a patently erroneous legal error.

CONCLUSION

Petitioner's unyielding conclusion is that the statutory construction and language of the statute in the Pennsylvania Rules of Court for "Children's Fast Track" appeals, violate the Due Process Rights of litigants in the Commonwealth. Additionally, the changing of policy at the United States Postal Service, effecting the new practice on how mail is dated, disrupts key components of legal mail and court procedure. Thus, Petitioner prays that the petition for writ of certiorari should be granted.

Moreover, the Commonwealth's ruling in this case, the equivalent to terminating a Father's parental rights, eliminating the rights to his five children, are contrary to and involve unreasonable applications of clearly established State and Federal law. The evidentiary rulings in this case undermined the fundamental fairness of Petitioner's trial, which violated his due process rights. Further, the dismissal of the matter by the Higher court's is in direct violation of State and Federal law, along with the well-established 'prisoner mailbox rule', and are intelligibly erroneous. Thus, Petitioner prays that the petition for writ of certiorari should be granted.


RESPECTFULLY SUBMITTED,

Cory Sullivan QP-0930, *pro se*
SCI Benner Township
301 Institution Drive
Bellefonte, PA, 16823