CASE NO._____

IN THE SUPREME COURT OF THE UNITED STATES

MARLON ABRAHAM ROSASEN et. al.

Petitioners,

v.

KINGDOM OF NORWAY, et. al.

Respondents

On Application for an Extension of Time
to File Petition for a Writ of Certiorari to the
United States Court of Appeals for the Ninth Circuit

PETITIONER'S APPLICATION TO EXTEND TIME TO FILE PETITION FOR WRIT OF CERTIORARI

MARLON ABRAHAM ROSASEN Pro Se
& As Guardian Ad Litem for D.T.R. and L.A.R.
19453 Pacific Coast Hwy
Malibu, CA 90265
(323) 561-4001
Ufricivilrights@icloud.com

Corporate Disclosure Statement

Pursuant to Supreme Court Rule 29.6, Petitioner Marlon Abraham Rosasen states that he has a California nonprofit corporation named the Universal Family Rights Institute, with no parent corporation and no publicly held company owning 10% or more of its stock.

Honorable Chief Justice Elena Kagan, as Circuit Justice for the United States Court of Appeals for the Ninth Circuit:

Pursuant to this Court's Rules 13.5, 22, 30.2, and 30.3, Petitioners Marlon Abraham Rosasen, as pro se and as Guardian Ad Litem for Minor Petitioners, hereinafter ("Petitioners" or "Mr.Rosasen"), respectfully requests that the time to file Writ of Certiorari be extended from September 11, 2024, to November 10, 2024, for a total of 60 days. The United States Ninth Circuit Court Case No. 22-55980, issued a Memorandum denying Appeal on April 15, 2024, See (Appendix ("App.") A). Rehearing en banc was denied June 13, 2024, (App. B). This Application is being filed more than ten days before current due date. See S. Ct. R. 13.5. This Court has jurisdiction over the judgment under 28 U.S.C. 1254(1). The Court has jurisdiction of The Kingdom of Norway as responsible party for its instrumentalities and agencies, hereinafter, ("Defendants") under the Foreign Sovereign Immunities Acts of 1976, ("FSIA"), 28 U.S.C. §§ 1602-1611.

Background

Petitioners are American citizens by birth, born abroad not in the United States as misconstrued by the district court. Mr. Rosasen Mother ("Ms. Rosasen"), grew up in Brooklyn, New York and moved to Norway in 1975, but retained U.S. citizenship for her Children. Defendants subsequently removed all Children from Ms. Rosasen between 1979 to 1989 and held the Children in separate institutions. The half siblings are strangers today and do not know each-others, as a direct cause and effect of Defendants violations of human rights.

In 2013, Mr. Rosasen met and married Thea Marie Rosasen, ("Mrs. Rosasen") in the United States. The newlyweds wanted to settle in the United States and was in love and believed that raising a family in the United States was better than Norway. The United States, historically known as the land of the free and home of the brave, felt a far world away from the socialistic views, Defendants society holds, that the State controls once lives from the cradle to grave and may at discretion, arbitrarily remove and adopt away once Children.

It is sought that the Clerk of the United States Supreme Court, if possible, seek in this case, the European Court of Human Rights ("ECHR"), judicial assistance in providing a summary of number of Convictions Defendants Norway holds for violations of the European

Convention on Human Rights, Article 8, right to family life, equal to violations of the United States Constitution's 14th AMENDMENT, for submission to the case record. The fact that Defendants removes more Children from their biological parents than any other Nation is well documented and confirmed by email from the Norwegian Consensus Bureau. www.SSB.no. The Court denied these relevant facts in a 1 page, Motion for additional brief filed October 15, 2023.

In 2015 the minor Petitioners were born as U.S. citizens and moved to California in 2016 at age 1. Both parents obtained employment, enrolled the Children in Day-care and vaccinated as required.

After successfully renting out rooms on Airbnb in Los Angeles, California, in January 2018, the family rented an apartment in Oslo Norway to generate additional Airbnb income and invest in property. Habitual residence was not altered by traveling abroad temporarily.

In May 2019, Defendants Immigration concluded that the Petitioners could continue to reside in the United States and denied Mr. Rosasen a residence and work visa applied for in 2015, (four years processing), despite being born in Norway. These actions by defendants are in and by themselves considered discriminatory and based on skin color and ethnic background. (Non-Norwegian). Open sources online proved that the family resided in California and that denying Mr. Rosasen a visa was not unreasonable given stricter immigration laws. (The strict immigration laws came into law in 2015 as a result of the Arab spring that had started December 18, 2010, causing a refugee crisis.

On July 2, 2019, Mr. Rosasen was escorted by Police Officers to JFK, New York, NY, and handed to U.S. Customs who told Mr. Rosasen "Your free to go and welcome home".

Two days later July 4, 2019, Defendants opened an investigation into concerns of parental abilities with custody removal proceedings. Mrs. Rosasen was in panic and asked Mr. Rosasen travel to Europe despite a reentry ban and assist in safely getting the Children out.

Defendant Thale Bostad, who had met Mr. Rosasen once February 12, 2019, had contacted Defendants Child Protective Services, ("NCPS") on June 28, 2019, falsely alleging the family was homeless and could not understand how the family could possibly be capable of

caring for the Children. As a result of, NCPS summoned Mrs. Rosasen to bring the Children to them, Mrs. Rosasen given NCPS reputation, concluded it safer to bring the minor Petitioners and U.S. passports safely out of Norway on July 11, 2019, and leave them with Petitioner, their father on July 31, 2019, in The Netherlands.

Mrs. Rosasen emailed a written permission for Petitioner to return home, to be used if an Emergency emerged once Mrs. Rosasen travelled to Norway to quit her employment and prep for automated Airbnb check ins. The intentions were for all four to return to California on one way, return tickets to Los Angeles California for August 30, 2019, and bought on Mr. and Mrs. Rosasen joint birthday.

Upon arrival in Norway as seen in the *Id.*, Defendants tracked down Mrs. Rosasen. (She did not seek assistance as misconstrued by the district court) and intimated her into attending a meeting, see *Id.*, at Ex. 7. At the interrogation, NCPS intimidated Mrs. Rosasen to abscond from the plan to return to California and incentivized by statement that if Mrs. Rosasen could get the Children to Norway and their investigation without Mr. Rosasen, NCPS would be for the time, less concerned for Mrs. Rosasen parental abilities. As a result of the commercial and tortious actions, the minor Petitioners been deprived of the loving care of one or both parents since July 31, 2019.

Since April 3, 2020, the minor Petitioners has been deprived of fundamental rights as seen by both the United States Constitution and Defendants Norwegian Constitution. The wrongful detention and interference violate C.D. Cal. Case No. 19-cv-10742-JFW, Docket No. 96, (March 31, 2020), See this Courts Case No. 23-5425. (A Reopening and Reconsideration hearing is set for September 9, 2024).

As a result, on August 24, 2021, Petitioner filed this Complaint and attempted to execute Proof of Service. The district court docket no. 15 and 16, supports Writ of Certiorari as evidence of evasive and bad faith tactics by a foreign sovereign in an unprecedented manner.

On September 24, 2021, Petitioner considered Defendants as served by ABC Legal Process Servers. After Defendants failed to unlike *Risk v. Norway*, 707 F. Supp. 1159(N.D. Cal. 1989), 936 F. 2d 393 (9th Cir. 1991), to obtain U.S. counsel and enter a plea, Petitioners motioned for Default Judgement, denied February 10, 2022.

The lower Court erred in concluding lack of jurisdiction due to the malicious prosecution exception *Sua sponte*, siting: *Rizvi v. Dep't of Soc. Servs.*, 828 Fed.Appx. 818, 820-21 (3d Cir. 2020) (trial court permitted to consider *Sua sponte* problems with jurisdiction under the Foreign Sovereign Immunities Act); *Randolph v. Budget Rent-A-Car*, 97 F.3d 319, 323 (9th Cir. 1996) (courts must raise *Sua sponte* issues concerning subject matter jurisdiction).

Petitioners understanding of FSIA is that the Court must determine jurisdiction and venue at the offset. Here Honorable Judge John F. Walter who presided over *Broidy v. Qatar,* 982 F.3d 582 (9th Cir. 2020), issued an order (district court docket no. 12), that this case raises serious civil rights issues, and that no duplication of work would take place by having another Judge hear the case. No concerns for jurisdiction or venue. These facts the district court failed to note.

On June 16, 2022, the Department of State appointed a new U.S. Ambassador to Norway, Marc Nathanson, and on July 14, 2022, the district court docket no. 46 wrote a Report and Recommendation to dismiss the case for lack of jurisdiction, effectively denying its own orders for motion from Petitioners for Order that the Clerk of the Court Execute Proof of Service via diplomatic channels. Docket no. 32, on Feb. 10. 2022 by March 28, 2022. On Sept. 21, 2022, after swapping of Judges 3 times, the Court entered Judgement to dismiss.

However, the district court never considered the doctrine of conspiracy jurisdiction, Ore*llana v. CropLife Int'l*, 740 F.Supp. 2d 33, 40 (D.D.C. 2020). Jurisdictional discovery after serving Defendants would have been more in accordance with precedence. See *Livnat v. Paelstinian Auth.*, 82 F. Supp. 3d19, 24 (D.D.C. 2015) (quoting *Caribbean Broad. Sys. Ltd. V. Cable & Wireless PLC*, 148 F. 3D 1080, 1090 (D.C. Cir. 1998)).

The real issue at hand with FSIA, is that the law is not always clear, and circuit splits on interpretation exists. Petitioners needs representation, but in the world of international law and foreign sovereign immunity, the list of qualified scholars, is short. Petitioners therefore seeks this Court to consider in addition to Application for extension of time, the Clerk to assign pro bono counsel to assist with Writ of Certiorari, and if granted, oral argument, Remand, and discovery, as such best serves the public

interest of deterring future foreign sovereigns. See *Aljabri v. Saud*, 20-2146 (TJK) (D.D.C. Sep. 30, 2022).

Here Defendants retained and financed the law firm of Holland & Knight in related case, resulting in this Civil Rights actions, at a final legal invoice of nearly USD $1,000,000.00. See C.D. Cal. 19-cv-10742-JFW, docket no. 125. The Law firm of Holland & Knight declined to reply to Writ of Certiorari filed August 18, 2023, siting that opposing counsel is not permitted to practice before this Court. The real reason, opposing counsel agrees with the legal questions presented in this Courts Case No. 23-5425.

Reasons for Granting Extension of Time

The time to file a Petition for a Writ of Certiorari should be extended for 60 days for the following reasons:

1. Proof of Service was not accepted by the district court, research on how to best address to this Court is needed. See Docket No. 12,14,15,17, 25, 32, 34, 35, and 46 for relevant facts.

2. The wrongful detention and interference violate C.D. Cal. Case No. 19-cv-10742-JFW, Docket No. 96, (March 31, 2020), See this Courts Case No. 23-5425. A hearing on Reopening and Reconsideration is set for September 9, 2024.

3. The Court misconstrued relevant facts and opposing counsels Excerpts of Records in *Rosasen v. Rosasen,* answering brief, in this Courts case no. 23-5425, was 2263 page, inaccurately named Appellants.

4. The legal research on remedies for having the Clerk Execute Proof of Service via diplomatic channels to deter future similar behavior precedence is taking longer than anticipated.

5. A well written Writ of Certiorari will discourage future defendants to similarly avoid being served and in extension, encouraged to abduct and hold hostage with immunity.

6. Petitioners are attempting to get written assurances from the Norwegian Attorney General for Criminal Affairs, that the Children are alive, with their mother, Mrs. Rosasen and if police assistance will be provided in locating the Children rather than continue to hide them at the instructions of here Defendants.

7. Metropolitan Newspaper of Los Angeles, on April 17, 2024, in light of the United States Ninth Circuit denial of appeal, issued an article using the Minor Plaintiffs photos without believed either parents' consent and misstating the facts as to cause slander and defamation of character, this has again caused additional harm to Petitioners ability to obtain counsel. The distress caused, necessitates extension of time.

8. Additional time will benefit the Court as Petitioner will have additional time to review relevant case laws under FSIA and attempt to Motion the Courts in both jurisdictions to Order steps to locate the Children and have them evaluated by a psychologist to assess their emotional, and physical well-being.

Conclusion

For the foregoing reasons, Petitioners respectfully request that the time to file the Petition for a Writ of Certiorari in this matter be extended for 60 days, up to and including November 10, 2024. And if the rules permit, that this Court considers Ordering the Clerk of the Court to locate and assign pro bono counsel for this proceeding only.

Dated: August 20, 2024

Respectfully Submitted, 

MARLON ABRAHAM ROSASEN Pro se
& As Guardian Ad Litem for L.A.R. and D.T.R.
19453 Pacific Coast Hwy
Malibu, CA 90265
(323) 561-4001
UfriCivilRights@icloud.com
www.Ufriorg.com

NOT FOR PUBLICATION

FILED

APR 15 2024

MOLLY C. DWYER, CLERK
U.S. COURT OF APPEALS

UNITED STATES COURT OF APPEALS

FOR THE NINTH CIRCUIT

MARLON ABRAHAM ROSASEN, Plaintiff-Appellant, and DTR, a minor; LAR, a minor, Plaintiffs, v. KINGDOM OF NORWAY, as Responsible Party for the Following Agencies and Instrumentalities; et al., Defendants-Appellees.	No. 22-55980 D.C. No. 2:21-cv-06811-SPG-SP MEMORANDUM*

Appeal from the United States District Court
for the Central District of California
Sherilyn Peace Garnett, District Judge, Presiding

Submitted April 15, 2024**

Before: BENNETT, BADE, and COLLINS, Circuit Judges.

* This disposition is not appropriate for publication and is not precedent except as provided by Ninth Circuit Rule 36-3.

** The panel unanimously concludes this case is suitable for decision without oral argument. *See* Fed. R. App. P. 34(a)(2).

Plaintiff-Appellant Marlon Abraham Rosasen appeals pro se from the district court's order dismissing his First Amended Complaint (FAC) against Defendant-Appellee Kingdom of Norway.[1] We have jurisdiction under 28 U.S.C. § 1291, and we affirm.

We review de novo the dismissal of a complaint for failure to allege jurisdiction under the Foreign Sovereign Immunities Act (FSIA). *Broidy Cap. Mgmt., LLC v. State of Qatar*, 982 F.3d 582, 586 (9th Cir. 2020). We conclude Norway is immune from suit under the FSIA because Rosasen has not pointed to any applicable exception to sovereign immunity.

1. The district court appropriately addressed sovereign immunity sua sponte because "federal jurisdiction does not exist unless one of the exceptions to immunity from suit applies." *Peterson v. Islamic Republic of Iran*, 627 F.3d 1117, 1125 (9th Cir. 2010); *see also* Fed R. Civ. P. 12(h)(3). Rosasen contends the district court erred by litigating on Norway's behalf, but "even if the foreign state does not enter an appearance to assert an immunity defense, a District Court still must determine that immunity is unavailable." *Peterson*, 627 F.3d at 1125 (quoting *Verlinden B.V. v. Cent. Bank of Nigeria*, 461 U.S. 480, 493 n.20 (1983)).

[1] When we refer to "Norway," we also refer to the defendant agencies and instrumentalities of Norway. *See* 28 U.S.C. § 1603(a), (b)(2). Rosasen does not contest the district court's dismissal of all individual defendants, so that issue is waived. *See Friends of Yosemite Valley v. Kempthorne*, 520 F.3d 1024, 1033 (9th Cir. 2008).

The plaintiff must "prove that immunity does not exist." *Id.*

Rosasen asserts that the FSIA's domestic tort exception to immunity applies to his claims. *See* 28 U.S.C. § 1605(a)(5). But that exception does not apply to "any claim arising out of malicious prosecution [or] abuse of process." *Id.* § 1605(a)(5)(B). Rosasen alleged that Norway instigated and supported his wife's custody petition under the Hague Convention and the International Child Abduction Remedies Act, which resulted in his wife obtaining custody of their children. *See Rosasen v. Rosasen*, No. 20-55459, 2023 WL 128617 (9th Cir. Jan. 9, 2023). Although Rosasen did not plead malicious prosecution or abuse of process claims, the gravamen of his claims is that Norway "misused legal procedures" to return his children to Norway. *Blaxland v. Commonwealth Dir. of Pub. Prosecutions*, 323 F.3d 1198, 1206 (9th Cir. 2003). Because Rosasen's claims are all predicated on Norway's alleged "wrongful use of legal process," the exception in § 1605(a)(5) does not apply. *Id.* at 1204; *see also id.* at 1203 (holding that the defendant was immune from emotional distress and loss of consortium claims because those claims "derive from the same corpus of allegations" as abuse of process and malicious prosecution claims). Rosasen's use of labels such as kidnapping, deprivation of rights, or conspiracy is insufficient to apply the exception because "[w]e look beyond the complaint's characterization to the conduct on which the claim is based." *Id.* at 1203 (alterations omitted) (quoting

Mt. Homes, Inc. v. United States, 912 F.2d 352, 356 (9th Cir. 1990)). A plaintiff "cannot overcome sovereign immunity for claims of malicious prosecution and abuse of process by calling them a different name." *Id.* at 1206.

We also reject Rosasen's argument that Norway's alleged acts fall under the commercial tort exception in 28 U.S.C. § 1605(a)(2). Rosasen's suit is not "based upon," *id.*, commercial acts by Norway, such as hiring a law firm, because even if the commercial acts were proven, "those facts alone entitle [Rosasen] to nothing under [his] theory of the case." *Saudi Arabia v. Nelson*, 507 U.S. 349, 358 (1993); *see also Broidy*, 982 F.3d at 594 (concluding that claims were not based on commercial activity when there was merely a connection between noncommercial torts and commercial conduct, "such as the hiring of a public relations firm"). Absent any applicable exception to sovereign immunity, the district court properly dismissed the FAC for lack of jurisdiction.

2. Because Rosasen's claims all arise from alleged conduct for which Norway is immune, "it is clear on de novo review that the complaint could not be saved by amendment," and the district court properly denied leave to amend. *Webb v. Trader Joe's Co.*, 999 F.3d 1196, 1204 (9th Cir. 2021) (quoting *Eminence Cap., LLC v. Aspeon, Inc.*, 316 F.3d 1048, 1052 (9th Cir. 2003) (per curiam)). Without any likelihood of success on the merits, the district court did not abuse its discretion by declining to appoint counsel. *See Palmer v. Valdez*, 560 F.3d 965,

970 (9th Cir. 2009). We also reject Rosasen's argument that the district court committed reversible error by failing to order the clerk of court to effectuate service on Norway, *see* 28 U.S.C. § 1608(a)(3), because his claims fail regardless of whether Norway was served, *see* Fed. R. Civ. P. 12(h)(3).

AFFIRMED.[2]

[2] We deny as moot the motions to file supplemental exhibits and a supplemental brief. Dkts. 7, 15.

FILED

JUN 13 2024

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U.S. COURT OF APPEALS

UNITED STATES COURT OF APPEALS

FOR THE NINTH CIRCUIT

MARLON ABRAHAM ROSASEN,

Plaintiff-Appellant,

and

DTR, a minor; LAR, a minor,

Plaintiffs,

v.

KINGDOM OF NORWAY, as Responsible Party for the Following Agencies and Instrumentalities; et al.,

Defendants-Appellees.

No. 22-55980

D.C. No.
2:21-cv-06811-SPG-SP
Central District of California,
Los Angeles

ORDER

Before: BENNETT, BADE, and COLLINS, Circuit Judges.

The panel has voted to deny the petition for rehearing en banc. The full court has been advised of the petition for rehearing en banc and no judge has requested a vote on whether to rehear the matter en banc. *See* Fed. R. App. P. 35.

The petition for rehearing en banc, Dkt. 19, is **DENIED.**