

Supreme Court, U.S.
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No. _____

IN THE SUPREME COURT OF UNITED STATES

Richard Rynn, Gelliana David Rynn, M.R.
Petitioners/Appellants

v.

Daniel Washburn
Department of Child Safety
Respondents/Appellees

APPLICATION UNDER RULE 60(b)-(d). and 60(d)(3), 28 U.S.C. 1651 TO
VACATE INJUNCTION, VOID JUDGEMENTS BASED ON NEW
EVIDENCE, FRAUD, VIOLATION OF CONSTITUTIONAL RIGHTS AND
INSUFFICIENT SERVICE OF PROCESS, TO THE UNITED STATES
COURT OF APPEALS FOR THE ARIZONA SUPREME COURT

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TABLE OF CONTENTS

Item	Page
Table of Contents-----	2
Table of Authorities-----	3
STATUTES AND CONSTITUTIONAL PROVISIONS -----	4
Opinions From Lower Courts-----	5
State Courts Failed to Enforce Constitutional Rights Violations-----	5
Court of Appeals Division Two decisions are void based on false <u>reports from Quail Run and DCS</u> in direct conflict to Maricopa Superior court decision of <u>facts of Fraud from Quail Run false reports</u> in year 2017 is <u>Grounds for Vacating Judgments</u> -----	7
Memorandum of Facts -----	9
PROCEDURAL HISTORY OF CASE -----	14
Judgements in conflict with evidence breach of contract-----	18
LEGAL ARGUMENT TO VACATE VOID JUDGEMENTS -----	23
Rule 65 (4) (2) <i>Persons Bound.</i> states that the order binds only those who receive actual notice of it by personal service.-----	24
Clarification required-----	30
Conclusion-----	30
Certificate of Compliance -----	31
Certificate of Service-----	32
Appendix-----	33

TABLE OF AUTHORITIES

CASES

<i>Savord v. Morton</i> , 235 Ariz. 256, 330 P.3d 1013 ¶ 11 (Ct. App. 2014)-----	8
<i>Alvarado v. Thomson</i> , 240 Ariz. 12, 16–17 ¶¶ 17–23 (App. 2016)-----	9
<i>Damiano v. Damiano</i> , 83 Ariz. 366, 369 (1958)-----	9
<i>Lake v. Bonham</i> , 148 Ariz. 599, 601 (App. 1986)-----	9
<i>Green v. Lisa Frank, Inc.</i> , 221 Ariz. 138, 151 ¶ 35 (App. 2009)-----	9
<i>McNeil v. Hoskyns</i> , 236 Ariz. 173, 177 ¶ 15 (App. 2014)-----	9
<i>Alvarado</i> , 240 Ariz. at 16–17 ¶¶ 17–23)-----	9
<i>Hadtrath</i> , 121 Ariz. 606, 610 (1979))-----	9
<i>Preston v. Denkins</i> , 94 Ariz. 214, 219 (1963) -----	10
<i>Rogone v. Correia</i> , 236 Ariz. 43, 48 ¶ 11 (App. 2014) -----	10
<i>Cypress on Sunland Homeowners Ass’n v. Orlandini</i> , 227 Ariz. 288, 299–300 ¶ 43 (App. 2011) -----	10
<i>James M. v. Silvia M., No. 1 CA-JV 20-0289</i> , 2021 WL 1923655, at *1–3 ¶¶ 7–15 (Ariz. App. May 13, 2021)-----	10
<i>Jones v. Weller</i> , 362 N.E.2d 73, 76–77 (Ill. App. 1977) -----	11
<i>Paternity of Tompkins</i> , 518 N.E.2d 500, 507 (Ind. App. 1988) -----	11
<i>Matter of Adoption of M.M.B.</i> , 376 N.W.2d 900, 902 (Iowa 1985)-----	11
<i>Doe v. Smith</i> , 200 So. 3d 1028, 1035 ¶ 24 (Miss. 2016)-----	11
<i>Wimber v. Timpe</i> , 818 P.2d 954, 958 & n.7 (Or. App. 1991) -----	11
<i>McGee v. Gonyo</i> , 140 A.3d 162, 167 ¶ 19 (Vt. 2016) -----	11
<i>Ryan v. Commission on Judicial Performance (1988)</i> (45 Cal. 3d 518, 533)--	12
<i>Commonwealth v Arias</i> 2017 Mass. App. Lexis 148)(Nov. 9, 2017)-----	12
<i>Washington v. Glucksberg</i> , 521 U.S. 702 (1997)-----	12
<i>Hardwick v. County Of Orange</i> , No. 15-55563 9 th Cir., 2017)-----	16
<i>Monell v. Department of Social Services</i> , 436 U.S. 658 (1978)-----	16

Giglio v. United States, 405 U.S. 150 (1972)-----19
 United States v. Bagley, 473 U.S. 667 (1985)-----20
 U.S. v. Agurs, 427 U.S. 97 (1976); Strickler v. Greene, 527 U.S. 263 (1999)---20
 Hanson v Denckla, 357 US 235, 2 L Ed 2d 1283, 78 S Ct 1228-----23
Beltran v. Santa Clara County. 514 F.3d 906 (9th Cir. 2008) -----25
Gault, 387 U.S. 1 (1967)(U.S. supreme court) -----29

STATUTES AND CONSTITUTIONAL PROVISIONS

A.R.S. § 12-120.22 (B) -----6
 Civil Rule 60(b)-(d).” and Civil Rule 60(d)(3), -----7
 ARS Rule 65----- throughout
 ARS Rule 60-----throughout
 Fourth, sixth, fourteenth amendments-----13
 Rule 65 and 17B A.R.S. Rules Fam. Law Proc., Rule 48 -----14
 Brady Rule-----13, 19
 Section 242 of Title 18 -----23
 Section 1983 -----23, 26, 32
 5th amendment-----26
 ARS 4(3) -----26
 A.R.S. § 13-3601-----28
 ARPOP, Rule 38(g)-----28
 ARS Rule 65 (b)(1)(A) -----throughout
 ARS 12-120.22 -----28
 14th amendment-----29
 A.R.S. § 12-2101 ----- 31
 Article 6 Section 5 -----31

DIRECTLY RELATED CASES

Quail Run v Richard Rynn Maricopa County Superior court
 case No. LC2017-000316 (10/27/2017) Reverse and Remand-----8. 21

Opinions From Lower Courts

Supreme court of Arizona Order July 23, 2024 denied Appellants revised petition under Civil Rule 60(b)-(d) and Civil Rule 60(d)(3) to vacate the lower courts decisions, July 11, 2024 denied petition to vacate void judgements, On July 1, 2024 denied petition for review.

Appellants timely appeal to Arizona Supreme court.

Court of Appeals Division Two Order 1/22/2024 denied Appellants motion to reinstate appeal and stay proceedings.

Order 1/03/2024 motion to expand the record is denied, appeal is dismissed for lack of jurisdiction, Order Appellant Rule 60 motion for new trial to vacate void judgements treated as motion for reconsideration denied, Order Appellants Rynn motion to expand the record is taken under advisement. Order Pinal County juvenile court shall submit all records up to and including 10//06/2023 Ruling on or before 1/02/2023, Order 12/11/2023 vacating court order dated 11/15/2023.

State Courts Failed To Enforce Constitutional Rights Violations

Supreme Court failed to address Appellants motion to vacate. Courts refused without a legal basis failed to hear Appellants motion to vacate in violation of constitutional rights of due process. Arizona Supreme court erred by not following rules of Civil Rule 60(b)-(d) and Civil Rule 60(d)(3) that supersedes all rules of the

court. Courts violated Rule 24.2 (a) (1)(2)(3) motion to vacate judgement based on grounds of newly discovered evidence, fraud, and court did not have jurisdiction, judgements obtained in violation of the United States Constitution and Arizona Constitution and in violation of Civil Rule 60(b)-(d) and Civil Rule 60(d)(3). Clear and convincing evidence was not reviewed that defendants was charged for an offense that defendants did not commit.

A.R.S. § 12-120.22 (B) No case, appeal or petition for a writ brought in the supreme court or court of appeals shall be dismissed for reason only that it was not brought in proper court but **it shall be transferred to proper court** or division.

Courts failed to transfer motion to vacate to proper court to address. Appellants complaint and facts in dispute of fraud and jurisdictional defects that have no time limit to vacate.

Arizona Supreme court erred not resolving all factual matters remaining in dispute as required Per Ariz. R. Civ. P. 54 (c) Judgment as to All Claims and Parties.

Petitioners/Appellants Richard, Gelliana, and M.R. Request Relief Under Civil Rule 60

Petitioners/Appellants Richard, Gelliana, and M.R. respectfully petition the court under Civil Rule 60(b)-(d) and Civil Rule 60(d)(3) to vacate the judgments in question. The basis for this petition includes allegations of fraud, perjury, violations of constitutional rights, and insufficient service of process. Civil Rule 60(b)-(d) and Civil Rule 60(d)(3) supersede other procedural rules and provide for immediate relief from void judgments. The petition to vacate the juvenile case is grounded in substantial merit, as evidenced by claims of fraud on the court and the court's lack of jurisdiction. Relevant documents supporting this petition include:

- **Civil Rule 60(b)-(d) and Civil Rule 60(d)(3)** filings, demonstrating the basis for relief due to fraud, insufficient service of process.
- **Motion to Vacate** filed on June 20, 2023 (pages 6-11).
- **Rule 59 Motion** filed on February 10, 2023.
- **Failure to comply** to rule ARPOP, Rule 38(g) failed to meet standards of evidence.
- **Breach of contractual discharge** requiring M.R. home. (*ID 174, p. 41, Ex. B;*)
- **Failure to comply** to due process requirements of clear and convincing evidence standard.

These filings substantiate the petitioners' claims that the judgments are void and warrant immediate judicial relief.

Court of Appeals Division Two decisions are void based on false reports from Quail Run and DCS in direct conflict to Maricopa Superior court decision of facts of Fraud from Quail Run false reports in year 2017 is Grounds for Vacating Judgments.

Lower courts failed to review evidence from Superior court decisions that dismissed Quail Run accusations because they are false and not from Richard Rynn. False reports from Quail Run to the juvenile court and Division Two infected case No. 2CA-JV 2017-0165 (Ariz. App. Feb. 6, 2018) are void and must be vacated in light of the Maricopa County Superior Court's decision in year 2017.

The Superior Court's decision in case No. LC2017-000316 (October 27, 2017), ordered "reverse and remand" (ID 485, pp. 43-50), supports this position. As established in **Savord v. Morton**, 235 Ariz. 256, 330 P.3d 1013 ¶ 11 (Ct. App. 2014), the ex parte IAWH **decision was based on statements from hearsay from another party** that were "**completely unverified.**"

The Glendale City Court's ex parte decision was dismissed in Superior court case No. LC2017-000316 (October 27, 2017) (ID 485, pp. 43-50) was similarly flawed, relying on reports from Quail Run that did not originate from Richard Rynn. Quail Run's reports to the Glendale Court were based on submissions from another party, which directly contradicted the false reports provided to the Department of Child Safety in April 2017. This discrepancy substantiates claims of fraud before this court.

The Memorandum Decision by Division Two are rendered void due to reliance on false reports from Quail Run and La Frontera in April 2017.

The Department of Child Safety was aware of the falsity of these reports but continued to present **grossly inaccurate information to the courts in bad faith**, without disclosing the truth to Richard, Gelliana, and M.R.

Memorandum of Facts

The court failed to properly adjudicate the case by neglecting to conduct an evidentiary hearing on the new evidence discovered in 2022. This evidence was previously unavailable due to inadequate service of process, insufficient service, and fraudulent conduct.

Fraud on the Court

Courts must relieve a party from a judgment when the opposing party has committed fraud on the court, preventing a fair contest or impeding the unsuccessful party's opportunity for a fair submission of the controversy. In *Alvarado v. Thomson*, 240 Ariz. 12, 16–17 ¶¶ 17–23 (App. 2016), fraud on the court is defined as conduct that “vitiates everything it touches” (*Damiano v. Damiano*, 83 Ariz. 366, 369 (1958)), and represents “the most egregious conduct involving a corruption of the judicial process itself” (*Lake v. Bonham*, 148 Ariz. 599, 601 (App. 1986)).

Courts possess inherent authority to take corrective measures at any time when fraud upon them has occurred. This authority is affirmed in *Green v. Lisa Frank, Inc.*, 221 Ariz. 138, 151 ¶ 35 (App. 2009), and *McNeil v. Hoskyns*, 236 Ariz. 173, 177 ¶ 15 (App. 2014), which state that a judgment resulting from fraud on the court may be set aside by motion or independent action. This authority extends to cases involving parentage and adoption (*Alvarado*, 240 Ariz. at 16–17 ¶¶ 17–23; *In the Matter of the Adoption of Hadtrath*, 121 Ariz. 606, 610 (1979)).

Void Judgments

Courts have inherent power to vacate void judgments due to lack of jurisdiction over the parties. As established in *Preston v. Denkins*, 94 Ariz. 214, 219 (1963),

the right to challenge void judgments "does not depend upon rules of the court or statute." If a judgment is void for lack of jurisdiction, a court must vacate it. *Rogone v. Correia*, 236 Ariz. 43, 48 ¶ 11 (App. 2014), holds that courts can set aside a judgment for fraud on the court at any time, and *Cypress on Sunland Homeowners Ass'n v. Orlandini*, 227 Ariz. 288, 299–300 ¶ 43 (App. 2011), reiterates this principle.

Arizona courts have held that void judgments may be challenged even if there is unreasonable delay (*Ruffino v. Lokosky*, 245 Ariz. 165, 168–69 ¶ 10 (App. 2018); *Master Financial, Inc. v. Woodburn*, 208 Ariz. 70, 74 ¶ 19 (App. 2004); *Martin v. Martin*, 182 Ariz. 11, 14 (App. 1994)). This is especially true when the claim of voidness is based on a lack of proper service (*Ruffino*, 245 Ariz. at 168 ¶ 10). Without proper service, a court lacks jurisdiction over a party (*Koven v. Saberdyne Sys., Inc.*, 128 Ariz. 318, 321 (App. 1980); *Marquez v. Rapid Harvest Co.*, 99 Ariz. 363, 365 (1965)).

In *James M. v. Silvia M.*, No. 1 CA-JV 20-0289, 2021 WL 1923655, at *1–3 ¶¶ 7–15 (Ariz. App. May 13, 2021), the court considered whether the lack of proper service voided a parental rights termination order that was more than seven years old.

Fundamental Rights

M.R. has a right to be parented by her father and mother, and Richard and Gelliana Rynn have a fundamental right to parent M.R. which cannot be taken away except by appropriate due process.

The courts have an interest in maintaining a fair system that furthers the legitimate interests of all involved, including the best interests of children, and in preventing litigants from fraudulently obtaining judgments to which they are not entitled.

Judicial Authority and Due Process

Fraud on the court and void judgments, which strike at the heart of judicial legitimacy and litigants' fundamental rights to due process, stand outside normal procedural time limits. Courts of other states recognize their inherent authority to set aside judgments for fraud on the court or jurisdictional defects, even after termination of a parent's rights and adoption of the child (*Jones v. Weller*, 362

N.E.2d 73, 76–77 (Ill. App. 1977); *In re Paternity of Tompkins*, 518 N.E.2d 500, 507 (Ind. App. 1988); *Matter of Adoption of M.M.B.*, 376 N.W.2d 900, 902 (Iowa 1985); *Doe v. Smith*, 200 So. 3d 1028, 1035 ¶ 24 (Miss. 2016); *Wimber v. Timpe*, 818 P.2d 954, 958 & n.7 (Or. App. 1991); *McGee v. Gonyo*, 140 A.3d 162, 167 ¶ 19 (Vt. 2016)).

Case-Specific Facts

The court must clarify its judicial authority in cases involving insufficient service of process and fraud on the court. It must vacate judgments when: (1) the court did not have jurisdiction, and (2) newly discovered evidence and material facts exist that satisfy the standards of fraud, thereby damaging the integrity of the court. Void judgments lacking an affidavit of service and a summons substantiate denial of due process, which is guaranteed by the Constitution.

The superior court admits that void judgments exist, as evidenced by the April 28, 2017 ex parte order indicating a lack of jurisdiction until proper service to Rynn was achieved (ID 2, p. 12). Rynn first learned of the April 28, 2017 ex parte order in January 2022 from the Division Two docket of record. The discovery of fraudulent concealment by the state and failure to serve Rynn the April 28, 2017 ex parte order triggers the statute of limitations.

The April 28, 2017 ex parte judgment order has no legal validity without service to Rynn. Rynn was not served or provided a copy of the April 28, 2017 petition on which the court judgments from April 28, 2017, to October 9, 2018, are based (ID

139, pp. 1-18). In *Ryan v. Commission on Judicial Performance* (1988), (45 Cal. 3d 518, 533), it was established that judges must provide due process of law, including strict adherence to procedural requirements, before meeting one party for ex parte custody orders.

The Court of Appeals failed to vacate void judgments with jurisdictional defects, allowing fraud to damage the court's integrity. The April 28, 2017 ex parte Superior Court judgment was not served to Rynn and is therefore not legally enforceable. Rynn learned of the juvenile court ex parte judgment in 2022, which voids the entire court's judgments (*Commonwealth v. Arias*, 2017 Mass. App. Lexis 148 (Nov. 9, 2017)).

In *Washington v. Glucksberg*, 521 U.S. 702 (1997), the Constitution and Due Process Clause of the Fourteenth Amendment protect the fundamental right of parents to direct the care, upbringing, and education of their children. The Due Process Clause in the Fifth and Fourteenth Amendments prohibits deprivation of "life, liberty, without due process of law."

Specific Violations

No warrant, court order, or notice was issued to seize M.R. on April 24, 2017.

M.R. was not brought to court to see the judge in April and May 2017, depriving her of due process rights and violating her Fourth, Sixth, and Fourteenth

Amendment rights (Rule 60, pp. 1-18, Filed January 11, 2023). The Fourth

Amendment protects citizens from unreasonable search and seizure, and the Sixth

Amendment guarantees the right to a public trial, a lawyer, an impartial jury, and the right to know the accusers, charges, and evidence against oneself.

Rynn's constitutional rights under the Fourth, Sixth, and Fourteenth Amendments were deprived. The record demonstrates no affidavit of service on file, fraud, and faults in the underlying judgments. The fraudulent concealment of deciding facts, such as M.R. signed contract with Quail Run doctor for her discharge to return home on April 24, 2017, was maliciously omitted by the State Department of Child Safety, causing substantial harm to Rynn.

The State Department of Child Safety's omission of the contractual agreement requiring M.R. to go home, along with police reporting M.R. discharge to return home on April 24, 2017, constitutes a fundamental error proving Brady rule violations. The state failed to notify the court that it breached Rynn's contract with Quail Run, starting the case in bad faith and abusing the court process without cause. (ID 174 pg. 41) The state is liable for punitive damages and required to compensate Rynn for damages.

The court failed to address that Richard, Gelliana, and M.R. were not served a summons, not provided written notice, and no completed Return of Service, Affidavit of Service, or Certificate of Service was on file as required by statute for the period from April 28, 2017, to October 9, 2018

Judgments Void Due to Lack of Jurisdiction and Insufficient Service

The judgments in question are void because the court lacked jurisdiction and there was insufficient service of process.

Judgments Void Due to Fraud, Perjury, and False Accusations

The judgments are void due to the presence of fraud, perjury, and false accusations affecting the integrity of the judicial process.

Judgments Void Due to Unlawful Ex Parte Orders

The judgments are void due to the issuance of unlawful ex parte orders on April 28, 2017, without an affidavit of imminent threat, in violation of ARS Rule 65.

Procedural History of Case

(see Rule 60, p. 3, Filed January 11, 2023)

The case originated on April 24, 2017, during the discharge of M.R.(M.R.), daughter of Richard and Gelliana Rynn, from the Quail Run facility. M.R. was to return home with her parents as contractually agreed upon after a seven-day stay at the facility for classes *(Rule 60, pp. 8-10, Filed January 11, 2023)*.

Quail Run and La Frontera knowingly and intentionally acted with malice by seizing and imprisoning M.R., a competent sixteen-year-old, on April 24, 2017, during her scheduled discharge to return home *(Rule 59, filed February 10, 2023)*.

New evidence of fraud, not previously addressed, shows that Quail Run's Candy

Zammit, in conjunction with La Frontera's Renee Miller, contacted the State Department of Child Safety (DCS) and maliciously reported false accusations of "no discharge date" and "refusal to permit treatment center." This occurred despite knowing that M.R. was under an order by Quail Run doctor Tan Fermo to be discharged and returned home on April 24, 2017.

Doctor Fermo had instructed Richard Rynn to discharge M.R. on April 24, 2017, to return home with her parents. However, instead of allowing M.R. to return home as agreed, Quail Run and La Frontera seized and imprisoned her under the color of law, without cause, thereby interfering with Rynn's custody rights and violating their liberty, parental, and due process rights.

Court integrity necessitates the review, correction, and vacation of the court record, which was clearly obtained by fraud. The DCS's statements were proven not credible, and the material facts in the petition (*ID 1, ID 174, pp. 21-39, Ex. A*) and judgments at trial directly contradict the material evidence in the police report ("scheduled to be released today") (*ID 174, pp. 45-46*) and the Quail Run contract requiring M.R. to return home on April 24, 2017 (*ID 174, p. 41, Ex. B; Rule 60, pp. 1-18, Filed January 11, 2023*).

The DCS provided perjured testimony and violated Rynn's Fourth and Fourteenth Amendment constitutional rights to a familial relationship with their daughter, as established in *Hardwick v. County of Orange, No. 15-55563, 9th Cir., 2017* and

Monell v. Department of Social Services, 436 U.S. 658 (1978). The DCS not only knowingly and intentionally made grossly misleading false statements intending to harm Rynn but also falsely claimed "no discharge date" and "refusal to permit treatment center" while knowing these statements were false. The DCS lacked a court order on M.R. competence for hospitalization in April and May of 2017, during which she was required to be at home with her parents.

Four days later, on April 28, 2017, the DCS filed a juvenile court petition with illegal ex parte communication and fraudulently obtained an illegal ex parte order for custody without notice, without serving Rynn, and without legal justification. This violated the legal requirements of Rule 65 and 17B A.R.S. Rules Fam. Law Proc., Rule 48, which are necessary for an ex parte order without notice. The petition and order were based on intentional, grossly false accusations of "refusal to permit treatment center" and "no discharge date" without following statutory and federal due process requirements. The April 28, 2017, petition and ex parte order have no legal validity and are void per Rule 65(4)(2) as the DCS failed to disclose them to Rynn until their discovery in 2022, violating due process and the right to a fair trial (*Rule 60, p. 3, Filed January 11, 2023*). The April 28, 2017, ex parte petition was illegally granted without disclosure to Rynn until its discovery in January 2022 during an appeal of the juvenile case, substantiating fraud on the court and violation of ARS Rule 65(a)(1)(b)(1)(A)(B)(2)(4)(d)(1)(A)(B)(C). ARS

Rule 60 provides a basis to vacate the juvenile case for fraud (*Rule 60, Filed January 11, 2023*).

DCS engaged in prohibited ex parte communication on April 28, 2017, and unauthorized ex parte judgment in violation of ARS Rule 65, DCS failed to provide written notice, failed to file an affidavit of a threat to life, failed to file an affidavit explaining why no notice was given to Rynn. DCS failed to meet requirements of Rule 65 voiding decisions of the court.

The April 28, 2017, ex parte order, did not meet the requirements of ARS Rule 65, ARS Rule 48, and federal Rule 65, was illegally granted without notice, without an affidavit explaining why no notice was given, and without a threat to life. These actions were based on intentional, malicious false accusations of "no discharge date." By violating ARS Rule 65, ARS Rule 48, and federal Rule 65, the DCS is liable for all claims per ARS Rule 4(C), including compensation for the costs and damages sustained by any party wrongfully enjoined or restrained (*see motion to vacate filed June 20, 2023, pp. 6-11; Rule 60, Filed January 11, 2023*).

Judgments in Conflict with Evidence and Breach of Contract

Quail Run entered into a contractual agreement with M.R. and her parents, with the performance under the contract conditioned solely on M.R. discharge to return home on April 24, 2017. Quail Run, La Frontera, and the state DCS had an implied obligation to make a reasonably good faith effort to ensure M.R. return home on

that date. However, Quail Run, La Frontera, and the state DCS failed to fulfill their implied obligations under the contract, resulting in a breach of the agreement between Rynn and Quail Run. As a result of this breach, M.R. suffered permanent physical harm and damage (ID 174, pp. 1-18; ID 177, pp. 1-9).

There were violations of 42 U.S.C. § 1983 under the color of law when M.R. was seized on April 24, 2017, without probable cause, without a court order, without a pre-deprivation hearing, and without imminent danger. These actions violated M.R. Fourth Amendment rights and substantive due process rights.

The DCS further violated Rynn's due process rights under the Fourteenth Amendment by misrepresenting facts in the April 28, 2017, petition regarding the seizure on April 24, 2017. They failed to review the evidentiary material facts provided in Rynn's Rule 60 motion for retrial (ID 174), Rule 59 motion for retrial, and Rule 201 judicial notice of non-disputable facts.

Evidence of the Quail Run contract with Rynn requiring M.R. to return home was excluded by the State Department of Child Safety in violation of the Brady Rule. The state did not disclose the Quail Run April 20, 2017, contract requiring M.R. to return home on April 24, 2017. This non-disclosure violated Rynn's due process rights to evidence disclosure, as established in *Giglio v. United States*, 405 U.S. 150 (1972) (Rule 60, p. 10, Filed January 11, 2023).

In the Rule 59 motion filed on October 19, 2023, pp. 8-9, Rynn's due process rights guaranteed by the Constitution were not addressed. The due process violations included the absence of a summons, material evidence related to the April 28, 2017, ex parte petition containing false facts (perjury), and the April 28, 2017, ex parte order granting the petition of false facts in juvenile court. The DCS omitted material evidentiary facts, including the police report and the contract with Quail Run. This evidence was suppressed, either willfully or inadvertently by the state, and no documents were served to Rynn. The suppression of this material evidence resulted in prejudice and fraud on the court, creating a “reasonable probability” sufficient to undermine confidence in the outcome, as established in *United States v. Bagley*, 473 U.S. 667 (1985), *U.S. v. Agurs*, 427 U.S. 97 (1976), and *Strickler v. Greene*, 527 U.S. 263 (1999).

The evidence presented is sufficient for a jury to find fraud, color of law violations, custody and parental rights violations, and infliction of emotional harm under § 1983. The State Department of Child Safety engaged in conduct exhibiting a high degree of moral culpability, manifesting a conscious disregard of the constitutional rights of Rynn. This reckless conduct gives rise to claims for damages. The State Department of Child Safety does not dispute the material facts in Rynn's motion to vacate, highlighting a manifest injustice. Rynn is entitled to a fair trial as a matter of law, correction of the factual record, and compensation. Justice requires a new trial, correction of the finder of facts, and expungement of false records.

The juvenile court judgments are void as the court rendered judgments lacking jurisdiction over the subject matter and the parties, acting in a manner inconsistent with due process. Rynn was not served a summons or a complaint in the juvenile case, violating due process (Fed. R. Civ. P. 60(b)(4), 28 U.S.C.A.). Judgments

must be factual to be legal. See Rule 59 filed on October 19, 2023, pp. 8-9. Rynn verifies fraud with personal knowledge of the disputed facts.

Exhibit A and Exhibit B contradict material facts in judgements affect subject matter. (ID 1, ID 175 pg. 1-3) (ID 174 pg. 1-18) (ID 177 pg. 1-18) (Rule 60 pg. 3 Filed January 11, 2023) (Rule 60 pg. 1-61 Filed January 11, 2023)

Exhibit A (ID 174 pg. 21-39) - Dependency case petition Filed Ex parte April 28, 2017.

Exhibit B - Quail Run binding legal signed contract M.R. *return to home* April 24, 2017, Parents Rynn contributed to goals/plan, No suicidal or homicidal ideation. (ID 174 pg. 41 Ex. B)

Exhibit H- Dependency Dismissal Date October 9, 2018

Exhibit C (ID 4, ID 174 pg. 43) - Dependency hearing May 3, 2017,

Exhibit D (ID 174 pg. 45-46) - Police Report April 24, 2017, color of law seizure by Quail Run and La Frontera for state during discharge for M.R. return to home.

Exhibit E (ID 174 pg. 48) - Fraudulent fax Custody paper without parents Rynn signature without address. DCS did not arrive at Quail Run facility, location of M.R. and parents Richard, Gelliana on April 24, 2017.

Exhibit F (ID 174 pg. 50-52) – April 28, 2017, Ex parte Order of juvenile court

Exhibit G (ID 174 pg. 54-61) – Maricopa County Superior court Quail Run V Richard Rynn. Judgement Reverse and Remand, page eight, “*ex parte IAWH based on statements from Quail Run completely Unverified*”.

Fraud, Qual Run in conspiracy with DCS, La Frontera obtained by ex parte (one party) IAH protection order around April 28, 2017, filing a false petition and lying to Glendale city court. Proven by Ex. G. (ID 174 pg. 54-61) (ID 175 pg. 1-3) 2023 juvenile court Ruling January 20, 2023, order release court records to Rynn. State attorney office in same building of judge of juvenile court, address office E. (conflict of interest, unfair, unconstitutional). (ID 176 pg. 1-3)

Petition Discrepancy between date of QR. LF. date of seizure of Rynn daughter on

April 24, 2017 and date of filing petition in court of April 28, 2017. (ID 174 pg. 21-39, Ex.A)

(Ex. B, ID 174 pg. 41) Discrepancy between Quail Run Rynn contract M.R.going home, and DCS filing false petition continuation of home is contrary to child's welfare. (Ex. A, Pg. 10, 18,)

No summons, no service to parents Rynn.

(Ex. B, ID 174 pg. 41) Discrepancy between Quail Run contract with parents, No suicidal or homicidal ideation. Parents Rynn contributed to goals/plan, and (Ex. A, pg. 5) parents' instability and refusal to permit the treatment center to allow for the maximum amount of treatment available. (ID 175 pg. 1-3)

Exhibit A (ID 174 pg. 21-39) (Rule 60 pg. 3 Filed January 11, 2023)

Juvenile case petition of lies, Filed Ex parte (one party) on April 28, 2017, without notice, without serving. Petition page # 1 to 19. (ID 174 pg. 21-39)

Page 1, *Petition filed April 28, 2017*(ID 174 pg. 21-39, Ex. A)

Page 3, *temporary custody April 24, 2017, taken into temporary custody (assault, M.R.was not taken into custody as state DCS did not arrive to Quail Run facility on April 24, 2017, during contractual discharge to go home after a seven day stay for classes.)* (Ex. B, ID 174 pg. 41 Ex. D)

Page 5, *parents' instability and refusal to permit the treatment center to allow for the maximum amount of treatment available. (In contradiction to Ex. B, D, No suicidal or homicidal ideation. Parents Rynn contributed to goals/plan)*

Page 7, *Richard Rynn does not have an order granting him custody of M.R.*

In contradiction to **Richard Rynn is legal birth father and parent of M.R.,**

Page 10, *continuation of the child in the home would be contrary to child's welfare.(In contradiction to Quail Run contract requiring M.R.to go to parents home on April 24, 2017.)* (ID 174 pg. 41)

Page 17, Signed by Attorney General Mark Brnovich Assistant Attorney General Ardene Fox

Page 18, Petition filed April 28, 2017, Clerk of the court, foregoing email dependency coordinators, foster care review board, Dependency Supervisor Pinal County Juvenile Court Services, Protective Review Board, Cathy Cottee Child Safety worker. Signed by Monica Rae Stein (**unconstitutional violation of due process, Rynn not served petition, not served a summons**) (ID 174 pg. 21-39, Ex.A) in violation of due process per 16 A.R.S. Rules of Civil Procedure, Rule 4 (1) (2) (3) (b) (1).

Page 19, sworn upon oath Department of Child Safety signed Cathy Cottee DCS Investigator notary public Lisa Hoelzel (ID 174 pg. 21-39, Ex. A)

Exhibit B, (ID 174 pg. 41)

Quail Run **Contract M.R. "return to home"** No suicidal or homicidal ideation.
Parents Rynn contributed to goals/plan (ID 174 pg. 41)

Dr. Tan Fermo

Nurse Joni Ollick

Social worker Candy Zammit

M.R.

Gelliana David

Constitutional Provisions Involved

Rynn's rights have been violated under the Fourth, Fifth, Sixth, and Fourteenth Amendments of the United States Constitution. Additionally, constitutional rights were violated under Section 242 of Title 18. A judgment may not be rendered in violation of the Constitution, as established in *Hanson v. Denckla*, 357 U.S. 235, 2 L. Ed. 2d 1283, 78 S. Ct. 1228.

The violations include:

- **Section 1983 of Title 42:** The state, as a person, is subject to liability for these violations.
- **Due Process Violations:** Fundamental procedural rights were disregarded.
- **Parental Rights Violations:** There was unlawful interference with the legal custody of Rynn's children.
- **Violations of Arizona Rule 65 and Rule 48:** These procedural rules were not adhered to, further undermining Rynn's legal rights.

LEGAL ARGUMENT TO VACATE VOID JUDGMENTS

Petitioners present a factual and legal basis per ARS Rule 60 and Federal Rule 60 to vacate void judgments. There is no time limit to vacate judgments obtained by fraud and perjury. The court failed to demonstrate a credible threat of harm to M.R., as required. See *Savord v. Morton*, 235 Ariz. 256, 330 P.3d 1013, ¶ 11 (Ct. App. 2014). Court failed to provide records of case to Rynn and court failed to provide legal representation, failed to provide competent legal representation to M.R, Gelliana and Richard Rynn on originating date of acts from state from April 24, 2017 to October 2018. The court erred by granting an ex parte custody order on April 28, 2017, without notifying M.R, Richard, and Gelliana, who only discovered the ex parte order in 2022. Appellants provide a factual and legal basis to vacate void judgments from the Pinal County Superior Court based on fraud, lack of due process, insufficient service, and insufficient process of service.

Declaratory relief is required to vacate the defective custody injunction due to constitutional rights violations and failure to review new evidence discovered in 2022 that substantiates fraud on the court, interference with parental rights, and custody rights. The manifest injustice necessitates the court legally vacating and correcting factual flaws in the judgments affecting the case. The judgments are clearly tainted by fraud, specifically referring to the April 28, 2017, ex parte custody injunction, which is not legally enforceable due to insufficient process of

service. The April 28, 2017, petition was granted ex parte but not disclosed to Rynn until it was discovered in 2022, violating due process.

The Superior Court judgments are void and require vacating, as they should never have been entered. The court had no jurisdiction over Rynn due to the lack of process of service and false accusations. The court is required to find that the entry of the ex parte order on April 28, 2017, without an affidavit of service and without notice, in violation of ARS Rule 65(b), is unconstitutional and must be vacated (IR 1-202).

Rule 65(b)(4)(2) states that the order binds only those who receive actual notice of it by personal service.

The state does not have a court order regarding the competence of M.R. for hospitalization in April 2017, during which time M.R. was required to be at home with her parents, Richard and Gelliana. Rynn first discovered the April 28, 2017, ex parte injunction order and petition in 2022, violating due process and depriving Rynn of life and liberty, in violation of the Fifth and Fourteenth Amendments to the United States Constitution. Judgments based on the April 28, 2017, petition of false accusations without disclosure are not legally enforceable without service to Rynn. Rynn first discovered the April 28, 2017, ex parte order in 2022 during an appeal in the case docket record from the Court of Appeals Division Two. The Due Process Clause, found in both the Fifth and Fourteenth Amendments

to the United States Constitution, prohibits the deprivation of life, liberty, or property without due process of law.

Given that Rynn was not served, the Superior Court failed to obtain personal jurisdiction over Rynn. The Superior Court also failed to review jurisdictional defects and address void judgments. See *Beltran v. Santa Clara County*, 514 F.3d 906 (9th Cir. 2008). Rynn is entitled to an evidentiary hearing and a review of the case docket to confirm the absence of an affidavit of service to M.R, Richard, and Gelliana Rynn. The state does not dispute failing to serve Rynn, substantiating fraud and jurisdictional defects that require the case to be vacated.

The Appellee State does not dispute the failure to serve Rynn, substantiating the deprivation of due process rights and the presence of fraud.

Section 1983 imposes liability without defense on state and local officials acting under color of law in their individual capacities for depriving Rynn of rights created by the Constitution and violating federal law. The Fifth Amendment states that no one may be deprived of life, liberty, or property without due process of law.

Violations of due process requirements were not addressed, as no declaration affidavit was filed in Pinal County Superior Court per ARS Rule

65(b)(2)(A)(B)(C)(D), which mandates that the affidavit be promptly filed in the clerk's office and entered into the record (ID 181, pp. 1-15; ID 140, pp. 1-23).

Jurisdictional defects per ARS 4(3) require that a summons be served with a copy of the pleading. Service must be completed before a custody judgment may be granted.

Based on insufficient service of process, the court failed to obtain personal and subject matter jurisdiction over Rynn. The court did not review jurisdictional defects, which legally necessitate vacating the judgment. The court admits it did not have jurisdiction until after proper service to Rynn (ID 2, p. 12).

The Due Process Clause, found in the Fifth and Fourteenth Amendments to the United States Constitution, prohibits the deprivation of life, liberty, or property without due process of law.

Rynn is entitled to an evidentiary hearing and a review of the case docket to verify the absence of an affidavit of service to M.R, Richard, and Gelliana Rynn on record. The State DCS does not dispute failing to serve Rynn, substantiating the deprivation of due process rights and fraud on the record, and confirming jurisdictional defects that require the case to be vacated (ID 180).

The case originated on April 24, 2017, from fraudulent actions, not from allegations of abuse or neglect. It stemmed from malice and deceit, including false accusations about M.R discharge, despite her being cleared to return home on April 24, 2017.

Rynn was deprived of the right to liberty and free speech, specifically the First Amendment right to freedom of association. The court failed to obtain personal

jurisdiction over Rynn, as evidenced by the emergency ex parte custody order issued on April 28, 2017. This order was issued without a threat, without proper disclosure, and without an affidavit explaining why no notice was given to Rynn, violating ARS Rule of Civil Procedure 65(a)(b)(1)(A)(B)(2)(a)(b)(c)(d). M.R. was not brought before the court for a judicial determination on April 24, 2017, as required for a warrantless seizure at Quail Run facility by private companies acting under the color of law for the state.

Juvenile court allegations were based on unverified false statements about "no discharge date," despite knowing M.R. had been discharged. These allegations were not related to abuse or neglect and failed to include a statutorily enumerated offense, constituting error (fraud). The failure to serve Rynn with the April 28, 2017 ex parte custody order substantiates void judgments under A.R.S. § 13-3601 (ID 181, pp. 1-15; ID 140, pp. 1-23; ID 1-3).

The failure of the state DCS to serve Rynn violated Rynn's due process rights necessary for a fair trial. The state DCS's failure to file a declaration affidavit of irreparable harm and an affidavit explaining why no notice was provided to Rynn for the emergency ex parte order issued on April 28, 2017, resulted in substantial violations of Rynn's constitutional due process rights, per ARS Rule 65(b)(1)(A).

Due process in such proceedings requires that adequate written notice be afforded to the child and parents. This notice must inform them of the specific issues they must address and must be given at the earliest practicable time, sufficiently in advance of the hearing to permit preparation. No notice was provided to Rynn. Per ARS 12-120.22, no appeal or petition brought to the Supreme Court or Court of Appeals shall be dismissed solely because it was not brought in the proper court but shall be transferred to the appropriate court or division to address the motion to vacate (Rule 60, pp. 1-18, filed January 11, 2023).

The proceedings failed to comply with the Constitution. Juvenile proceedings must adhere to the requirements of the Fourteenth Amendment, which include adequate notice of charges, notification of both parents and the child of the juvenile's right to counsel, the opportunity for confrontation and cross-examination at hearings, and adequate safeguards against self-incrimination.

Gault, 387 U.S. 1 (1967) (U.S. supreme court) U.S. Supreme Court found that procedures used in Gault's case met none of requirements of due process.

ARS Rule 65(1)(B) Describe contents and scope of IAH Per Rule 65(d) Describe reasons why injunction issued; state its terms specifically per Rule 65(1)((B)

Without meeting the requirements of Rule 65(b)(1)(B), the court does not have jurisdiction to enter ex parte judgments without notice.

The 14th Amendment of the United States Constitution guarantees everyone the right to due process of law, which includes judgments that comply with the rules.

The Superior Court's emergency ex parte custody order of April 28, 2017, did not meet the requirements of ARPOP, Rule 38(g) was based on statements that were completely unverified, issued without notice, lacks legal validity due to the lack of service to Rynn. Rynn not served and not provided a copy of the April 28, 2017

petition upon which the Superior Court's custody judgments from April 28, 2017 to October 9, 2018 are based. (ID 181, pp. 1-15; ID 140, pp. 1-23). Before obtaining jurisdiction for custody orders, judges are required to provide notice or a valid reason for the lack of notice, and must adhere strictly to the procedural requirements contained in the Code of Civil Procedure. Ignorance of these procedures is not permissible. In order to issue ex parte communication and an ex parte injunction per ARS Rule 65, the Department of Child Safety (DCS) was required to give notice and provide an affidavit or declaration explaining why no notice was given to the appellant. Without meeting all requirements of Rule 65(b)(1)(A) and (B)(2), an emergency ex parte order not be granted without notice. Rynn was not provided notice of the petition filed on April 28, 2017, until discovering the petition in 2022.

Due Process Clause is found in both Fifth, Fourteenth Amendments to United States Constitution, which prohibit deprivation of "life, liberty, without due process of law. No one shall be held nor be deprived of life, liberty, or property, without due process of law. Substantive due process. See Fifth and Fourteenth Amendments, United States Constitution, and Article II, section 4 of the Arizona Constitution.

The case originated on April 24, 2017, without a court order, without legal representation, without due process, without imminent danger, and in violation of Rynns' constitutional rights. (Rule 60, pp. 3-4, filed January 11, 2023).

Under the Fourth Amendment of the Constitution, children cannot be taken into temporary custody without probable cause. Individuals may not be "seized" without a court order, as established in *California v. Hodari*, 499 U.S. 621 (1991).

For the sake of integrity, the Court is required by law to correct and vacate untrue statements on record, expunge and reverse void judgments, and address judgments obtained under the color of law, without due process, through fraud, perjury, lies, and omission of facts with the intention to deceive. No summons was served, and the petition was not served (ID 1, ID 174, pp. 21-39, Ex. A).

The court record, being a public record, defames the character of the Rynns, necessitating vacating the judgments and providing compensation per ARS Rule 65(c)(1).

(c) Security. (1) Generally; On Issuance. The court may issue a preliminary injunction or a temporary restraining order only if the movant provides security in an amount deemed proper by the court to cover the costs and damages sustained by any party wrongfully enjoined or restrained.

Appellate courts have jurisdiction to vacate void judgments under A.R.S. § 12-2101 and Article 6, Section 5, jurisdiction over injunctions and writs, pursuant to the All-Writs Act.

Clarification required

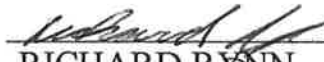


The court must clarify the basis on which the state DCS can claim custody without serving process to M.R, Richard, and Gelliana. Additionally, the court needs to specify the date and location originating this case, date and name of person from state that went to Qual Run as state failed to see M.R, in month of April 2017, these crucial details have not been adequately addressed and require clarification.

CONCLUSION

There is no time limit to vacate void judgments obtained through perjury and fraud. Appellants demonstrate irreparable harm, providing both factual and statutory bases to vacate these void judgments (IR 178, IR 179, IR 189, IR 194). The denial of due process rights necessitates vacating judgments due to the deprivation of constitutional rights and fraudulent actions. There is no affidavit of service on record for M.R, Gelliana, and Richard Rynn in the state DCS case (Rule 60 filed January 11, 2023) Richard, Gelliana, and M.R. were deprived of their due process rights guaranteed under Section 1983 and Title 18 USC 242 due to fraud, insufficient service, and insufficient service of process. The court acted without jurisdiction as there was no affidavit of service on file, substantiating the denial of due process and fraud, which affected the substantial constitutional rights of the Rynns, as substantiated by the record. The Supreme Court is required to vacate the entire case due to void judgments stemming from the lack of an affidavit of service on the court record, which substantiates that the court lacked personal jurisdiction.

RESPECTFULLY submitted

this 2nd day of August 2024.


RICHARD RYNN

GELLIANA DAVID RYNN

M.R.

CERTIFICATE OF SERVICE


A copy of this application was served by U.S. mail to Defendants listed below in accordance with Supreme Court Rule 22.2 and 29.3 or 33.2.


office of Attorney General
4211 S. Santa Rita Ave
Tucson, AZ 85714


Dawn P. Williama
4211 S. Santa Rita Ave
Tucson, AZ 85714

RESPECTFULLY submitted.

this 2nd day of August 2024.



RICHARD RYNN


GELLIANA DAVID RYNN


M.R.

APPENDIX
TABLE OF CONTENTS

ARIZONA SUPREME COURT Case No. CV-24-0025-PR

Order 7/23/2024 Denied

Order 7/012024 Denied

Court of Appeals Division Two Case No. 2 CA-JV 2023-0134

Order 1/22/2024 Denied

Order 1/22/2024 Denied

Order 1/11/2024 Denied

Order 1/03/2024 Denied

Order 12/11/2023 Under Advisement

Superior Court of Pinal County

Case No. S1100JD201700116

Order 11/22/2023 lack of jurisdiction

Order 10/06/2023 denied signed order

Order 08/30/2023 Internal Review

Unsigned Order 08/23/2023 denied vacate

Superior Court Of Arizona Maricopa County

Case No. LC2017-00316-001

Order 10/23/2017 Decision "*Devoid of competent evidence*",

"Reverse and Remand"

SUPREME COURT OF ARIZONA

IN RE DEPENDENCY OF M. R.) Arizona Supreme Court
) No. CV-24-0025-PR
)
) Court of Appeals
) Division Two
) No. 2 CA-JV 23-0134
)
) Pinal County
) Superior Court
) No. JD201700116
)
) **FILED 07/23/2024**

O R D E R

On July 1, 2024, this Court denied Appellants' petition for review. On July 8, 2024, Appellants filed a "Petition to Vacate Void Judgements Based on Fruad [sic] and Insufficient Service of Process; Request En Banc Review" and a "Motion to File Petition Exceeding Word Limit Due to Complexity of Fraud on Case."

On July 11, 2024, this Court denied the "Petition to Vacate Void Judgements Based on Fruad [sic] and Insufficient Service of Process, Request En Bank Review" as an impermissible motion for reconsideration. See Arizona Rule of Civil Appellate Procedure 22(f) (unless permitted by specific order of the appellate court, no party shall file a motion for reconsideration of an order denying a petition for review). The Court also denied the "Motion to File Petition Exceeding Word Limit Due to Complexity of fraud on Case" as moot."

On July 16, 2024, Appellants filed a "Petition Under Rule 60(b)-(d) and 60(d)(3), to Vacate Void Judgements Based on Fraud, Violation

of Constitutional Rights and Insufficient Service of Process," and a "Motion to File Petition to Vacate Exceeding Word Limit Due to Complexity of Fraud on Case."

On July 23, 2024, Appellants filed "Revised Petition Under Rule 60(b)-(d) and 60(d)(3), to Vacate Void Judgements Based on Fraud, Violation of Constitutional Rights and Insufficient Service of Process." Substantively the motions are nearly identical to the motions filed by Appellants on July 8, 2024, seeking the same relief.

Moreover, as previously noted in this Court's order of July 11, 2024, pursuant to Arizona Rule of Civil Appellate Procedure 22(f), unless permitted by specific order of the appellate court, no party shall file a motion for reconsideration of an order denying a petition for review. Accordingly,

IT IS ORDERED denying the motions filed on July 16, 2024 and July 23, 2024.

IT IS FURTHER ORDERED that the Clerk of the Supreme Court shall not accept further filings in this case.

DATED this 23rd day of July, 2024.

/s/
WILLIAM G. MONTGOMERY
Duty Justice

TO:
Gelliana R.
Marcella R.
Richard R.
Dawn Rachelle Williams
Beth C Beckmann



Supreme Court
STATE OF ARIZONA

ANN A. SCOTT TIMMER
Chief Justice

ARIZONA STATE COURTS BUILDING
1501 WEST WASHINGTON STREET, SUITE 402
PHOENIX, ARIZONA 85007
TELEPHONE: (602) 452-3396

TRACIE K. LINDEMAN
Clerk of the Court

July 1, 2024

RE: IN RE DEPENDENCY OF M.R.

Arizona Supreme Court No. CV-24-0025-PR
Court of Appeals, Division Two No. 2 CA-JV 23-0134
Pinal County Superior Court No. JD201700116

GREETINGS:

The following action was taken by the Supreme Court of the State of Arizona on July 1, 2024, in regard to the above-referenced cause:

ORDERED: Request for Oral Argument (Treated as a Petition for Review) = DENIED.

A panel composed of Chief Justice Timmer, Vice Chief Justice Lopez, Justice Bolick, and Justice Beene participated in the determination of this matter.

Tracie K. Lindeman, Clerk

TO:

Gelliana R.
Marcella R.
Richard R.
Dawn Rachelle Williams
Beth C Beckmann
jd

**Additional material
from this filing is
available in the
Clerk's Office.**