

8/15/19

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U.S. COURT OF APPEALS

AUG 19 2019

In support of Habeas corpus
re: JD; Z

FILED _____
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United States Court of Appeals
For the Ninth Circuit

Ariana Minerva; Willes; on
behalf of JD; Z
Petitioner - Appellant

regards : NO. 19-15723
D.C NO.
2: 19-CV-00068-JJT.
J Fm

VS

Arizona Department of Child Safety,
Maricopa County Juvenile Court And
Southwest Human Development, et al

regarding, No 19-15723
D.C # 2:19-cv-
00008 - JJT-Jfm

CC:Honorable Bernard Owens

Re: Fabricated case: JD36346/F1141797

August 12th, 2019

Dear Honorable Judge Bernard Owens,

As you are well aware on July 29th, 2019, I brought you a letter into the court room (Via Crystal Nuttle) explaining to you why I could not be present. I have not received word from this court as to this date that I would not be retaliated against by the Arizona Department of Child Safety or AZ AG office, if I should appear by special appearance only to the next court hearing . Your Honor, you swore I would be protected and not sanctioned with a "Protective Order ". Yet Debbie Oelze, Your Honor, has violated your orders by sending a deputy sheriff to my door to threaten and harass me as she violated Nicolas Brian Hoskins orders for an in person visitation with my son Jonathon from the beginning. Through and by Diana Theos, my son has stated his unwavering position , that I his loving mother have not either abused nor neglected my son in any way this position my son has kept for 11 months. So tell me why my son Jonathon has been taken to his father's and had his father forced on him? Like I said your Honor, his father is a good man, but however due to his absence in Jonathon's life for 16 years and in addition to the fact that his biological father is 67 years of age and given my son's disability, I at 47 years of age have been my sons primary caregiver and attachment figure for his entire life.

This all has stemmed from one retaliatory phone call your Honor, and no one thought to even so much as question that fact. I who know my son Jonathon the most, have cared for him the most and I have moved this court from day one to dismiss this fabricated case with extreme prejudice and reunite me with my son Jonathon back into my safe and loving care where he truly belongs. Yet your Honor, The AG Tyne Naven and Debbie Oelze has done nothing but violate judges orders from day one. It is also evident by now, that Debbie Marie Oelze has a personal vendetta against me as being a traditional loving mother protecting my son Jonathon as to why, look no further than her linked in profile your Honor.

I have done nothing to be treated in this horrific fashion nor my son! This AG Debbie Oelze has used the threat of a so called "criminal investigation" against me, when there were no charges filed 11 months ago and because I have this flagpoled in the federal court as a petitioner against the Arizona Department of Child Safety, et al, I was unlawfully arrested on July 12th, 2019? This reeks of retaliation against me as a loving mother who only wants and desires to be rightfully reunited with my son. This was all I ever wanted! Yet the AG set forth to retaliate against me when I called her out many times over me and my son's constitutional laws and rights that were being violated by her and the DCS on a daily basis. As of today, your Honor, I don't have the assurance that I won't be arrested if I should be present at the next hearing, so therefore I am requesting a letter from you in writing that I Arlena Minerva; Willes will not be penalized or arrested for appearing before you at the next court hearing. If I do not get that reassurance your honor I will not be present at the next hearing, because I cannot trust the respondents to not retaliate against me for seeking justice and reunification with my son by legally addressing the retaliation in my jurisdiction in the Ninth district court of appeals.

I am not seeking a continuance to this nonsense I am am seeking justice and immediate reunification with my son Jonathon seeing enough punitive damages have been done to my son, me and my family by the Arizona Department of Child Safety, et al. Therefore, I move this court your Honor, to dismiss this fabricated case with extreme prejudice and my son Jonathon David; Zeek be placed back immediately into my physical custody and safe and loving care where he truly belongs .

Respectfully,

Submitted on the 12th day of August in the year of our Lord and Savior Jesus Christ 2019

Arlena Minerva; Willes

The Social Security Act (Act of August ,14th 1935) H. R. 7260:

D.) Nothing in this Act shall be construed as authorizing any Federal agent, or Representative, in carrying out any provisions of this Act , to take charge of any child over the objection of either parents of such child , or of the person standing in loco parentis to such child.

Meaning the State is not the legal parent or guardian and has no lawful or legal right to take any child over the objection of their loving parents . This is where the wheel falls off the legal wagon : regarding the doctrines and statutes of Parens Patriae stating that it is the State that is the parent when in fact the State has no right to interfere with the natural parents rights to parent their own children . (Troxel VS Granville 2000) .

It is not the States right to interfere with my right to get a 2nd opinion your honor , nor do they have the right to retaliate against me for no real cause , rhyme or reason they cannot prove that I hurt my son in any way . yet they are attempting to silence me because of my case against them in the Federal . Ask yourself is this just and is this right to come against a loving mother for no cause ? You CAN set this right your honor you CAN dismiss this fabricated case with extreme prejudice and you CAN do what is honorable and right by me and my son and release him back into my loving care where he belongs . There is really no need to continue with this fabricated charade any longer .

Respectfully *Arlena Minerva, Ullas*

By Special Devine Appearance autographed in Writing

Arlena Minerva : Willes

Sui Juris, Jus Soli, a living soul, woman, an ambassador of Jesus Christ My Lord, a American state national, Beneficiary of the PCT/CQV Trust, Not trustee, a non-citizen/Citizen, non-Resident, non-Person, non-Representative, non-Agent. Notice to Agent is notice to Principal. Notice to Principal is notice to Agent.

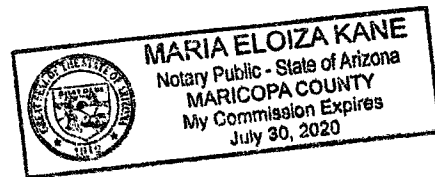
I , Arlena Minerva ; Willes being of sound mind and body, a loving Mother , a living soul, who proved to me on the basis of satisfactory evidence to be the living woman whose name is subscribed to the within Instrument and acknowledged before me that she executed the same in her authorized capacity and that by her autograph(s) on the Instrument the same woman who executed the Instrument.

Arlena Minerva; Willes Date before me 8/12/19

_____ Date before me _____

I certify under the PENALTY OF PERJURY under the lawful laws of Arizona State and the STATE OF ARIZONA , that the foregoing paragraph is true and correct. Witness my hand and official seal.

Maria Eloiza Kane Signature of Notary/Jurat



NO. 19-15723
D.C. NO.
2:19-cv-00068 -JJT-Jfm

I Arlena Willis, of sound mind and body am not homicidal. I am not suicidal. I love my life, my family and especially my 16 year old son Jonathan. If anything happens to me, my son, other family members or close friends whom have stood by me, I want it investigated to the fullest extent by the top authorities in this country.

In the wake of the high levels of child medical kidnapping in this state, kids should be believed. My son wants to be with I his loving mother. I am a safe and fit mother. My child was seized from me without warrant, cause or exigency. (which has been filed in my jurisdiction)

I have written this evidentiary affidavit to start an investigation into the child trafficking of my son Jonathon David : Zeek by Phoenix Children's Hospital, The Department of Child Safety, DCS, Southwest Human Development, the Attorney General Mark Brnovich's Office, his assistants, and the Governor Ducey.

The First Amendment to the United States Constitution prevents Congress from making any law respecting an establishment of religion, prohibiting the free exercise of religion, or abridging the freedom of speech, the freedom of the press, the right to peaceably assemble, or to petition for a governmental redress of grievances. It was adopted on December 15, 1791, as one of the ten amendments that constitute the Bill of Rights.

The Fourth Amendment to the United States Constitution is part of the Bill of Rights that prohibits unreasonable searches and seizures. It requires "reasonable" governmental searches and seizures to be conducted only upon issuance of a warrant, judicially sanctioned by probable cause, supported by oath or affirmation, particularly describing the place to be searched and the persons or things to be seized.

The Eighth Amendment to the United States Constitution states: "Excessive bail shall not be required, nor excessive fines imposed, nor cruel and unusual punishments inflicted." This **amendment** prohibits the federal government from imposing unduly harsh penalties on criminal defendants, either as the price for obtaining pretrial release or as punishment for crime after conviction.

The Fourteenth Amendment to the United States Constitution The Due Process Clause prohibits state and local government officials from depriving persons of life, liberty, or property without legislative authorization. This clause has also been used by the federal judiciary to make most of the Bill of Rights applicable to the states, as well as to recognize substantive and procedural requirements that state laws must satisfy. The Equal Protection Clause requires each state to provide equal protection under the law to all people, including all non-citizens, within its jurisdiction. This clause has been the basis for many decisions rejecting irrational or unnecessary discrimination against people belonging to various groups.

We the People of the State of Arizona ask these questions. What are the limits on judges? Where are the checks and balances when a judge seizes your elders, your children, your money and puts you in jail without exculpatory evidence, i.e., Due Process? We want juries of our peer to make those decisions. This right to a jury is to be “preserved” under the 7th Amendment of the Constitution, “Inviolable” under the Arizona Constitution, and self effectuating under the 10th Amendment. Federalist 83 says, “the best security against corruption is a trial by jury.”

(Prohibits) persons who act on behalf of state and local agencies from using the badge of their authority to deprive individuals of their federally guaranteed rights.

Authority: *McDade v. West* (9th Cir. 2000) 223 F.3d 1135, 1139.

A social worker acts under color of state law while acting or purporting to act in his or her official capacity, or while exercising his or her responsibilities pursuant to state law.

Authority: *McDade v. West* (9th Cir. 2000) 223 F.3d 1135, 1139-1140.

The Constitution protects the fundamental right of parents to make decisions concerning the care, custody, upbringing, management, and control of their children.

Authority: *Troxel v. Granville* (2000) 530 U.S. 57, 66.

The right to family association is sheltered against the government's

unwarranted usurpation, disregard, or disrespect.

Authority: *ML.B. v. S.L.J. (1996) 519 U.S. 102 5116.*

In the area of child abuse, social workers are constrained by the substantive and procedural guarantees of the Constitution. Suspected child abuse does not permit a social worker to ignore a parent's constitutional rights.' Any motive to protect a child from abuse does not override a parent's constitutional rights. 2

Authority:

1. *Wallis v. Spencer* (9th Cir. 2000) 202 F.3d 1126, 1130.
2. *Franz v. Lytle* (10th Cir. 1993) 997 F.2d 784, 792-793; *Calabretta v. Floyd* (9th Cir. 1999) 189 F.3d 808, 820.

“The liberty of parents to direct the upbringing, education, health care and mental health of their children is a fundamental right.” A.R.S. 1-601(A). The government may not interfere with parental rights unless it demonstrates a compelling interest of the highest order that is narrowly tailored to meet that interest and that is not otherwise served by a less restrictive means. A.R.S. 1-601(B). This standard allows for children to be protected from abusive situations, while still ensuring that parents’ rights are not infringed by government officials who may simply believe they know better than a parent.

The Parents’ Bill of Rights recognizes a parent’s right to:

- Direct the education of their child.
- Direct the upbringing of their child.
- Direct the moral or religious training of their child.
- Make healthcare decisions for their child.
- Access and review all medical records relating to their child.
- Provide written permission before a biometric scan is performed on their child.

- Provide written permission before any record of their child's blood or DNA is created, stored, or shared.
- Provide written permission before any videos or voice recordings are made of their child, with certain exceptions (for example, security or surveillance of school property).
- Be notified promptly if there is suspicion that a criminal offense has been committed against their child.
- Access information about a Department of Child Safety investigation involving the parent and their child.

A person acting under color of law who commits a constitutional violation,
cannot be immunized by state law.

Authority: *Martinez v. California* (1980) 444 U.S. 277, 284; *Wallis v. Spencer* (9th Cir. 2000) 202 F.3d 1126, 1144.

Parents and children have a well-elaborated constitutional right to live
together without governmental interference.

Authority: *Arce v. Childrens Hospital Los Angeles* (2012) 211 Cal.App.4th 1455, 1473.

The Constitution requires a social worker to obtain a warrant before seizing a child from his or her parent's custody, except where there is specific and particularized evidence, at the time of the seizure, that the child is in IMMEDIATE danger of serious physical bodily injury, and the scope of the intrusion is reasonably necessary to avert that specific injury.

Authority: *Arce v. Childrens Hospital Los Angeles* (2012) 211 Cal.App.4th 1455, 1473; *Bailey v. Newland* (9th Cir. 2001) 263 F.3d 1022 51033.

A child's seizure from his or her parent's custody without a warrant is presumptively unreasonable.

Authority: *Welsh v. Wis.* (U.S. 1984) 466 U.S. 740, 750; *People v. Rogers* (Cal. 2009) 46 Cal.4th 1136, 1156.

necessary to obtain a warrant.' This burden is not satisfied by mere speculation.' Rather, DCS must present specific and particularized evidence.'

Authority:

Welsh v. Wis. (U.S. 1984) 466 U.S. 740, 750; *People v. Rogers* (Cal. 2009) 46 Cal.4th 1136, 1156; *Arce v. Childrens Hospital Los Angeles* (2012) 211 Cal.App.4th 1455, 1473; *Bailey v. Newland* (9th Cir. 2001) 263 F.3d 1022, 1033; CACI 3026.

2. *Bailey v. New/and* (9th Cir. 2001) 263 F.3d 1022, 1033.

3. *Arce v. Childrens Hospital Los Angeles* (2012) 211 Cal.App.4th 1455,, 1473; *Bailey v. New/and* (9th Cir. 2001) 263 F.3d 1022, 1033.

"IMMINENT" means: impending; about to happen; immediate; threatening; ready to take place; near at hand; all to the extent that the event in question will occur at once unless speedy, swift and prompt action is taken.

Authority: *James v. Superior Court* (1978) 87 Cal.App.3d 985, 991; *People v. Victor* (1965) 62 Cal.2d 280, 299.

To be considered IMMINENT, the danger must be certain, immediate, and impending; it may not be remote, uncertain or contingent. A likelihood or bare possibility of injury is not sufficient to create IMMINENT peril.

Authority: *People v. Victor* (1965) 62 Cal.2d 280, 299.

The speculative possibility of danger is insufficient to constitute IMMINENT danger.

Authority: *Garver v. Washoe County* (D. Nev. 2011)2011 U.S. Dist. LEXIS 137703, *18..19;
Bailey v Newland (9th Cir. 2001) 263 F.3d 1022, 1033.

A child suffering from neglect of a type that could, if their parent's conduct was not modified within a reasonable period of time, lead to long-term harm, does not present an imminent risk of serious bodily harm.

Authority: *Rogers v. County of San Joaquin* (9th Cir. Cal. 2007) 487 F.3d 1288, 1297

Troxel v. Granville Supreme Court Case June 5, 2000 states: The custody, the care and the nurture of the child reside first in the parents; their primary function and freedom include preparation for obligations that the state can neither supply nor hinder. A law that allows anyone to petition a court for child visitation rights over parental objections unconstitutionally infringes on parents' fundamental right to rear their children.

Hardwick vs Vreeken (Notice: "exculpatory" evidence on page 7::
<https://cdn.ca9.uscourts.gov/datastore/opinions/2017/01/03/15-55563.pdf>)

"Parents and children have a well-elaborated constitutional right to live together without governmental interference. That right is an essential liberty interest protected by the Fourteenth Amendment's guarantee that parents and children will not be separated by the state without due process of law except in an emergency."

Mary Ellen C.

Wallis v. Spencer, 202 F.3d 1126, 1136 (9th Cir. 2000) (citations omitted).

Over the years, the Supreme Court has recognized this fundamental right in many cases. For example, in *Cleveland Bd. of Educ. v. LaFleur*, 414 U.S. 632, 639–40 (1974), the Court said, "This Court has long recognized that freedom of personal choice in matters of marriage and family

life is one of the liberties protected by the Due Process Clause of the Fourteenth Amendment.” The Court reiterated this theme three years later in *Moore v. City of East Cleveland*, 431 U.S. 494, 503–04 (1977): “Our decisions establish that the Constitution protects the sanctity of the family precisely because the institution of the family is deeply rooted in this Nation’s history and tradition. It is through the family that we inculcate and pass down many of our most cherished values, moral and culture.” **Why can’t I get answers regarding these cases? DCS does not follow their own rules and procedures and they definitely do not follow the Constitution either the Arizona, or the US Constitution that all lawyers and J.O.s swear and oath to.**

Those men and women listed above in their official capacity and individually, perpetrated and or participated in:

1: Unlawful Seizure

2: Judicial Deception /abuse of Judicial power

3: Supervisor Liability:

4: Failure to Intercede In the unlawful collusion among fellow associates in DCS and court actors

5: **Violations of Title II of the Americans with Disabilities Act.** DCS and court actors did not meet their obligation to engage in an interactive process under ADA standards in a timely manner,

6: Invasion of Privacy, and Interruption of Familial Association/Right to be Free from Dishonesty of Public Employees in Juvenile Court Proceedings, i.e., Perjury, Fabrication of Evidence, Suppression of Exculpatory Evidence; By all listed above in their official capacity and individually,

7: Malicious prosecution: against I a loving Mother who stands innocent against all false allegations and trumped up charges .

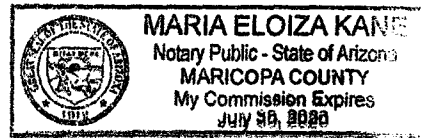
Verification

I hereby declare, certify and state, pursuant to the penalties of perjury under the laws of the United States, and by the provisions of 28 USC section 1746 that all of the above and foregoing representations are true and correct to the best of my knowledge, information and belief. Executed in Maricopa Arizona this 12th day of 8th, 2019

Arlena Minerva, Willes

Maria E. Kane

Notary



(Notary Seal)