UNITED STATES DISTRICT COURT

NORTHERN DISTRICT OF ALABAMA

EASTERN DIVISION

CHRISTIAN HOLM
DANIELLE HOLM

PLAINTIFFS

CV-16-HA-2036-E

VS

ATTORNEY GENERAL OF ALABAMA

DEFENDANT

EMERGENCY PETITION FOR THE GREAT WRIT OF HABEAS CORPUS

TO THE HONORABLE JUDGE OF SAID COURT:

Comes now Christian Holm, (father) and Danielle Holm, (mother), (hereinafter also known as "we", "us" and "our", or as "I", "me" or "my" when individually addressing the court), as the pro-per Relators, Applicants and Petitioners, for our new born, live, healthy, baby boy (also herein known as "he" or "him"), that was born on October 10, 2016, as the created human who was kidnapped hours later on October 11, 2016, and is presently still being deprived of liberty by the State of Alabama, and we the parents are being deprived of the ownership, exclusive control and access to and of our baby boy since that date.

1. We respectfully request that the strict rules on page quantity, format-labeling and order be relaxed against us, sufficient to allow for hearing and Justice to be attained, per **Haines v Kerner**, 404 U.S. 519, per **Jones v Community Redevelopment Agency of City of L.A.** 733 F. 2d 646, 649 (9th Cir. 1984. cit. omtd.) and per **28 USC 2072(b),** because we have no Attorney for filing and arguing this Petition, and cannot afford one, so the legislated goal, that this Petition "shall be most favorably construed in order to give effect to the remedy, and protect the rights of the person seeking relief under it" can be attained.

2. We hereby invoke the common law jurisdiction of this court, because we have harmed no one. ALTHOUGH MOST FEDERAL COMMON LAW JURISDICTION HAS BEEN CLOSED DOWN, THE TWO REMAINING AREAS OF FEDERAL COMMON LAW THAT CAN STILL BE INVOKED IS "CIVIL RIGHTS" AND WHERE "CONSTITUTIONAL INTERESTS ARE AT STAKE.", BOTH OF WHICH APPLY IN THIS CASE. The following quote is from a public website covering this very topic.

> "The U.S. Congress has given courts power to formulate common law rules in areas such as admiralty law, antitrust, bankruptcy law, interstate commerce, and **civil rights**. Congress often lays down broad mandates

with vague standards, which are then left to the courts to interpret, and these interpretations eventually give rise to complex understandings of the original intent of Congress, informed by the courts' understanding of what is just and reasonable.

Furthermore, in the 1943 case of *Clearfield Trust Co. v. United States*, the Court recognized that federal courts could still create federal common law, albeit in limited circumstances **where federal or Constitutional interests were at stake**,..." (emphasis is ours.)

3. THIS HABEAS CORPUS IS BEING FILED BECAUSE WE ARE BEING DEPRIVED OF OUR INALIENABLE RIGHTS OF DUE PROCESS. THE STATE AGENTS ARE ACTING WITHOUT JUSTIFICATION. THE STATE AGENTS ARE NOT OBEYING THE RULE OF LAW, AND WE HAVE **NO OPTION LEFT** BUT TO FILE THIS PETITION TO EXPOSE THE SECRET, CHILD KIDNAPPING CONSPIRACY MADE UP OF PEOPLE WHO ARE USING COLOR OF LAW AND COLOR OF OFFICE, ACTING AS IF THEY CAN DO ANYTHING THEY WANT, WITHOUT HAVING TO BE PERSONALLY ACCOUNTABLE FOR THEIR ACTIONS, HIDING BEHIND THE CLOAK OF GOVERNMENT WHILE COMMITTING CRIMES AND TORTS AGAINST US WITH THE DELEGATED POWER OF THE PEOPLE.

4. We respectfully request to be timely notified by this Court in writing of any and all substantive errors that could cause a Deprivation of Equal Protection rights. Per **Platsky v CIA**, 953 F.2d 25, court errs if it dismisses pro-se or pro-per litigant's pleadings without instruction of how pleadings are deficient and how to repair them, and to grant sufficient time and opportunity to correct them. We further plead for exemption from making and filing copies of the transcript of the hearings, as they are extensive, thus would be financially burdensome on us, and because they are not expected to substantially affect this Petition.

5. We hereby notify this Honorable Court of our bringing caselaw of other States of the Union and of other Federal Courts and the United States Supreme Court into this pleading, under the allowance provided by **the Constitution for the United States of America, Article 4, Clause 1,** otherwise known as the "good faith and credit" clause, to which the Justice of this Court is fully bound.

I.
VERIFIED PETITION

6. This Petition for Habeas Corpus is fully verified by our sworn affidavit, as mandated under **Federal Habeas Rule 2(c)(5)** attached herein as page solo, behind the Petition and before the Appendix Exhibit List, Exhibits and Orders.

II.
TO WHOM DIRECTED

7. This Petition for Habeas Corpus is being directed to the nearest Federal Court under Federal Habeas Rule 2(a), because of the unconstitutional, and thus illegal nature under which our baby boy is being restrained from our exclusive ownership, custody and control **for the last 69 days.**

8. Because our baby boy was kidnapped mere hours after being born and has remained in State of Alabama custody since October 11, 2016, he is still being subject to continued, future unlawful custody, he is being denied Danielle's milk, and thus, **Federal Habeas Rule 2(b)** requires service to the Alabama Attorney General, Montgomery, Alabama, as they are the attorney for the State where the present unconstitutional Judgment was entered.

III.
FEE PAID

9. We have paid $5.00 into the hands of the Court Clerk per Federal Habeas Instruction No. 6.

IV.
NUMBER OF COPIES FILED

10. Per **Federal Habeas Rule 3(a), One Original and two Copies** are being tendered to the Court Clerk for the file and Court, and we will either include the extra number of copies necessary to be mailed out to the Respondents by the Clerk of Court, or we or some other non-interested third party will mail them out, by Certified Mail, whichever the Court Clerk requires or directs.

V.
JURISDICTION

11. Per **Title 28, Part VI, Chapter 153, Section 2254** entitled, "State custody; remedies in Federal courts", (a), "a district court, **shall** entertain an application for a writ of habeas corpus in behalf of a person in custody pursuant to the judgment of a State court **only** on the ground that he is in custody **in violation of the Constitution or laws or treaties of the United States, and we are alleging that in this Petition for Habeas Corpus for our unnamed newborn baby boy who is being held in State Custody in violation of law, as further explained herein**.

VI.
REASON FOR PETITION

12. The Writ of Habeas Corpus is "the fundamental instrument for safeguarding individual freedom against arbitrary and lawless state action." **Harris v. Nelson**, 394 U.S. 286, 290-91 (1969). We are filing this Petition for Habeas Corpus because our newly born, live, healthy baby boy is presently being restrained of his liberty and we are being deprived of our exclusive control over him, in violation of the Constitution of the United States of America in the 1st, 4th, 5th, 6th, 7th, 8th, 9th, 10th and 14th Amendments, which protect many of our parental, civil, religious and human Rights, which are being violated by the Judge's unlawful seizure order on our baby boy.

13. Our baby boy, (now 69 days old as of the filing of this petition), is yet unnamed because we wanted some time with him after he was born, maybe somewhere around thirty to sixty days, before naming him.

14. I, Danielle, am a direct descendant of the Native American Mik-Maq Indian Tribe in Northern Maine, (a Federally Recognized Tribe), and thus, this fact logically causes our baby boy to also have my Native American DNA and thus

he is protected by said Native American status as well. This custom of some Native tribes and even of personal customs of individuals within tribes, to have some time with their newborn babies before naming them is a cultural and religious right protected by the First Amendment of the United States Constitution, and the Federal, Religious Freedom Restoration Act, of 1993, Pub. L. No. 103-141, 107 Stat. 1488, codified at 42 U.S.C. § 2000bb through 2000bb-4, ***AND YET***, the Anniston Regional Medical Hospital Staff USED THIS EXERCISE OF OUR RIGHT AND CHOICE OF NOT IMMEDIATELY NAMING HIM, as one of the reasons that they kidnapped him from our custody.

15. There is NO Federal Law **NOR** is there any State Law in ANY of the 50 states of the Union, that requires parents to name their newborn baby and then giving that designated name to the Hospital Staff before desiring to leave the Hospital or FORFEIT the ownership and custody of their baby for not doing so.

16. Also, shortly after our baby boy was born, during this time of Hospital-Staff COERCION AND DURESS to name the baby when THEY dictated, while the Mother, Danielle Holm was still trying to recuperate from her first birth in the

hospital bed, the Anniston Regional Medical Hospital Staff attempted to induce and coerce us into agreeing to acquiring a Social Security Number for our baby boy, and we did not desire that at that time, and when we stated so, they used THIS ALLEGATION as further reason to sever custodial control over our baby.

17. However, the Social Security Administration's Enumeration-At-Birth Program clearly states ON ITS PAGE **ONE** of the website that **"this program is voluntary for parents and hospitals."** This website page goes further to explain that 96% of parents CHOOSE (using *language supporting the premise of "voluntary"*), to acquire SSN's for their babies at that time.

18. This obviously means, by F.R.C.P. 902(5) ADMISSION, that at least 4% of parents who have just birthed children in hospitals EVERY YEAR, CHOOSE **NOT** TO be coerced into doing so, and so out of the two million babies born every year in the United States of America, the estimated 160,000 births, (that 4% of 2,000,000 babies born live), DOES NOT by any lawful measure, cause the forfeiture of those 160,000 new born babies from their parents.

19. These alleged "crimes" are merely constructs made up in the collective minds of the people who work for the Anniston Regional Medical Hospital and the State of Alabama Department of Human Resources, because they are the ones who called the Police and both Anniston Police and Calhoun County Sheriff's arrived to assist in the color-of-law, color-of-office, child kidnapping.

20. Our baby boy has committed no crime and yet he is being restrained of his liberty, by present imprisonment in the custody of paid agents of the State of Alabama Department of Human Resources.

21. Furthermore, neither of us have been convicted of any crimes.

22. Further, neither one of us are under indictment for any crimes.

23. Further, neither of us have any warrants out for our arrest in any jurisdiction, anywhere in the world.

24. Further, per 28 USC 2254(b)(1)(A), we believe that we have exhausted all lawful remedies under Alabama law, evidenced herein by the ORDER issued by

Judge Melody Walker, **(PETITIONER EXHIBIT "A"),** but if the State of Alabama claims that we have not exhausted our remedies in State Court, we move this court under 28 USC 2254(b)(1)(B)(i) because there apparently IS an absence of available State corrective process, or under (b)(1)(B)(ii) that if there is such a process, circumstances exist that renders such process totally ineffective in this case to protect our rights as the parents of our baby boy.

25. Therefore we plead that this Honorable Court act under 2254(b) or under common law EMERGENCY RULE to compel the State of Alabama to restore our baby to us immediately, as our baby boy has NEVER BEEN in any medical neglect, nor any medical duress, nor any medical harm, nor any contact with anyone who has threatened harm to him or any other minor, nor any contact with anyone who has ever been adjudicated as a potential danger to him.

26. Further, per 28 USC 2254(b) and (c) it is believed by us that we have no further ability, under any State of Alabama law, to raise, by any available procedure, the questions presented herein in any State of Alabama court, as all of the State Actors have been acting as if they are deaf to our pleadings,

attempting to work together in a concerted effort at severing and terminating parental rights from day one without law, without statute, without probable cause of any past crimes having been committed by either of us, and without even any reasonable articulable suspicion of pending, future crimes by us, thus forcing us to move this Petition for Habeas Corpus to the Federal Jurisdiction Courts under EMERGENCY RULE, because the only element left, after eliminating all other possibilities, is pure kidnapping.

27. Per 28 USC 2254(d)(1) we declare that the adjudication of the case resulted in a series of decisions that were, and that continue to be contrary to the holdings of the United States Supreme Court and in violation of numerous tenets of our rights protected by the 1st, 4th 5th, 6th, 7th, 8th, 9th, 10th and 14th Amendments of the Constitution for the United States of America, which is codified into and recognized as established Federal law. These holdings are too numerous to cite.

28. We further declare that if it is argued oppositional to our pleadings, that there is no specific caselaw in Federal Court that has ever challenged this type State Judge Order, we declare in advance, the defense found in the Federal Court Ruling of **Hill v Sibley Memorial Hospital**, 108 F. Supp. 739, 740, at

point #1 where the Court ruled that "Mere absence of precedent does not prove that an action cannot be maintained.", and so even if there was no caselaw in direct support of our particular challenges to the jurisdiction or in any other one of our arguments, this Federal ruling shows that **all precedent must start from somewhere and must be allowed to be heard and develop, case by case,** especially one wherein the parents of a kidnapped child make petition for Habeas Corpus with irrefutable evidence, when the unsupported Seizure Order created violations of Constitutionally protected rights.

29. Per 28 USC 2254(d)(2) the decision, given by the alleged judge Melody Walker is FATALLY DEFECTIVE AND FLAWED because the JURISDICTION for her court, based upon the language contained IN the "PICK UP ORDER", is FOUNDED UPON the Due Process Claim that someone, somewhere swore out an Affidavit of Probable Cause and presented said Affidavit to the Judge requesting a Baby Seizure Order, **but THAT PREVIOUSLY WRITTEN AFFIDAVIT THAT IS ALLUDED TO IN THE ORDER has NEVER BEEN**

PRODUCED into any record, nor provided to us.

30. That Pick Up Order, (a body seizure order), clearly states in its lead sentence, "**Part I - TO ANY LAW ENFORCEMENT OFFICER OF THE STATE OF ALABAMA OR ANY AUTHORIZED PERSON: Based upon a sworn statement presented to the juvenile court that the above-named child needs to be placed in detention or shelter or other care, the court finds the following**:" (AND THE STATEMENT CONTINUES BY THERE BEING A CHIECKMARK PLACED INTO THE BOX LEFT OF THE NEXT STATEMENT, WHICH STATES:) "**The child has no parent, legal guardian, legal custodian, or other suitable person able to provide supervision and care for the child.**"

31. THAT STATEMENT IS A BALD-FACED LIE! We are RIGHT HERE, READY TO RAISE OUR CHILD. THEY ARE *ALLEGING* WE ARE UNSUITABLE, WITHOUT SUSTAINING THAT ALLEGATION WITH ANY FACTS IN EVIDENCE.

32. PLEASE NOTE THAT THERE IS NO ONE WHO HAS SIGNED THE PETITIONER'S EXHIBIT "A", "UNDER PENALTY OF PERJURY", TAKING RESPONSIBILITY OF THE LIES OF ITS CONTENTS!

33. PLEASE NOTE THAT THEIR "PETITION", (WHICH IS OUR EXHIBIT "B"), ALSO DOES NOT CONTAIN THE NECESSARY "UNDER PENALTY OF PERJURY" CLAUSE, AND THEREFORE THEY DID

NOT TRULY SWEAR TO THE VERACITY OF ITS CONTENTS, BECAUSE THEY HAVE NO POTENTIAL, PERSONAL PENALTY HANGING OVER THEIR HEADS, COMPELLING THEM TO BE TRUTHFUL.

34. There never was an original Sworn Affidavit, **SIGNED UNDER PENALTY OF PERJURY**, created by anyone who had witnessed either NEGLECT or HARM committed by us to our newborn baby, that had been given TO the JUDGE, PRIOR TO HER ISSUING THE ORDER.

35. We argue that because there never was a Sworn Affidavit of Probable Cause generated to begin with, wherein someone wrote it out and then swore or affirmed the truth of the contents of their Affidavit **under the Penalty of Perjury**, and signing same in the presence of someone authorized to administer the oath, on a date **antecedent to** the SEIZURE ORDER, alleging that they have witnessed us committing any HARM OR NEGLECT to

our newborn baby boy, to give the Judge LAWFUL REASON to ISSUE the seizure order, **and because** Judge Melody Walker had no personal, first-hand knowledge of any harm or neglect committed by us against our baby boy, then the ORIGINAL PICK UP ORDER could **ONLY** be based and founded on, and ISSUED IN **PURE, CRIMINAL FRAUD**.

36. According to 28 USC 1746, documents that are not going to be authenticated before a Notary can **still be sworn to**, so long as that swearing or affirmation is made **UNDER THE PENALTY OF PERJURY**, so as to self-submit their claims and their actual human body to those potential penalties of committing perjury (imprisonment and fines), because perjury is a crime that can be punished by all Federal criminal and all 50 state criminal courts.

37. In other words, if we, the Petitioners were to make a specious claim that someone owes us money that we did not ACTUALLY and PERSONALLY KNOW TO BE TRUE, in writing, and then make that document public so as to

induce others to go to someone's home and steal property for us, WE KNOW that we could NOT be held to the "PENALTY of PERJURY", **unless** we clearly made the writing to INCLUDE said language above our signature.

38. That is exactly what these State Agents, acting under Color of Law and Color of Office, have done to us.

39. They get to STEAL OUR BABY, and yet they get to ESCAPE the PENALTIES OF PERJURY because they have made their statements ON A DOCUMENT **THAT FAILS TO INCLUDE THAT SPECIFIC LANGUAGE** ABOVE THE PLACE WHERE THEIR SIGNATURE IS PLACED.

40. THIS KIND OF FRAUD **MUST STOP**, BECAUSE IT ALLOWS GOVERNMENT AGENTS TO ABUSE THEIR POWERS AND KIDNAP CHILDREN FOR THE ALABAMA DEPARTMENT OF HUMAN RESOURCES, THAT THEN RECEIVES FEDERAL FUNDS FOR "RESCUEING" CHILDREN THAT DID NOT NEED TO BE KIDNAPPED IN THE FIRST PLACE.

28 U.S. Code § 1746 - Unsworn declarations under penalty of perjury

"Wherever, under any law of the United States or under any rule, regulation, order, or requirement made pursuant to law, any matter is required or permitted to be supported, evidenced, established, or proved by the sworn declaration, verification, certificate, statement, oath, or affidavit, in writing of the person making the same (other than a deposition, or an oath of office, or an oath required to be taken before a specified official other than a notary public), such matter may, with like force and effect, be supported, evidenced, established, or proved by the unsworn declaration, certificate, verification, or statement, in writing of such person which is subscribed by him, as true **under penalty of perjury**, and dated, in substantially the following form:

(1) If executed without the United States: "I declare (or certify, verify, or state) **under penalty of perjury** under the laws of the United States of America that the foregoing is true and correct. Executed on (date). (Signature)".

(2) If executed within the United States, its territories, possessions, or commonwealths: "I declare (or certify, verify, or state) **under penalty of perjury** that the foregoing is true and correct. Executed on (date). (Signature)"."

41. That statement "UNDER PENALTY OF PERJURY" **must** be written within the body of GOVERNMENT DOCUMENTS that are used to seize property to make their pledge or promise known and readable to the public, so that those penalties can actually, then be enforced upon the affiant if need be.

42. SOMEONE DESIRING TO ESCAPE LIABILITY MADE THEIR CLAIMS THAT, "THE CHILD HAS BEEN SUBJECTED TO NEGLECT OR ABUSE" AND THE ONLY TIME THAT POTENTIALLY COULD HAVE OCCURRED WAS IN THE BIRTHING ROOM BETWEEN BIRTH AND THEIR KIDNAPPING, WHICH NEVER OCCURRED.

43. THEY ARE LYING IN THIS DOCUMENT TO CONVERT AND DOCTOR-UP AN ILLEGAL KIDNAPPING INTO SOMETHING THAT LOOKS LEGITIMATE, IF THEY CAN FILE ENOUGH PAPERWORK AND HIDE THE TRUTH.

44. FURTHER THIS SAME EXHIBIT 'B' STATES, "SAID CHILD'S PARENTS ARE HOMELESS.", WHICH IS ALSO A LIE, BECAUSE ON THE DATE OF THE WRITING OF THAT CLAIM, (THE 11TH) WE WERE GIVEN A HOME TO LIVE IN.

45. Further, this PICK UP ORDER continues in this Part I box, by the lowest marked box, left of the statement, as follows: **"FOR DEPENDENCY CASES ONLY: Continuing placement of the above-named child in his or her home would be contrary to the welfare of the child in that**: (and the lines provided have text in all caps entered next, stating:) "**CHILD DOES NOT HAVE A PARENT TO CARE FOR HIM AND PROVIDE FOR HIS ADEQUATE NEEDS.**"

46. THOSE ARE BALD FACED LIES. WE CHALLENGE AND REFUTE EACH AND EVERY STATEMENT OF NEGELCT, INSUFFICIENCY OR ABUSE CONTAINED THEREIN.

47. They alleged in their accusatory documents, PETITIONER EXHIBIT "**B**", that we are "homeless" in one part, and yet they allege in another part, that we had an address at the Cheaha State Park. BOTH CANNOT BE TRUE.

48. They falsely alleged in one part that our baby boy lived at the Cheaha State Park, on the top of PETITIONER EXHIBIT "C", but out baby boy has NEVER **BEEN** at the State Park, because he was still inside Danielle while we were AT THE PARK and he was DELIVERD AT THE HOSPITAL, and THEY STOLE HIM FROM US WHILE IN THE HOSPITAL!!!

49. We had then, and still have a good quality tent that we were staying in, and this tent provided plenty shelter from the elements as we both had sufficient cold-weather gear, camp bedding and cold weather clothing, and we had plenty of baby clothing and diapers that had been given to us for the baby when he arrived, but we didn't even have to return to the tent for shelter, **because on the date of his birth, we were given an awesome camper, which we had at that time, placed into a trailer park to live in**. Since that time, we have moved that camper to an undisclosed location on private property to be free of further state tyranny.

50. In contacting the Cheaha State Park, the Director, a Mr. Fred Sandlin states in phone calls from the general public, that "CHILDREN ARE PERFECTLY FINE IN CHEAHA STATE PARK, EVEN IN TENTS, IN THE PRIMITIVE CAMPING AREAS."

51. We are asking this Court to consider and analyze the FRAUD produced by the Alabama State Agents.

First they say in their documents that we forfeit our baby because we were staying in a tent by our religious and cultural choice, prior to the baby's arrival, but they lied and alluded that we had NO PLACE to rest at night.

AND THAT IS SUPPOSED TO SOMEHOW QUALIFY FOR "FORFEITURE" OF THE BABY, **EVEN THOUGH** THE DIRECTOR OF THIS PARK, FRED SANDLIN, PUBLICLY STATES THAT CHILDREN, **EVEN BABIES**, ARE WELCOME AT THE STATE PARK, **EVEN IN THE PRIMITIVE CAMPING AREAS, IN TENTS**.

Does the State of Alabama issue public material in print and the internet, CLAIMING to welcome families with CHILDREN and EVEN families with BABIES, in the primitive tent-camping sites,

so that they can be LURED IN TO HAVE THOSE SAME CHILDREN STOLEN BY STATE AGENTS after they get there?

Is the State of Alabama running an international child kidnapping ring by orchestrating this?

Is this how these State Actors supply married couples who cannot bear their own children who apply to the State of Alabama to be foster parents and adoptive parents, so that the State D.H.R. Agency and the adoptive parents ALL get to receive tens of thousands of dollars, maybe even hundreds of thousands of FEDERAL dollars, PER EACH CHILD, over the entire lifetime of that child as they grow up to adulthood in a stranger's home?

Then they say in their unsworn document that WE HAVE BEEN NEGLIGENT, when we haven't even HAD HIM TO OURSELVES outside of the hospital.

Then they claim the Park is OUR address, when we had originally intended it to only be a temporary birthing location, as we wanted to birth out in nature, and after two days of labor, we decided to err on the side of

safety to protect the baby's health and allow Hospital birth.

Then we are GIVEN A MOBILE CAMPER HOME that is MUCH BETTER than a TENT, and NOW WE CANNOT HAVE THE BABY BACK, because we are alleged to have been negligent in not providing shelter, even though he was never IN our tent?!

52. We KNEW that the Lord would provide us a home, and HE DID, exactly on the day we would "need" it, through a friend who gave us this camper, free and clear.

53. This ELIMINATES THE LAST VESTIGE OF A CLAIM THAT WE WOULD HAVE BEEN NEGLIGENT IN PROVIDING SHELTER FOR OUR BABY BOY. Even if we HAD have returned to the Cheaha State Camp with our baby boy, he would NOT have been neglected, because we had a tent, and back in October it was still perfect weather, outdoors in Alabama.

54. We therefore request that Fred Sandlin be subpoenaed under DUCES TECUM to confirm or deny this fact, as to whether or not children, EVEN BABIES, are allowed to be at Cheaha State campgrounds or not, EVEN IN

TENTS WITH THEIR PARENTS, in their "primitive camp sites, and to BRING WITH HIM A COPY OF EVERY PIECE OF PUBLIC LITERATURE AND A COMPLETE PRINT OUT OF THE CHEAHA STATE CAMP WEBSITE THAT WILL SHOW WHETHER BABIES ARE ALLOWED TO BE IN ALABAMA STATE PARKS **OR** IF THEY POST CLEAR WARNINGS THAT ANYONE WHO HAS A BRAND NEW BABY IN THEIR ARMS WILL PERMANENTLY FORFEIT THEM TO D.H.S. WHEN THEY ENTER.

55. That camper, where we presently live, is now on private property at a location that is desired by us to be undisclosed, due to the terror that these State Officials, acting under Color of Law and Color of Office, continue to cause us. That is why we acquired a post office box to receive our mail.

VII.
VENUE

56. Petitioner declares that the Hugo L. Black United States District Court, Northern District of Alabama, at 1729 5th Avenue North, Birmingham, Alabama 35203, is the proper venue, because the State Court from which the kidnapping, Parental Rights Violations and Deprivation of Due Process was received, is in Heflin, Alabama.

VIII.
ALLOWANCE FOR PETITION, AND
REQUEST FOR EVIDENTIARY HEARING

57. We further plead for this Habeas Corpus to issue per 28 USC 2254(d)(1) and/or 2254(d)(2); as follows.

> **28 USC 2254(d)** An application for a writ of habeas corpus on behalf of a person in custody pursuant to the judgment of a State court shall not be granted with respect to any claim that was adjudicated on the merits in State court proceedings **unless the adjudication of the claim**—
>
> **(1) resulted in a decision that was contrary to**, or involved an unreasonable application of, **clearly established Federal law**, as determined by the Supreme Court of the United States; **or**
>
> **(2) resulted in a decision that was based on an unreasonable determination of the facts in light of the evidence presented in the State court proceeding.**

58. Our argument for 28 USC 2254(d)(1) issuance of this Habeas Corpus is that:

- IN ABSENCE OF OUR CHILD HAVING ANY ILLEGAL DRUGS IN ITS BLOODSTREAM,
- IN ABSENCE OF US HAVING ANY CRIMINAL HISTORY,
- IN ABSENCE OF US BEING UNDER INDICTMENT FOR ANY CRIMES IN ANY JURISDICTION,

- IN ABSENCE OF US HAVING ANY WARRANTS OUT FOR US IN ANY JURISDICTION,
- IN ABSENCE OF OUR OWN, PERSONAL, ILLEGAL DRUG USE,
- IN ABSENCE OF OUR OWN, PERSONAL USE OF ALCOHOL OR ABUSE OF PRESCRIPTION DRUGS,
- IN ABSENCE OF ANY FEDERAL OR STATE LAW THAT REQUIRES US TO NAME OUR BABY AND TELL THE HOSPITAL BEFORE LEAVING, OR FORFEIT THE BABY FOR NOT DOING SO,
- IN ABSENCE OF ANY FEDERAL OR STATE LAW THAT REQUIRES US TO ACQUIRE A SOCIAL SECURITY NUMBER FOR OUR BABY BOY BEFORE LEAVING, OR FORFEIT THE BABY FOR NOT DOING SO,
- IN ABSENCE OF US HAVING COMMITTED ANY CRIMES AGAINST ANYONE ON EARTH,
- IN ABSENCE OF ANYONE STATING IN A SWORN AFFIDAVIT **UNDER PENALTY OF PERJURY** THAT THEY WITNESSED US COMMITTING ANY NEGLECT ON OUR NEWBORN BABY,
- IN ABSENCE OF ANYONE STATING IN A SWORN AFFIDAVIT

UNDER PENALTY OF PERJURY THAT THEY WITNESSED US COMMITTING ANY ABUSE ON OUR NEWBORN BABY,

- IN ABSENCE OF ANY ADJUDICATION OF MENTAL DEFICIENCY OR INSTABILITY OF EITHER ONE OF US IN ANY COURT IN THE WORLD THAT WOULD CAUSE OUR BABY BOY TO BE IN POTENTIAL HARM, ABUSE OR NEGLECT,
- IN ABSENCE OF ANY CONSTITUTIONAL LAW THAT ALLOWS THEM TO UNJUSTIFIABLY TAKE OUR BABY FIRST AND THEN DRAG THEIR EFFORTS OUT, WEEK AFTER WEEK, NOW FOR OVER TWO MONTHS, USING THE "LEGAL SYSTEM" LIKE A NEVER-ENDING TREADMILL TO EXHAUST OUR LIMITED FINANCIAL RESOURCES AND EMOTIONALLY MANIPULATE US OUT OF OUR BABY BOY WITH THEIR CONTINUOUS INNUENDO, SUPPOSITION, SUGGESTION, SOPHISTRY, AND FALSE, MANUFACTURED CONCERN,

the State of Alabama, by and through its agents who apparently EITHER do not know of our parental rights, our civil rights, our religious rights, our human rights, our U.S. Treaty rights and the due process laws of America OR who just

do not care of their contents, has seen fit to nonetheless deprive us and strip us of our parental rights, our civil rights, our religious rights, our human rights, our U.S. Treaty rights and our due process rights, by multiple people operating in one concerted kidnapping, each using their separated, delegated powers of the particular office that they hold, initially accomplished by using the PHYSICAL RESTRAINT from the color-of-law Anniston Medical Hospital Security Guard who restrained Danielle's LEFT ARM, using the color-of-law PHYSICAL RESTRAINT from the Anniston Police Officer who restrained Danielle's RIGHT ARM, and using the color-of-law PHYSICAL KIDNAPPING from the Calhoun County Sheriff's Department Deputy who literally PULLED THE NURSING BABY BOY FROM DANIELLE'S BREAST IN THE HOSPITAL BED, and continuing to use the false filings of a host of Department of Human Resources Lawyers, Psychologists and Agents, to perfect this illegal, fraudulent child kidnapping that is still occurring right now as you are reading this.

59. Parental rights have been upheld in numerous Federal holdings, as follows;

> The child is not the mere creature of the State; those who nurture him and direct his destiny have the right, coupled with the high duty, to recognize and prepare him for additional obligations. **Pierce v. Society of Sisters, 268 U.S. 510 (1925)**

It is cardinal with us that the custody, care and nurture of the child reside first in the parents, whose primary function and freedom include preparation for obligations the state can neither supply nor hinder. . . It is in recognition of this that these decisions have respected the private realm of family life which the state cannot enter. **Prince v. Commonwealth of Massachusetts, 321 U.S. 158 (1944)**

The values of parental direction of the religious upbringing and education of their children in their early and formative years have a high place in our society. Even more markedly than in Prince, therefore, this case involves the fundamental interest of parents, as contrasted with that of the State, to guide the religious future and education of their children. The history and culture of Western civilization reflect a strong tradition of parental concern for the nurture and upbringing of their children. This primary role of the parents in the upbringing of their children is now established beyond debate as an enduring American tradition. **Wisconsin v. Yoder, 406 U.S. 205 (1972)**

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. **Cleveland Board of Education v. LaFleur, 414 U.S. 632 (1974)**

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 cultural. **Moore v. East Cleveland, 431 U.S. 494 (1977)**

The liberty interest in family privacy has its source, and its contours are ordinarily to be sought, not in state law, but in intrinsic human rights, as they have been understood in "this Nation's history and tradition."- **Smith v. Organization of Foster Families, 431 U.S. 816 (1977)**

> We have recognized on numerous occasions that the relationship between parent and child is constitutionally protected. We have little doubt that the Due Process Clause would be offended "if a State were to attempt to force the breakup of a natural family, over the objections of the parents and their children, without some showing of unfitness and for the sole reason that to do so was thought to be in the children's best interest."- **Quilloin v. Walcott, 434 U.S. 246 (1978)**
>
> The law's concept of the family rests on a presumption that parents possess what a child lacks in maturity, experience, and capacity for judgment required for making life's difficult decisions. More important, historically it has recognized that natural bonds of affection lead parents to act in the best interests of their children. The statist notion that governmental power should supersede parental authority in all cases because some parents abuse and neglect children is repugnant to American tradition. Simply because the decision of a parent is not agreeable to a child or because it involves risks does not automatically transfer the power to make that decision from the parents to some agency or officer of the state.- **Parham v. J. R., 442 U.S. 584 (1979)**
>
> The fundamental liberty interest of natural parents in the care, custody, and management of their child does not evaporate simply because they have not been model parents or have lost temporary custody of their child to the State. Even when blood relationships are strained, parents retain a vital interest in preventing the irretrievable destruction of their family life. Until the State proves parental unfitness, the child and his parents share a vital interest in preventing erroneous termination of their natural relationship.- **Santosky v. Kramer, 455 U.S. 745 (1982)**

60. There are many other cases similar to this, but we believe that these sufficiently prove that we the people are the ones who are to be the proper care givers to our children, and that is to be interrupted or severed ONLY upon a

PROPER SHOWING of a very real and present danger to the health and safety of the child, through verified neglect or harm, which has NOT been proven in this case, nor even alleged in a sworn affidavit to give the court justification to make the baby seizure.

61. Further, we plead that per 28 USC 2254(d)(2) the present ORDERS and conditions of illegal, unlawful restraint over our baby boy is a direct result of a series of decisions by Melody Walker that are based on an unreasonable determination of the facts in light of the evidence presented in the State court proceeding, to suit their own, baby-market-placement-for-profits position.

62. We simply cannot find, and have not received TRUE JUSTICE in this so-called "STATE COURT" operating from the mouth and gavel of Judge Melody Walker, and where "THE STATE" is ALSO the FALSE ACCUSERS who are, to date, getting their numerous requests repetitively granted above and over us.

63. Our 2254(e)(1) evidence is the **ABSENCE** of the Sworn Affidavit that IS REQUIRED by the Pick Up Order, that on its face purports to be issued under the premise of said Affidavit, that DID NOT EXIST prior to the time that the

Pick Up Order was issued by the Judge acting under Color of Law. That absence PROVES THE FRAUD.

64. We understand that 28 USC 2254(e)(2), states:

> "If the applicant has failed to develop the factual basis of a claim in State court proceedings, the court shall not hold an evidentiary hearing on the claim **unless the applicant shows that —**
>
> **(A)** the claim relies on—
>
> **(i)** a new rule of constitutional law, made retroactive to cases on collateral review by the Supreme Court, that was previously unavailable; **or**
>
> **(ii)** a factual predicate that could not have been previously discovered through the exercise of due diligence; **and**
>
> **(B)** the facts underlying the claim would be sufficient to establish by clear and convincing evidence that but for constitutional error, no reasonable factfinder would have found the applicant guilty of the underlying offense.

and we therefore plead that these 2254(e)(2) conditions clearly appear to be worded strictly for reversing the guilt of the convicted criminal who is

applying for relief, by either the proper legislature having enacted some new law or by the Supreme Court reversing criminal convictions based on the repealing of laws, or on the factfinder, (either Judge or Jury) would have found the applicant guilty of the underlying offense, and thus, we understand that 2254(e) does NOT APPLY to this Habeas Corpus Petition because neither we, nor our baby boy, have committed any crimes that need reversal.

65. Per 28 USC 2254(f), "If the applicant challenges the sufficiency of the evidence adduced in such State court proceeding to support the State court's determination of a factual issue made therein, the applicant, if able, shall produce that part of the record pertinent to a determination of the sufficiency of the evidence to support such determination."

66. WE DO HEREBY CHALLENGE the sufficiency of the evidence adduced in the people's court that Melody Walker presently occupies, BUT WE CANNOT PRODUCE THE PART OF THE RECORD PERTINENT TO THAT DETERMINATION, BECAUSE IT IS THE ABSENCE OF THE ORIGINAL SWORN AFFIDAVIT, ALLUDED TO IN THE SEIZURE ORDER, THAT IS

BEING COMPLAINED OF, THAT DOES NOT EXIST, AND THEREFORE CANNOT BE PRODUCED BY US TO SHOW THIS COURT.

67. IT IS THIS "MISSING SWORN AFFIDAVIT" THAT CREATED AND CAUSED THE DEPRIVATION OF DUE PROCESS AND FRAUD IN THE FIRST PLACE. THE SEIZURE ORDER WAS ISSUED WITHOUT IT!

68. Further, 2254(f) states that "If the applicant, because of indigency or other reason is unable to produce such part of the record, then the State shall produce such part of the record and the Federal court shall direct the State to do so by order directed to an appropriate State official."

69. We affirm that we cannot afford to produce the certified records from the State, and thereby request that if this Court needs a copy of their records, to please order them to produce copies for this court.

70. If the State cannot provide such pertinent part of the record, then the court shall determine under the existing facts and circumstances what weight shall be given to the State court's factual determination."

71. Per 28 USC 2254(g), "A copy of the official records of the State court, duly certified by the clerk of such court to be a true and correct copy of a finding, judicial opinion, or other reliable written indicia showing such a factual determination by the State court shall be admissible in the Federal court proceeding." THIS IS GOOD! WE MOVE THIS HONORABLE COURT TO FORCE THE COUNTY COURT TO PRODUCE THE SWORN AFFIDAVIT OF WHOEVER FIRST AFFIRMED THEIR EVIDENCE OF OUR NEGLECT, HARM OR ABUSE OF OUR BABY BOY **UNDER THE PENALTIES OF PERJURY**, THAT THE JUDGE BASED HER SEIZURE ORDER ON.

72. Per 28 USC 2254(h), because this is not a Controlled Substance Act charge or allegation, and because we are financially unable to pay for such, being exclusively on my, (Christian's) S.S. Disability income, we hereby request the Court to appoint counsel to us for this case, who can put forth all of the appropriate arguments, law facts, evidence and case law to secure JUSTICE.

73. Appointment of counsel for us, in this case, under this section, appears to be most appropriately governed by 18 USC 3006A (a)(1)(H) and (a)(1)(I).

74. We therefore move this Honorable Court for an Evidentiary Hearing, with Court Appointed Petitioner Representation, scheduled by the Court Clerk as soon as possible. Further, we plead that this court admonish the opposing side to refrain from SHARP PRACTICES and use the legal system's many intricate rules and hurdles to take unfair advantage of loving Christian parents who want their baby boy back.

IX.
KNOWLEDGE OF THE LAW AND CASELAW

75. All Courts hold that all people are required to know all the law and all caselaw. This requirement is clearly posted in the many public laws that are available for all to access and read. This requirement also means that all police, all court clerks, all Department of Human Resources personnel, and all Judges are also held accountable for and charged with full knowledge of all law and all caselaw. There is no excuse, especially when the Agents of the State, operating in Public Servant Offices, USE LAW to conduct their "business" in a manner that violates precepts in the Constitution, which is superior to State law.

X.
JURISDICTIONAL CHALLENGE

76. We challenge Judge Melody Walker's claim to lawful jurisdiction over our newborn baby boy, and in support thereof, affirm that Courts have clearly held: Jurisdiction is essential to the authority of any Court to either hear or decide cases. See Rodriguez v State, 799 SW 2d 301, 303 (Tex. Crim. App. 1990); Texas Ass'n. of Bus. v Texas Air Control Bd., 852 SW 2d 440, 443 (Tex. 1993). "Without subject matter jurisdiction a court cannot render a valid judgment. Subject matter jurisdiction cannot be presumed and cannot be waived." Also see: Continental Coffee Prods. Co. v Cazarez, 937 SW 2d 44, (Tex. 1996) and further, please see Elton v State 252 SW2d 700, which states at point #2, "The Judgment of a court without jurisdiction is a nullity and is void." We further affirm that we rely upon the ruling Renshaw v Wise County (Civ. App. 1940) 142 S.W.2d 797, which states, "Judgment is void if trial court is without jurisdiction." "Jurisdiction is essential to give validity to the determination of administrative agencies and where Jurisdictional requirements are not satisfied the action of the agency is a nullity..." City Street Improv. Co. v Pearson, 181 C. 640, 185 P. (1962). "No sanction can be imposed absent proof of jurisdiction." Stanard v Olesen, 74 S.Ct. 768. "Once challenged, jurisdiction

cannot be 'assumed' it must be proven to exist." Stuck v Medical Examiners, 94 Ca2d 751, 211 P2s 389. "Jurisdiction, once challenged, cannot be assumed and must be decided." Maine v Thiboutot, 100 S. Ct. 250. "The law requires proof of jurisdiction to appear on the record of the administrative agency and all administrative proceedings." Hagans v Lavine, 415 U.S. 533. "If any tribunal finds absence of proof of jurisdiction over person and subject matter, the cause must be dismissed." Louisville R.R. v Motley, 211 U.S. 149, 29 S. Ct. 42. "Failure to adhere to agency regulations may amount to denial of due process, if regulations are required by Constitution or statute." Curley v United States, 791 F. Supp. 52. Albrecht v U.S., 273 U.S. 1, confirms that when challenged, jurisdiction must be documented, shown and proven to lawfully exist before a cause may lawfully proceed in the courts. The case of Cohen v Virginia, 6 Wheat 264, 5L. Ed. 257, (1821) states, "We [courts] have no more right to decline the exercise of jurisdiction which is given **than to usurp that which is not given.** The one **OR THE OTHER** would be TREASON to the Constitution." This holding is also enunciated in U.S. v Will, 449 U.S. 200, 66 L. Ed. 2d 392, at page 406.

77. This right to challenge the lawfulness of the taking of our baby boy without law or due process, by challenging the jurisdiction of the Department that the alleged Officers worked for, hinges on a Matter of State Law and Federally protected rights and Federal Law, which is mandated by both the Alabama Constitution and the United States Constitution for all Alabama public servants who exercise the delegated duties and powers that affect the rights of the people are required to not violate the rights of the people in doing so.

78. We rely upon these rulings, Griffin v Matthews, 310 F. Supp. 341; 423 F. 2d 272, McNutt v G. M., 56 S. Ct. 789; 80 L. Ed. 1135, Basso v U. P. L., 495 F 2d, 906, and Thomson v Gaskiel, 62 S. Ct. 673, 83 L. Ed. 111, and Foley Brothers Inc. et al, v Filardo, 336 US 281 which hold, "Jurisdiction, once challenged, cannot be assumed and must be proven.", and we therefore claim and assert our right to challenge the alleged jurisdiction of the case in controversy that was constructed to try and create a color-of-law, legal framework around an illegal kidnapping. These cases cited herein hold that once jurisdiction is challenged, it must be proven from the mouth of the principal."

79. We desire to prove with the vast number of herein caselaws, beyond mere speculation on one or two cases, that for actions of public servants to be lawful, the High Courts of this Country consistently rule that full jurisdiction must exist, and if non-existent, whatever actions follow from the initial void acts of those absent authority are also null and void, which in this case, deprived us of substantive rights of Due Process, a Federally protected right.

XI.
DEPRIVATION OF DUE PROCESS VOIDS THE CASE

80. Other adjudications have been more direct: "A judgment rendered in violation of due process is void." World Wide Volkswagen v Woodsen, 444 US 286, 291 (1980); National Bank v Wiley, 195 US 257 (1904); Pennoyer v Neff, 95 US 714 (1878), and "...the requirements of due process must be met before a court can properly assert in personam jurisdiction." Wells Fargo v Wells Fargo, 556 F2d 406, 416 (1977). The legal encyclopedia Corpus Juris Secundum informs us all in Volume 16D, Section 1150 on Constitutional Law: "Only by due process of law may courts acquire jurisdiction over parties." 16D CJS Const. Law, §1150. Judgments rendered in absence of Due Process must be reversed. Miranda v Arizona, 384 U.S. 436.

81. These legal points are basic, fundamental tenants of pleading that any first year law student must learn. The written provision dates from the Magna Carta: "No freeman shall be taken, or imprisoned, or disseised, or outlawed, or exiled, or anywise destroyed, nor shall we go upon him, nor send upon him, but by...the law of the land." To be sure, "due process" is the evolutionary heir to "law of the land." Buchalter v New York, 319 US 427 (1943); Bartkus v Illinois, 359 US 121 (1959); ref. The Constitution of the United States of America, United States Printing Office (1973), p 1137-1145. Due process is violated if a practice or rule offends some principle of justice so rooted in the traditions and conscience of our people as to be ranked as fundamental. Snyder v Massachusetts, 291 US 97, 105 (1934). Due Process is a Federally protected right, according to the 5th and 14th Amendment of the Constitution for the United States of America.

XII.
NO TIME LIMIT FOR CHALLENGE TO JURISDICTION

82. We rely upon the following American caselaw: Bode v. Minnesota Department of Natural Resources, 612 N.W.2d 862, (2000). "The traditional rule is that there is no time limit for challenging a final judgment that is void for lack of subject matter jurisdiction. See 12 James W. Moore et al., Moore's

Federal Practice § 60.44 (3d ed. 1997). The principle underlying this rule is that a judgment's validity is of utmost importance. Minnesota courts have adhered to this traditional rule. All of the other 49 states should do so. In Lange v. Johnson and its progeny, we held that judgments are void if a court lacks subject matter jurisdiction and that there is no time limit for bringing a motion to vacate such a judgment." Lange v. Johnson, 204 N.W.2d 205, 208 (1973); see also Peterson v. Eishen, 512 N.W.2d 338, 341 (Minn. 1994)".

83. Further, Mesenbourg v. Jerome, 538 N.W.2d 489 (1995) states, "Although the language of the [Minnesota] statute and the rule indicate that motions to vacate void judgments must be made within a reasonable time, the supreme court has held that there is no time limit for commencing proceedings to set aside a judgment void for lack of jurisdiction over the subject matter or over the parties. Id. A void judgment is legally ineffective; it may be vacated by the court which rendered it at any time, and a void judgment cannot become valid through the passage of time. Id. Peterson v. Eishen, [supra], A judgment rendered without due service of process upon the defendant is void and may be vacated at any time. Although the language of the rule and the statute indicate that motions to vacate void judgments must be made within a reasonable time,

we have previously held that there is no time limit for commencing proceedings to set aside a judgment void for lack of jurisdiction over the subject matter or over the parties. Lange v. Johnson, [supra]. Beede v. Nides Finance Corp., 296 N.W. 413 (1941). A void judgment is legally ineffective; it may be vacated by the court which rendered it at any time. United States v. Boch Oldsmobile, Inc., 909 F.2d 657, 661 (1st Cir. 1990); Misco Leasing, Inc. v. Vaughn, 450 F.2d 257 (10th Cir. 1971) (holding defendant's failure to move to vacate default judgment within reasonable time after its entry did not preclude motion to vacate the judgment for lack of personal jurisdiction). A void judgment cannot gain validity by the passage of time. In re Center Wholesale Inc., 759 F.2d 1440 (9th Cir. 1985); Austin v. Smith, 312 F.2d 337, 343, 114 U.S. App. D.C. 97, (D.C. Cir. 1962).

84. Both American Jurisprudence and Corpus Juris Secundum have many examples of this: one such holding states, "[a] judgment is void only when it is apparent that the court rendering the judgment [either] had no jurisdiction of the parties, no jurisdiction of the subject matter, no jurisdiction to enter the judgment, or no capacity to act as a court." Mapco, Inc. v. Forrest, 795 S.W.2d 700, 703 (Tex. 1990).

85. When a State Statute clearly required a Judge to comply with State Statutory Requirements of Court Rules her actions are held void. See Ramey v Littlejohn, 803 SW 2d 872, 873 (Tex. App. Corpus Christi 1991, no writ.).

XIII.
THE ABSENCE OF LAWFUL JURISDICTION CREATES A VOID JUDGMENT

86. A void judgment is one rendered when a court has no jurisdiction over the parties or subject matter, no jurisdiction to render judgment, or no capacity to act as a court. A party affected by void judicial action need not appeal. State ex rel Latty, 907 S.W. 2d 486. A void judgment is a nullity from the beginning, and is attended by none of the consequences of a valid judgment. It is entitled to no respect whatsoever because it does not affect, impair, or create legal rights." Ex parte Seidel, 39 S.W.3d 221, 225 (Tex. Crim. App. 2001). A void Judgment is a Void Judgment is a Void Judgment – Bill of Review and Procedural Due Process in Texas, 40 Baylor L. Rev. 367, 378-79 (1988). See Thomas, 906 S.W. 2d at 262 holding that "trial court has not only power but duty to vacate a void judgment". A void judgment may be attacked at any time by a person whose rights are affected. See El Kareh v Texas Alcoholic Beverage Comm'n, 874 S.W.2d 192, 194 (Tex. App.—Houston [14th Dist.] 1994, no writ) see also Evans

v C. Woods, Inc., No. 12-99-00153-CV, 1999 WL 787399, at *1 (Tex. App.—Tyler Aug30, 1999, no pet. h.).

87. A void judgment is a "nullity" and can be attacked at any time. Deifik v State, No. 2-00-443-CR (Tex. App. Dist.2 09/14/2001) "A void judgment is a nullity from the beginning, and is attended by none of the consequences of a valid judgment. It is entitled to no respect whatsoever because it does not affect, impair, or create legal rights."

88. Since a trial court's dismissal "with prejudice" was void, it may be attacked either by direct appeal or collateral attack. Ex parte Williams, No. 73,845 (Tex. Crim. App. 04-11-2001). "A void judgment is a nullity from the beginning, and is attended by none of the consequences of a valid judgment. It is entitled to no respect whatsoever because it does not affect impair or create legal rights." Ex parte Spaulding, 687 SW2d at 745 (Teague, J., concurring).

89. Since the trail court's ruling was void, it may be attacked either by direct appeal or collateral attack. See Ex. Parte Shields, 550 SW2d at 675. A void judgment can be collaterally attacked. See Glunz v Hernandez, 908 SW2d 253,

255 (Tex. App.-San Antonio 1995, writ denied); Tidwell v Tidwell, 604 SW2d 540, 542 (Tex. Civ. App.-Texarkana 1980, no writ), finding that a void judgment may be collaterally attacked by a suit to set aside the judgment after it has become final if such void judgment becomes material. A collateral attack is any proceeding to avoid the effect of a judgment which does not meet all the requirements of a valid direct attack. See Glunz supra.

90. There is neither a set procedure for a collateral attack nor a statute of limitations. See Glunz supra., and Davis v Boone, 786 SW2d 85, 87 (Tex. App.-San Antonio 1990, no writ). A judgment is void if it is shown that the court lacked jurisdiction (1) over a party or the property; (2) over the subject matter; (3) to enter a particular judgment; or (4) to act as a court. Jurisdiction could not be conferred by waiver or retroactively. Elna Pfeffer et al v Alvin Meissner et al. (11-23-55) 286 SW2d 241.

91. Strictly speaking, a void judgment is one which has no legal force or effect. It is an absolute nullity and such invalidity may be asserted by ANY person whose rights are affected, at ANY time and at ANY place. It need not be attacked directly, but may be attacked collaterally whenever and wherever it is

interposed. Where a void judgment has been rendered and the record in the cause, or judgment roll, reflects the vice, then the court has not only the power but the DUTY, even after the expiration of the term, to set aside such judgment. Harrison v Whiteley, Tex. Com. App. 6 SW2d 89. The court in Neugent v Neugent, Tex. Civ. App. 20 SW2d 223, followed and applied the rule announced in the Harrison v Whiteley case.

92. The Supreme Court, speaking through Folley, Commissioner, in Bridgmen v Moore, 143 Tex 250, 183 SW2d 705, at 707, said "The court has not only the power but the duty to vacate the inadvertent entry of a void judgment at any time, either during the term or after the term, with or without a motion therefor." A void Judgment has been termed mere waste paper, and absolute nullity; and all acts performed under it are also nullities. Again, it has been said to be "in law no judgment at all, having no force or effect, conferring no rights and binding nobody. It is good nowhere and bad everywhere, and neither lapse of time nor judicial action can impart validity." Commander v Bryan, 123 SW2d 1008, (Tex. Civ. App. Fort Worth 1938).

93. Also, a void judgment has been defined as "one which has no legal force or effect, invalidity of which may be asserted by any person whose rights are affected at anytime and at any place directly or collaterally," Blacks Law Dictionary; Reynolds v Volunteer State Life Insurance Co., 80 SW2d 1087, (Tex. Civ. App., Eastland, 1935, writ ref.); Gentry v Texas DPS, 379 SW2d 114, 119, (Tex. Civ. App., Houston, 1964, writ ref., n.r.e., 386 SW2d 758). It has also been held that "It is not necessary to take any steps to have a void judgment reversed, vacated, or set aside. It may be impeached in **any action** direct or collateral." Holder v Scott, 398 SW 2d 906, (Tex. Civ. App.-Texarkana, 1965, writ ref. n.r.e.), such as this Petition for Habeas Corpus for Newly Discovered Evidence. (emphasis is ours.)

XIV.

JURISDICTION IS ESSENTIAL FOR DUE PROCESS

94. Whether a trial court has subject matter jurisdiction is a matter of law. Tex. Dep't of Parks & Wildlife v. Miranda, 133 S.W.3d 217, 226 (Tex. 2004); Tex. Natural Res. Conservation Comm'n v. IT-Davy, 74 S.W.3d 849, 855 (Tex. 2002); Dallas County v. Wadley, 168 S.W.3d 373, 376 (Tex. App.-Dallas 2005, pet. denied). Accordingly, an appellate court reviews a challenge to the trial

court's subject matter jurisdiction de novo. Thompson v. City of Dallas, 167 S.W.3d 571, 574 (Tex. App.-Dallas 2005, pet. filed) (quoting DPW v Miranda, 133 S.W.3d at 228); Benefit Realty Corp. v. City of Carrollton, 141 S.W.3d 346, 348 (Tex. App.-Dallas 2004, pet. denied). In performing this review, an appellate court does not look to the merits of the case, but considers only the pleadings and evidence relevant to the jurisdictional inquiry. Miranda, (supra); County of Cameron v. Brown, 80 S.W.3d 549, 555 (Tex. 2002).

95. Filing false documents into court, under oath, for the purpose of affecting the outcome of the proceeding is a **CRIME in both Alabama and Federal law.**

96. If any opposition attempts to enter the WRITTEN argument, supposition or proposition that the ALLEGED ORIGINATING SWORN AFFIDAVIT exists and has existed since some given date in the past, generated in linear time prior to the issuance of the Court Order of Seizure of our baby, WITHOUT FIRST locating and tendering the MISSING SWORN AFFIDAVIT, they will only be providing more supporting proof of the fraud in violation of the ruling of the United States Supreme Court found in United States v Ayers, 427 U. S. 97, 96 Sup. Ct. Rep. 2392, at page 2397, for "entering fraud on court by knowingly and

willingly using perjured testimony and false court records" against us which would be and is being alleged by us to be a CONTINUATION of the deprivation of Due Process protected by the 5th and 14th Amendments of the Bill of Rights of the Constitution of the United States of America.

97. If any opposition desire to bring in VERBAL argument to support the proposition that ALL of the acts of ALL of the Agents involved in this kidnapping was FULLY, 100% legitimate, those VERBAL claims from lawyers are worth ZERO according to the ruling of Trinsey v. Pagliaro, 229 F. Supp. 647, D.C. Pa. 1964, absent the support of a Sworn Affidavit **signed under the penalties of perjury**. Petitioners are likely to be the only individuals willing and able to place a sworn affidavit affirming our facts **under penalties of perjury**, into the record of this case and as such, in absence of sworn counter-affidavit signed under the penalties of perjury, we should be the only prevailing party. Morris v National Cash Register, 44 S.W. 2d 433, clearly states at point #4 that "**uncontested** allegations in affidavit **must** be accepted as true.", and the Federal case of Group v Finletter, 108 F. Supp. 327 states, "Allegations in affidavit in support of motion must be considered as true **in absence of counter-**

affidavit."

98. If any opposition claims that the Agents, State Attorneys and the Judge Melody Walker were then, or are now above the law, the United States Supreme Court held in United States v Lee, 106 U.S. 196, 1 S. Ct. 240 (1882) that:

> "No man in this country is so high that he is above the law. No officer of the law may set that law at defiance with impunity. All the officers of the government, from the highest to the lowest, are creatures of the law and are bound to obey it. It is the only supreme power in our system of government, and every man who by accepting office participates in its functions is only the more strongly bound to submit to that supremacy, and to observe the limitations which it imposes upon the exercise of the authority which it gives," 106 U.S., at 220.

99. "Public agents must be liable to the law, unless they are to be put above the law." Old Colony Trust Co. v Seattle, 271 U.S. 427, 70 L. Ed. 1019 (1926) citing Hopkins v Clemson Agricultural College, 221 U.S. 636.

100. Furthermore according to Alabama Law and FRCP 902(5), the State of Alabama has already admitted and thus cannot in any way now refute that the

evidence shown as Exhibit "**A**", "**B**" or "**C**" are the absolute irrefutable truth, because the State of Alabama by and through its subordinate offices, is the master entity that created and provided those documents and laws in the first place, and therefore they CANNOT be honestly refuted by any opposition now, without them entering perjurous testimony, false pleadings or outright lies into this case before this Honorable Court.

101. In the people's assertion of federal rights governed by federal law, it is this Court's duty to make certain that they are fully protected. Arnold v. Panhandle & Santa Fe Railway Co., 353 U.S. 360 (1957). This Court cannot make interpretations that nullify their effectiveness, for ". . . the assertion of federal rights, when plainly and reasonably made, is not to be defeated under the name of local practice." Davis v. Wechsler, 263 U.S. 22, 24.

XV.
FLOW OF AUTHORITY

102. We affirm that the fountain of political authority to freely compact and form public servant offices, flows from the Creator, down to we the People, through our individual and collective right to compact with each other in protection of our rights, down through the Alabama Constitution to the three

branches of representative government, the Executive, the Judicial and the Legislative Branches, and from there, down to the Federal Government, through the compact of representatives of the States into the United States Congress, and then from there, divided among the Legislative, Executive and Judicial Branches thereto.

XVI.
COLOR = FAKE = FRAUDULENT

103. We affirm that the COLOR OF LAW is not legitimate. Blacks Law Dictionary, Fourth Edition states it quite clearly. It states in its pertinent parts, defining the terms "COLOR", "COLOR OF LAW", "COLOR OF OFFICE" and "COLORABLE" to be:

> "**COLOR**. An **appearance**, semblance or simulacrum, **as distinguished from that which is real**. A prima facie **or apparent right**. Hence a **deceptive appearance**; a plausible, assumed exterior, **concealing a lack of reality**; **a disguise or pretext**." (with caselaw cited).
>
> "**COLOR OF LAW**. The appearance or semblance, without the substance, of legal right" (with caselaw cited).
>
> **"COLOR OF OFFICE. An act unjustly done by the countenance of an office, being grounded upon corruption, to which the office is as a**

> **shadow and color**." (with caselaw cited). And further it states, "**A claim or assumption of right to do an act by virtue of an office, made by a person who is legally destitute of any such right**." (with caselaw cited).
>
> "**COLORABLE**. That which has or gives color. **That which is in appearance only, and not in reality, what it purports to be. Counterfeit, feigned, having the appearance of truth**." (with caselaw cited),

and therefore, all of the actions taken against us and our Live, Healthy, Baby Boy were performed under COLOR OF COLOR OF LAW and COLOR OF OFFICE, because they were all lacking in full, lawful authority to do so from the very beginning.

104. We affirm here and now that any and all documents that are being alleged or that have been alleged to be "signed" by us wherein it is believed that any right of ours have been converted, removed, licensed, waived or slept on, ARE HEREBY VOID for the operation of a SCHEME, ARTIFICE or SHAM, using FRAUD, LACK OF FULL DISCLOSURE, MISREPRESENTATION, THREATS, DURESS or COERCION, on the part of the State and the Hospital, and thus have tricked either or both of us into "signing" documents generated by the Anniston Regional Medical Hospital or the Alabama Department of Human

Resources, thus removing ONE of the several minimum required elements of what constitutes a valid waiver by signature according to Brady v. U.S. , 397 U.S. 742 (1970), which states "Waivers of Constitutional Rights not only must be voluntary, they must be knowingly intelligent acts done with sufficient awareness of the relevant circumstances and consequences."

XVII.
FOURTH AMENDMENT PROTECTIONS

105. The Constitution for the United States of America, Bill of Rights, Fourth Amendment guarantees: "The right of the people to be secure in their persons, houses, papers, and effects, against unreasonable searches and seizures, shall not be violated." Further, "The Fourth Amendment protects people, not places." Katz v. United States, 389 U.S. 347, 351 (1967). Thus, the Fourth Amendment is a personal right and an individual must invoke its protections. Minnesota v. Carter, 525 U.S. 83, 88 (1998). We hereby claim and exercises the right, and invoke those protections, requesting reversal of this illicit and unlawful kidnapping of our live, healthy baby boy.

XVIII.
THE PEOPLE ARE THE MASTERS OF THE GOVERNMENT

106. Lastly, the following argument, law and caselaws are being entered, NOT because we believe that this Honorable Court is unaware of this, NOR anticipated to be in contravention to it, NOR attempting to insult this Court, but ONLY because we desires it to be a part of the record for the fullest protection of rights.

107. The Declaration of Independence reveals that our specific type and form of republican Government was instituted among men to preserve all of our rights, where it states, "We hold these truths to be self-evident, that all men are created equal, that they are endowed by their Creator with certain unalienable Rights, that among these are Life, **Liberty** and the pursuit of Happiness. — **That to secure these rights, Governments are instituted among Men**, deriving their just powers from the consent of the governed," and thus, **the officers who hold the offices created by our through our collective rights, are duty bound to protect each and every one of those rights retained by the people.**

108. The United States Supreme Court case of Yick Wo v Hopkins, decided May 10, 1886, cited at 118 U. S. 356, that "Sovereignty itself is, of course, not subject to law, for it is the author and source of law; but, in our system, while sovereign powers are delegated to the agencies of government, **sovereignty itself remains with the people, by whom and for whom all government exists and acts**", aligning with the ruling of Julliard v Greenman, 110 U.S. 421.

109. "The words 'people of the United States' and 'citizens' are synonymous terms, and mean the same thing. They both describe the political body who, according to our republican institutions, form the sovereignty, and who hold the power and conduct the Government through their representatives. They are what we familiarly call the 'sovereign people,' and every citizen is one of this people, and a constituent member of this sovereignty." Dred Scott v. Sandford, 60 U.S. 393 (1856).

110. "Sovereignty is the right to govern; a nation or State-sovereign is the person or persons in whom that resides. In Europe the sovereignty is generally

ascribed to the Prince; **here it rests with the people**; there, the sovereign actually administers the Government; here, never in a single instance; **our Governors are the agents of the people, and at most stand in the same relation to their sovereign**, in which regents in Europe stand to their sovereigns. Their Princes have personal powers, dignities, and pre-eminences, **our rulers have none but official; nor do they partake in the sovereignty otherwise, or in any other capacity, than as private citizens**." Chisholm v. Georgia., 2 U.S. 419 (1793).

111. We now herein cite American Communications Association v Douds, 339 U.S. 382, 442-443, which states,

> **"It is not the function of our Government to keep the citizen from falling into error; it is the function of the citizen to keep the Government from falling into error".**

112. We have herein disclosed exactly where and how the Anniston Police, the Calhoun Sheriff's Department, the Alabama Department of Human Resources and Judge Melody Walker have fallen grievously into error, and as such, have

failed the people whom they are SUPPOSED to be SERVING, by protecting OUR RIGHTS, and how such failure has caused a deprivation of Due Process against us, in the Alabama Court system, meriting reversal of this Judge's ILLICIT, ILLEGAL, UNLAWFUL SEIZURE ORDER.

113. We now close with the famous quote from Supreme Court Justice Brandeis, in the case of Olmstead v U.S., 227 U.S. 485, (1928) which states in the dissenting opinion,

> "Decency, security and liberty alike demand that government officials shall be subjected to the same rules of conduct that are commands to the citizen. In a government of laws, existence of the government will be imperiled if it fails to observe the law scrupulously. Our government is the potent, the omnipresent teacher. For good or ill, it teaches the whole people by its example. Crime is contagious. If the government becomes a lawbreaker, it breeds contempt for the law; it invites every man to become a law unto himself; it invites anarchy. To declare that in the administration of the criminal law the end justifies the means … would bring terrible retribution. Against that pernicious doctrine this court should resolutely set its face."

114. What we understands from this language is this: All public servants in all branches of government in all levels, city, county, state and federal, are also required to obey all laws that apply to them FIRST before they can be granted the lawful jurisdiction delegated from the body politic, to perform the powers and duties of each elected or appointed office, and to deal with any accused persons thereafter.

115. IF those people who are in public servant office would have first obeyed all of the laws that govern their actions, then DUE PROCESS would have been maintained at all times and we would have never had our baby taken to begin with, and there would have been no crimes or torts committed against us.

116. The SEIZURE OF OUR BABY BOY, where DUE PROCESS has been violated, due to no lawful jurisdiction, is void and **must** be overturned. The Miranda case (supra) is the cornerstone, landmark case where his conviction HAD to be overturned because he did not receive the DUE PROCESS required by law, that had, prior to that time never been fully enunciated.

XIX.
SUMMARY OF THE ARGUMENTS

117. We have no Criminal Conviction History.

118. We have no warrants out for us in any jurisdiction around the world.

119. We have no pending criminal charges in any jurisdiction around the world.

120. We are not under indictment for any crimes in any jurisdiction around the world.

121. We have committed no crimes in either desiring to birth our baby in a tent out in God's wonderful countryside, nor did we commit any crimes in birthing our baby boy in the Hospital.

122. We committed no crimes in not wanting to name our baby when the Hospital Staff dictated.

123. We committed no crimes in not desiring a VOLUNTARY Social Security Number through the Enumeration At Birth Program.

124. We do not drink alcohol, therefore the abuse of alcohol is an impossible issue.

125. We do not partake of illegal drugs that are illegal across America.

126. We do not partake of drugs that are legal in some states and not in others, like marijuana.

127. We do not abuse legal, prescription drugs.

128. We do not partake of synthetic chemical substances that are not yet illegal in all states, as in "pink" for example.

129. Our live, healthy baby boy had no drugs of any kind in his bloodstream.

130. We have committed NO NEGLECT on our baby boy.

131. We have committed NO ABUSE on our baby boy.

132. We committed no crimes in desiring to take our live, healthy, baby boy to our home that was given to us on the day he was born.

133. We committed no crimes DURING THE KIDNAPPING of our baby boy.

134. We have committed no crimes SINCE his kidnapping.

135. We have NO Court Adjudications against us for any mental disorder or deficiency that would preclude us from raising and parenting our baby boy.

136. We DO have a home on private property.

137. We DO have monthly financial support that comfortably sustains us.

138. We DO have plenty baby clothes, diapers and free, healthy baby milk that will be provided by Danielle as soon as we receive him back.

139. The people who completed the forms shown in our Exhibits "**A**", "**B**" and "**C**" committed FRAUD by making FALSE STATEMENTS therein, without providing ANY SWORN AFFIDAVITS, signed **UNDER THE PENALTY OF PERJURY**, thereby enabling each other in a conspiracy to steal our baby and yet NOT be held accountable for the lies in their false documents.

140. Judge Melody Walker signed her name to the SEIZURE ORDER for our baby boy, alleging or alluding to some sworn affidavit that had been tendered to her, to justify her issuing the order, which would have had to be tendered to her PRIOR TO the issuance OF that order, (time being linear), and thus, without said Affidavit in the record, EITHER she is operating in some secret jurisdiction where she is able to SECRETLY HIDE documents from us, or she is LYING.

141. We have had our DUE PROCESS TOTALLY STRIPPED FROM US by these State Actors, and we feel like naked slaves standing on an auction block.

142. Their concerted actions clearly show that the conspiracy to KEEP our baby boy is being orchestrated predominately by Tony Hamlin and Judge Melody Walker, but we believe that there are others who are behind the scenes that do not want their names in the paperwork, but who are truly orchestrating other actor's actions to somehow secure this illicit kidnapping and convert it into a valid lifetime placement in foster care or adoption, for the purposes of increasing the Federal Funding provided to the State for doing so.

143. This Petition for Habeas Corpus and its Orders should be granted in the interest of Justice.

XX.
PRAYER FOR RELIEF

144. WHEREFORE PREMISES CONSIDERED, we request this Honorable Court perform the following:

(1). direct that the cause be immediately docketed and an evidentiary hearing scheduled to be held as soon as possible,

(2). Put all involved persons who have even **remotely touched** this case under Subpoena Duces Tecum, who work for the State of Alabama, DHR, County of Calhoun, County of Cleburne, City of Anniston and the Anniston Regional Medical Hospital **to be compelled** to bring ALL of their DOCUMENT EVIDENCE THAT IS **SIGNED UNDER PENALTY OF PERJURY,** that shows we have TRULY neglected or harmed our baby boy, fully describing how, when and where those actions or omissions were supposed to have occurred,

(3). ensure that every provision relating to this Petition for the Writ of Habeas Corpus be most favorably construed in order to give effect to the

remedy, and protect OUR RIGHTS,

(4). not invalidate our Petition for want of form, or by being slightly out of rule regarding page quantity, format-labeling and order, and further rule that it does appear to be issued by us and that it also shows the object of its issuance,

(5). Order Judge Melody Walker make return by admitting in plain language on some paper connected with it, and/or by providing copy of the Order(s) and Supporting Affidavits **SIGNED UNDER PENALTY OF PERJURY**, showing that her Court is in fact lawfully restraining our Baby Boy of his liberty, and thus, is in fact restraining OUR LAWFUL, exclusive ownership, custody and control of our baby boy, by and through the Judgment and Order found so far in the records of that Court,

(6) have the Cleburne County Juvenile Judge Melody Walker **answer YOU as to why** our Baby Boy is still being restrained of his liberty, under Judgment issued from a court that now clearly appears to have received no lawful jurisdiction to rule in that particular case in the first place, all at the earliest time possible,

(7). Order the State of Alabama Attorney General to answer this Petition for Habeas Corpus within the timeframe established by the Federal rules and produce their evidence **supported by Sworn Affidavit SIGNED UNDER PENALTY OF PERJURY**, that the matters already admitted by the Secretary of the State of Alabama and the Department of Human Resources are somehow contrary to what has been stated and shown by us herein,

(8) examine the law, caselaw, facts, evidence, exhibits, documents and arguments presented and produced in this Petition,

(9) make determination whether some, none or all of the exhibits in this Petition were already in the records of the court,

(10) read and examine all documents and evidence generated in this case by the State of Alabama Attorney General and all other government officials,

(11). receive, accept and take full judicial notice of and thoroughly examine all of the evidence, facts, law and caselaw provided by us,

(12). Upon finding that Judge Melody Walker has utterly failed to issue a lawful Order for the SEIZURE of our baby boy, to ORDER Judge Melody Walker to IMMEDIATELY RELEASE THE UNLAWFUL RESTRAINT of our baby boy into OUR personal custody and control, then and there to remain unharmed, undamaged and unhindered with NO FURTHER HOSTAGE DEMANDS forever, or immediately take her into Federal Custody under Contempt of Court for not doing so, until she relents and chooses to release our baby boy back to us.

(13). We also pray that when this is all through, for this court to ORDER the expungement of State of Alabama records and County of Calhoun and the County of Clerburne records, WITHOUT COST TO US, and further,

(14). We further pray for INJUNCTIVE and DECLARTORY RELIEF commensurate with the gravity and seriousness that is merited by a raw, blatant, unconstitutional, illegal kidnapping of a live, healthy baby boy, in total deprivation of due process, so that this type event will NEVER AGAIN HAPPEN to any other innocent parents in the future.

(15). ORDER Damages to be IMMEDIATELY and FULLY paid as set forth in the claims for damages that have already been delivered in

thoroughly documented demand notices to all parties by Certified mail.

(16). We pray for any and all other and further relief to which we may be entitled to in law, both General and Special, that this Court is aware of, but that has not been pled for due to our lack of law degree, under the sua-sponte rule.

Respectfully Submitted by:

x Christian Holm x Danielle Holm

Christian Holm and Danielle Holm,

Petitioners, Relators, Applicants, Propria Persona

Parents of our live, healthy, baby boy

P.O. Box 438

Wedowee, Alabama 36278

(480) 343 - 1046

(we respectfully decline email verification)

Sworn to and subscribed before me this 19th Day of December, 2016.

Erika J. Kirby 6-4-2019

ERIKA KIRBY
Notary Public
Alabama State at Large