

IN THE SUPREME COURT OF OHIO

STACY SHEPPARD

PETITIONER

-VS-

PERRY COUNTY COMMON PLEAS  
PERRY COUNTY, OHIO  
PETTIT-VS-SHEPPARD  
CASE NO. 17-DV-00290

PERRY COUNTY COMMON PLEAS,  
PERRY COUNTY OHIO:  
JAMIE FARMER, MAGISTRATE  
VALERIE WIGGINS,  
COUNSEL FOR RESPONDENT  
JORDEN MEADOWS,  
APPOINTED GUARDIAN AD LITEM

CHARACTER OF PROCEEDING:

RESPONDENT

WRIT OF HABEAS CORPUS

PETITION FOR WRIT OF HABEAS CORPUS  
INVOLVES TERMINATION OF PARENTAL RIGHTS

WRONGFUL RESTRAINTS ON PERSONAL LIBERTY, WRONGFUL USE OF JUDICIAL  
AUTHORITY, THE FAILURE TO EXERCISE SUCH AUTHORITY, WHERE NO PLAIN,  
SPEEDY AND ADEQUATE REMEDY IS AVAILABLE (Original Action)

STACY SHEPPARD, PRO SE, PETITIONER  
P.O. BOX 703 ZANESVILLE, OHIO 43702

PERRY COUNTY COMMON PLEAS, RESPONDENT  
JAMIE FARMER, MAGISTRATE AND JUDGE, TINA BOYER  
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RICHARD PETTIT, PLAINTIFF, RESPONDENT  
(Address provided on personal identifiers sheet for protection and privacy of minor children)

JORDEN MEADOWS,  
APPOINTED GUARDIAN AD LITEM, RESPONDENT  
P.O. BOX 310 LANCASTER, OH 43138

## COMPLAINT

1.) The Petitioner, Stacy Sheppard, hereby petitions the honorable court for extraordinary relief under Chapter 2725 of the revised code and Article 32 and article 226, in this petition for Writ of Habeas Corpus where no plain, speedy and adequate remedy is available and an emergency exists where minor children were physically injured, resulting in court and respondent creating physical danger in the court in failing to adhere to procedural requirements. Petitioner asserts that this is an applicable proceeding pursuant to R.C. 2505.02(A)(1), 2505.02(A)(3), 2505.02(B)(1), 2505.02(B)(2), 2505.02(B)(4)(a) and 2505.02(B)(4)(b). The Supreme Court of Ohio has Jurisdiction under rule 12. Where the Petitioner's three minor children, hereon referred to as, C.A.P, age 17, C.W.P, age 12 and C.D.P, age 8, are being unlawfully restrained by the Perry County Common Pleas Court, Perry County, Ohio, by magistrate Jamie Farmer and Judge Tina Boyer through excessive emergency temporary action with no relief in ten months or proper process for Petitioner, as a final order has been prevented. There are no final orders to support an appeal and an excessive amount of time duration with no final order, the Petitioner has elected to treat the appeal as petition for a writ of Habeas Corpus where no plain, speedy and adequate remedy is available through the appeal process and the children require the mother to take immediate action to provide treatment for a minor child who suffered a first time seizure due to a failure of the court to comply with procedure causing toxic stress and induced trauma due to the separation of mother and child in which would cause irreparable injury to the petitioner and her three minor children before compliance with the hearing order can be enforced pursuant to 65(A) of the rules of civil procedure.

2.) Although a temporary order is the basis that caused the complaint, the temporary order is not the context or reason for the petition of the complaint. The context of the complaint addresses actions that address wrongful restraints on personal liberty, wrongful use of judicial authority and the failure to exercise such authority due to non compliance with procedures which caused an emergency that placed a minor child in danger due to the negligence in lack of such duty to exercise. An order that arguably effected a substantial right in a special proceeding, meant to be temporary in nature but was extensive in time subject to further order of the court in which the failure to meet time requirements of a temporary order is substantial when a final judgment has been prevented.

#### FACTS AND HISTORY

3.) The defendant and Petitioner, Stacy Sheppard, is the biological mother of three minor children C.A.P., C.W. P and C.D.P. and was granted court ordered visitation rights to the three minor children per a divorce decree issued by Perry County Common Pleas final on April 30, 2020. The divorce decree deemed the respondent, Richard Justin Pettit, father, to be deemed residential parent and legal custodian of the three minor children and mother shall have parenting time Monday after school or 9am when school is not in session until Wednesday when the children return to school or 5pm when school is not in session and every other weekend from Friday at 6pm to Sunday at 6pm coordinating so she does not have the children on the weekend where she works Saturday. If she works on a weekend where she works Saturday, the father shall exercise parenting time while mother is working.

4.) According to the divorce decree, the decision to grant respondent residential parent and legal custodian and to grant mother visitation was based on accusations brought forth by the respondent and his counsel that the mother had a mental illness, with no supporting facts, that prevented her from properly caring for the children. Not to retry the facts, but the following information establishes repetitiveness. The mother was determined guilty until proven innocent instead of innocent until proven guilty and then was given no opportunity to prove her innocence during the final divorce hearing and through the current proceedings. The trial court required the mother to submit a behavior evaluation after the divorce order was final, instead of before the final decree, they refused to take a behavior evaluation as evidence prior to the divorce. These actions lead to granting the father residential parent and legal custodian and mother only entitled to visitation in recommendations that the mother's ability to parent the children may be affected by an underlying mental illness. The Respondent, mother and defendant, accommodated the court's wishes to obtain and give the court a copy of the behavior evaluation in a timely manner as required by court order. The behavioral evaluation submitted by the Petitioner, defendant, did not reflect a behavioral mental illness of the Petitioner, defendant, at all. In fact, the only recommendation was that the mother and children were recommended to utilize reunification counseling in regards to the damage of a prior temporary order that was granted to the respondent and proved to be false in court during divorce proceedings. (not the current order in question, but from prior divorce proceedings and also held for an excessive time without due process). The court ignored any objections in response to the final divorce decree rejecting mother's responsive motions post divorce decree apparently in mix up with the courts Covid Policy, not fault of the petitioner, during the national emergency and preventing the petitioner, defendant from a proper avenue of appeal or response to the final decree in a timely manner.

The respondent and his counsel intentionally represented to the court that the mother had a mental illness to advance fundamental liberty interest to allow the respondent to obtain custody of the minor children from the mother. Note: The respondent did not state the petitioner potentially had a mental illness, but clearly stated that the Petitioner, defendant in fact, “had a mental illness”, absent of supportive evidence, proved untrue by the official behavior evaluation of a certified professional.

5.) The defendant, Petitioner, filed an Opposition to Judgment Entry and Decree for Divorce, motion to modify divorce decree and a Behavioral Evaluation on May 17, 2020, per court order, via email to: [Iynn.pratt@perrycountvohio.net](mailto:Iynn.pratt@perrycountvohio.net) due to Covid shutdowns and the final hearing occurring on Zoom. A behavioral Health Evaluation was filed by defendant, petitioner, on May 17,2020, via email to: [Iynn.pratt@perrycountyohio.net](mailto:Iynn.pratt@perrycountyohio.net) (email was the only option to file documents through the court at this time and was permitted) due to Covid shutdowns and the final hearing occurring on Zoom. This behavioral health evaluation indicated the defendant, petitioner, had no mental health instability inhibiting the care of her children. There was no mental health treatment or otherwise following the recommendations contained in the psychiatric evaluation. The evaluation was dated around 01/11/2019 when the order for a mental evaluation was required by the court, but refused as evidence during proceedings. The evaluation recommended the mother and children go to a temporary six month reunification counseling with the children due to the damages the first temporary order from Perry County Common Pleas caused in separation of parent child relationship. Which was addressed at the temporary hearing on 01/11/2019, in an order requiring the father to allow the children to go to counseling with the mother and he would not allow it and the court would not inforce him to do so. By May 17,

2020, two years later, when the divorce was final, the mother child relationship had already been reunited and reunification counseling was no longer needed. Both of the submissions (Opposition to Judgment Entry, Motion to modify divorce decree and required submission of behavior health evaluation, reflecting no mental health issues of mother) were ignored by Perry County Common Pleas, the court refused to answer the motions or questions regarding the Opposition to Judgment Entry and Decree for Divorce, motion to modify divorce decree and behavioral evaluation filed on May 17, 2020, and was ignored by Perry County Common Pleas. The motions were checked on by the mother via per phone conversation, as everything was still under COVID restriction. The defendant, Petitioner, was unable to appeal the final divorce decree due to lack of cooperation from Perry County Common Pleas in refusing to file the motions and Court and filing deadlines, as a result of the court's lack of submission of the behavior health evaluation, Opposition to Judgment Entry and Motion to modify divorce decree in mixups due to COVID restrictions. There was also restrictions in appeal due to the court issuing a post decree order to file a behavioral evaluation that they refused to take during the divorce hearings.

6.) In regard to Proper Jurisdiction, The defendant and Petitioner, Stacy Sheppard, and petitioner, plaintiff and Respondent, Richard Pettit, were married on August 06, 2011 in Tennessee. The two parties had three minor children together two prior to the marriage and one child of the marriage, resided with the minor children in Muskingum County, Ohio during the entire course of the marriage, whereas the mother was the main caretaker for the minor children. On May 1, 2015, Richard Pettit, Respondent, voluntarily dismissed a divorce action against the Petitioner, Stacy Sheppard, filed in Muskingum County, Ohio, case number DA2015-0301. On

July 17, 2015, Richard Pettit, Respondent, voluntarily dismissed another divorce action against the Petitioner, Stacy Sheppard, filed in Muskingum County, Ohio, case number DA 2015-0425 due to an agreement being reached and signed by both parties on the matter of the minor children and was ordered, adjudged and decreed by the Common Pleas Court of Muskingum County, Ohio, Domestic Relations Division on June 18, 2015 resulting in a remedy for the temporary custody and visitation for said minor children and establishing jurisdiction. On December 06, 2017, Richard Pettit, Respondent, filed yet another complaint for divorce in an alien county, Perry County, Ohio, case number, 17-DV-00290, where he claimed to reside six months prior, after abandoning the mother and children in Muskingum County, Ohio, the children's home county was Muskingum County. The summons for divorce was never served upon Petitioner, Stacy Sheppard according to Civil Rule 3(A), the petitioner denied Perry County personal jurisdiction. The Respondent, Richard Pettit had a domestic record of abuse which prohibited him from having temporary custody of the minor children according to, section 3109.04 2(h) of the revised code, resulting a charge of breaching a civil protection order in unlawful contact with the children and mother in Muskingum County, Oh, case number CRB15000955. The petitioner, defendant, Stacy Sheppard, had no domestic record of abuse. Perry County Common Pleas granted Richard Justin Pettit temporary custody and issued visitation rights to the mother. The custody order in dispute was entered by a court without jurisdiction, thus being void ab initio. This point was brought up in trial by the Petitioner, Perry County Court proceeded without proper jurisdiction. The Petitioner denied giving Perry County personal jurisdiction even though responding to the motions by the respondent.

7.) Since the final divorce on April 30, 2020, to the current events in question occurring on April 28, 2022, visitation between the two parents was split equally, no child support was issued due to the father having an excessive income over the mother, no accusations or court filings were made by the respondent, father and the children were well taken care of, happy and supported by the mother. The father consistently tried to deny the mother of court issued parenting rights. Neither party lived in Perry County Ohio and the two counties, Perry County and Muskingum County were bouncing jurisdiction back and forth claiming the other county was responsible for enforcing the court order.

8.) Two years after the divorce, the mother started dating again. The mother's new boyfriend had no police or otherwise negative record and was very good to the mother and the minor children. This enraged the father. The respondent, father, then files yet another emergency ex parte motion on April 28, 2022, to suspend petitioner's, mother's parenting time, a motion for Contempt, a motion for in camera interview and a motion to modify custody on April 28, 2022, with the following accusations, the same accusations already tried in the previous divorce decree: Motion For Emergency Ex Parte Custody by the respondent included the following complaint:

A.) The divorce decree ordered the defendant to complete a Mental Health Evaluation at Allwell or Muskingum Behavioral Health within 30 days of the divorce decree and follow all recommendations. To date the Defendant has not obtained a mental health evaluation. (The petitioner submitted behavioral evaluation twice to the court)

B.) The divorce decree also required the Defendant to provide monthly proof that she is receiving mental health treatment or otherwise following the recommendations contained in the



psychiatric evaluation. To my knowledge, the Defendant is not receiving any counseling or mental health services and she has never provided such proof to me.

(No counseling concerning an irregularity in the mother's mental health was noted for counseling by the behavioral evaluation, only reunification counseling was mentioned due to the four month long ex parte order entered during divorce proceedings almost three years prior, not the ex parte in question)

C.) Recently, the Defendant's behaviors have changed indicating that she is becoming mentally unstable again. (Behaviors did not change, father was mad due to mom meeting a new boyfriend)

D.) Recently, I have had to involve the Sheriff on multiple occasions to get our children back from the Defendant after the weekend parenting time because she just refuses to return them.

(Father was not following the standard holiday requirements for parenting in Local rule for Mother's day)

E.) The Defendant has also started to physically abuse one of the children again. On Christmas night, 2021, the Defendant physically attacked the minor child, Clara, and had to be pulled off of her. In mid-February, 2022, the Defendant physically attacked Clara again. (The father has an extensive record of forcing the children to claim the mother abused them, post and during divorce, not prior, as the couple were together almost 17 years and there has never been ANY evidence or cause to support these claims and no physical damages to any child, no police reports, no witnesses. In fact the Petitioner is 46 years old, adores her children and has very successfully raised her now adult 23 year old son and 3 year old son and the three children in this case. Read further below, "C.A.P, was physically unharmed").

F.) C.A.P was physically unharmed, however, she is now terrified of her mother and refuses to visit regularly or stay overnight. (C.A.P, has recently obtained her driver's license and regularly

stops at the mother's residence to visit and do homework and father admits there was no physical harm to her, not to mention, the mother never physically attacked her as claimed).

G.) I am concerned that the Defendant may turn her rage on one of the younger children since the minor child is not there. (The father since the ex parte was issued has allowed the children on several occasions take the children to her residence unsupervised and even on a 500 mile trip to Gatlinburg).

H.) I believe that the Defendant's mental health issues are going untreated and are ramping up again causing the children to be at risk of irreparable harm while in Defendant's care. (Behavioral evaluation submitted by petitioner does not reflect a mental health issue inhibiting her ability to care for her children).

I.) The Defendant has a new live-in paramour but refused to tell me anything about him, including even his name. I have heard information through the grapevine but have no way to confirm it. (Actions to control and harass the Petitioner)

J.) I am requesting that the Court suspend the Defendants parenting time until she completes the Mental Health Evaluation at Allwell or Muskingum Behavioral Health and follows the recommendations, or otherwise obtains the appropriate mental health treatment. (Petitioner submitted this information twice to the court, once as required by divorce decree and again on the motion of this ex parte movement and again, there were no mental health issues impairing her from caring for her children).

K.) I am also requesting that the Court require the Defendant to divulge information regarding her paramour. (Paramour's name and record was reviewed prior to the Petitioner dating and Name was provided to Respondent prior to this action. Proves that this action was filed due to jealousy of ex husband to ex wife moving on with her life two years after divorce)

9.) No evidence or proof was submitted to substantiate any of these claims and the issues were already tried in the final divorce ordered on April 30, 2020, making the claims moot Under the doctrine of res judicata, a final judgment bars the defendant from raising and litigating in any proceeding, except an appeal from that judgment, any defense or any claimed lack of due process that was raised or could have been raised at the trial which resulted in that judgment of conviction or on an appeal from that Judgment giving no adequate basis to detain the Petitioner's children. The very same claims from the same parties were already tried in an ex parte proceeding in the divorce in which the respondent made the same accusations to an ad litem attorney, again with no evidence, in which was tried via ex parte proceedings resulting in the mother gaining the children back and the children being unlawfully held from the mother for a period of about four months. The petitioner brought res judicata claim to the court through pleadings.

10.) The respondent's Motion For Contempt also had no adequate basis for detention of the Petitioner's children stated the following:

COUNT 1: The Defendant has failed to complete a Mental Health Evaluation at Allwell or Muskingum Behavioral Health as previously ordered. (Petitioner submitted the document twice to the court)

COUNT 2: The Defendant has failed to enroll in Our Family Wizard as previously ordered. (Plaintiff, Respondent, was required by court order to pay for the enrollment in divorce order and failed to do so. Petitioner was unable to enroll due to this fact)

COUNT 3: The Defendant has used physical discipline with the children which is prohibited by the current order. (The mother did not use physical discipline, this is why the mother was issued visitation in the divorce. This order originating from the final divorce decree is non compliant with the 14th Amendment of the U.S. The Constitution that deprives the mother of a right to discipline her children when no abuse finding was evident. No state or government agency shall infringe on these rights or make an order contrary to, rendering the statement moot).

COUNT 4: The Defendant has refused to update her current address and phone number(s) with the court or with the Plaintiff in violation of this Court Order. No evidence was submitted to substantiate any of these claims and the issues were already tried in the final divorce ordered on April 30, 2020. (Address was, in fact updated)

11.) Motion to Modify Former Divorce Decree: The emergency ex parte and motion was used as a reason by the respondent to modify the former divorce decree issued on April 30, 2020. No evidence was submitted to substantiate any of these claims and the issues were already tried in the final divorce ordered on April 30, 2020. The emergency ex parte was being used as a door to modify divorce decree and maneuver an attempted proceeding to remove mother's rights through modification instead of a proper proceeding when the rights of a parent are involved.

12.) On May 9, 2022, the Perry County trial court issues an entry, appointing Guardian ad litem, Upon Ex Parte Motion of Plaintiff to Suspend Defendant's Time with the minor children, to wit and for good cause shown, this court finds the Plaintiff's motion to be well-taken and hereby GRANTS same. It is therefore ORDERED that the Defendant's parenting time is suspended until she submits to a mental Health evaluation, executes a release to submit the

mental health evaluation to the court. Any visitation between the children and the Defendant, shall be supervised and shall occur at the Plaintiff s discretion until further order. An order for ex Parte review hearing was set for June 15, 2022, a full hearing was not held.

13.) The temporary order was issued as an improper influence of the court Rules of Evidence 801, Hearsay, in an attempt of fabrication or improper influence or motive. The trial court erred by granting temporary custody to plaintiff and suspending petitioner's parenting time respondent based on the assumption, the mother could possibly have a mental illness based on unproven accusations when a behavioral health evaluation had already been submitted to the court by the respondent in prior proceedings. In addition, the order to suspend the defendant's parenting time until she submits to a mental Health evaluation, executes a release to submit the mental health evaluation to the court. Any visitation between the children and the Defendant, shall be supervised and shall occur at the Plaintiff s discretion until further order was issued due to court error, as the defendant, Petitioner already submitted a behavioral Health Evaluation, filed by defendant, petitioner, on May 17,2020, via email to: [Lynn.pratt@perrycountyohio.net](mailto:Lynn.pratt@perrycountyohio.net) (email was the only option to file documents through the court at this time and was permitted) due to Covid shutdowns and the final hearing occurring on Zoom. This behavioral health evaluation indicated the defendant had no mental health instability inhibiting the care of her children and she was not in contempt because the evaluation had been submitted and overlooked by the court. There was no mental health treatment or otherwise following the recommendations contained in the psychiatric evaluation. The court faulted by assuming these documents were not already submitted on this date in compliance with the divorce decree, by the mother making the

suspension of mother's parenting time for allegedly not complying, false or by court error, leaving the suspension of parenting time of the mother not valid and with no merit.

14.) The mother, Petitioner, submitted two motions to the court, on May 19, 2022, A resubmission of Behavioral health evaluation, and proof the Behavioral evaluation was submitted to Petitioner, a behavioral Health Evaluation, filed by defendant, petitioner, on May 17, 2020, via email to: [Lynn.pratt@perrycountyohio.net](mailto:Lynn.pratt@perrycountyohio.net). Email was the only option to file documents through the court at this time and was permitted, Petitioner has included evidence of the Perry County Common Pleas website on May 25th, 2021, <http://pccommonpleas.com>, stating that electronic filings were permitted during temporary order in response to the covid public health crisis due to Covid Restrictions and State emergency.

15.) The court did not return the mother's parenting time in compliance with return the visitation when it was found that no cause to suspend the parenting time existed, as the order was not accurate via the courts own error. The Petitioner filed a show cause on June 22, 2022, for the court to show cause why they continued holding the children from the mother's parenting time when the trial court had no legal reason to do so. The court did not respond to the motion resulting in wrongful seizure of children from the mother, without evidence that they were in any danger, no factual or legal basis to suspend mother's parenting time, no grounds for doing so resulting in unfair and illegal separation of mother from children. (The ex parte order was granted based on the court's belief that the mother had not complied with a court order to turn in a behavioral evaluation, not because she was a danger to the children). Even though the order was temporary and not appealable, there were no grounds to suspend the mother's parenting time in the first place when the court was shown evidence of their fault and then not to return the

mother's parenting time without cause for ten months, constitute damages to the Petitioner, mother and minor children. The temporary order to suspend mother's parenting time only stated that the mother's parenting time shall be suspended until she complies with the request "Defendant's parenting time is suspended until she submits to a mental Health evaluation, executes a release to submit the mental health evaluation to the court". Which the mother accommodated twice. The first being the submission of the document after divorce proceedings and again when requested per current temporary order.

16.) On May 10, 2022. The contempt was also set to be tried on June 15, 2022 simultaneously with the emergency ex parte review hearing. An in Camera interview with the oldest minor child was ordered on April 28, 2022 to be held on June 24, 2022. Only a partial hearing has been held on the ex parte matter as of date, the Petitioner was not permitted to be heard in a full hearing, and the court relied upon the ex parte hearing to bring forth evidence that very same say to charge the respondent with contempt. No evidence was not presented by the respondent that the accusations were true and gave no ground for probable cause. The court moved forward to try to make the oldest child C.A.P. testify in camera interview that her mother hit her five months prior to the filing of the ex parte. The mother warned the court on several occasions that this is dangerous for the minor child due to the tremendous amount of traumatic stress being forced on the child and there was a strong history of the father forcing the child to do or say things against the mother and disparage the mother in front of the children, such as, force the children to make statements that the mother hit them, to make statements that the mother didn't feed them, force the children to videotape the mother. All of which were countered by submitted pleadings in which the mother proved without a doubt were false claims by the

respondent. For example, the mother provided pictures of every time the children ate, pictures of the food in her home, proof that the claims the respondent made did not coordinate with the mother's visitation times, and the middle child testified to the ad litem attorney that his mother never hit him as claimed by the respondent. Evidence that the children were safe and well taken care of by the mother, petitioner. The court did not provide any prerequisites for testing the child as required by law prior to an in Camera interview. The court ignored the pleadings and moved forth to force the child to testify in an in camera interview. Even though an in camera interview is permitted, the court first should have made sure it wasn't physically dangerous for the child. The interview was going to be used as evidence to charge the petitioner with contempt based on one of the contempt charges stating, "no physical discipline of children in divorce decree", which questionably, could be entrapment and not a legal order based on the constitution, whereas a parent has a right to discipline their child, and the petitioner did not attack the child, no dates or times were specifically addressed by the respondent. The claim that the petitioner violently attacked the child," but caused no harm", as claimed in the respondent's ex parte motion approximately five months prior to the filing does not constitute an emergency to remove petitioner's parenting rights for ten months with no hearing on the matter or to initiate a modification showing interest in removing the children from the mother's care permanently without cause or to issue an ad litem attorney and force a child already victim of the family court to be subject to an in camera interview under duress that ultimately caused her to have a seizure due to traumatic stress and to resort to having THC in her system to deal with the matter.

17.) As of February 14 , 2022, the mother's parenting time has not been restored. A "partial" hearing was held on June 15, 2022, regarding the ex parte and contempt motions by the



plaintiff, but no finding of fact was issued. This was an excessive separation given no probable cause exists. Probable cause was not found at this hearing, leaving the modification, moot and the in camera interview moot due to no proceeding existing without probable cause. Respondent, where none of the claims by the plaintiff, respondent were found to have merit, leaving the claims as fabricated evidence and ignoring state and federal law and not complying with the fourteen day time limit to hold the hearing, due to it only being a partial hearing, meaning that they didn't find any evidence to continue to suspend the mother's parenting time or to charge the petitioner with contempt, so they would have to rely on the in camera interview with the oldest child under duress to fabricate further false accusations of abuse and to generate a contempt for complaint an improper application of the civil rules of procedure and criminal rules of procedure/ fishing for evidence. The plaintiff failed to satisfy R.C. 2317048, for pretrial discovery in an implied attempt of fabrication or improper influence or motive, with no cause of action for relief, not merely plead one, by means of fishing for evidence to remove mother's parental rights, a failure to answer motions and R.C. 2317.48, the petition must have sufficient facts to reveal a cause of action.

The following are examples from the contempt filing:

COUNT 1: The Defendant has failed to complete a Mental Health Evaluation at Allwell or Muskingum Behavioral Health as previously ordered. (The defendant, Petitioner, provided proof in the ex parte hearing that the behavior evaluation was submitted when required and even resubmitted the evaluation for the review that no mental health issue of the mother existed inhabiting the care of her children.)

COUNT 2: The Defendant has failed to enroll in Our Family Wizard as previously ordered. ( The defendant, Petitioner, provided proof at the ex parte hearing that the plaintiff or respondent had

not yet paid for the Our Family Wizard as required by court order which prohibited the defendant, petitioner to use the program which required payment prior to use).

COUNT 3: The Defendant has used physical discipline with the children which is prohibited by the current order. (The defendant, Petitioner provided proof and witness that she was not abusive toward the children and did not use physical discipline with the children. In addition, she provided proof that the respondent was the one with a history of abuse and a domestic abuse record for violence against the mother and children and that he had a very broad history of abuse, harassment and civil misconduct via evidence already submitted through the court of record, of manipulating the children, withholding court ordered visitation and forcing the children to make statements against the mother that were not true, such as; The mother hits them, she does not feed them. All of which were determined untrue in previous court proceedings.) This left the claim of count 3 of contempt void, with no evidence to continue to withhold children from mother, pending on the in camera interview the court set for the oldest minor child. The plaintiff failed to satisfy R.C. 2317048, the petition failed to have sufficient facts to reveal a cause of action. In other words, the Respondent planned on using the in camera interview to force the oldest child to falsely testify that her mother hit her to generate fabricated evidence to justify a reason to remove mother's parenting rights and charge the mother with contempt. The court permitted this process.

COUNT 4: The Defendant has refused to update her current address and phone number(s) with the court or with the Plaintiff in violation of this Court Order. (The Petitioner provided proof that the current address had in fact been in fact updated with the court and that since the Petitioner was a victim of domestic violence by the respondent, she had a right to use a P.O. Box for the use of court documents due to the court information being publicly printed online.)

18.) In addition to assisting the respondent in ordering an in camera interview with the child without cause pursuant to R.C. 2317.48, the petition had no sufficient facts to reveal a cause of action to issue an in camera interview, as no cause of action was evident. The court failed to go through the proper process to verify the oldest child was competent to testify in the in Camera interview and failed to respond to an opposition to in camera interview with a minor child filed by the mother on June 22, 2022. The opposition stated the following: "A motion was filed on April 28, 2022, by the plaintiff to conduct an in camera interview with the minor child to wit, C.A.P. The motion stated that the child is willing and able to openly discuss issues that concern her with the court and has requested this interview.

19.) The father has a history of using the children to tape record, spy, forcing them to make false statements about their mother as evidence provided in the finding of fact in the divorce decree. The plaintiff did this so often, The final divorce decree restrained him from doing so. Note, the father was pressuring the children to tell the Ad litem Attorney, their mother hit them. The minor child, C.W.P., spoke up and stated, "My mom didn't hit me". The father was forcing the children to tell the ad litem attorney that their mother didn't feed them. The mother provided pictures and dates of meals the children consumed and pictures of the food in her residence. The father forced the children, mainly C.A.P., that the mother abused her, the mother provided pictures and dates to counteract each accusation and proved them to be untrue. The divorce determined the father was demeaning the mother in front of and to the children. The divorce decree restrained the father from trying to destroy the mother-child relationship or demeaning the mother in front of the children . This was determined and ordered by The Perry

County common Plea Court. Yet, the court granted father custody to further damage the mother and children based on hearsay and fabricated a or accusations, such as, the mother has a mental illness. Motions by the Petitioner, mother were ignored that were important to the outcome of the case. The damage this caused the children was ignored and not of importance to the court. A testimony from C.A.P. could not be used as evidence for determination of parental rights as the testimony would be accomplished under duress by the father. Father has been denying court ordered visitation rights to the mother to C.A.P. periodically since the summer of 2021, due to jealousy by the plaintiff of the mother and child building a relationship. The father has been limiting phone contact with C.A.P and mother to try to alienate mother from C.A.P's life, until recently when the child received her driver's license and frequently stops by the mother's house. The petitioner addressed the courts on this issue and Perry County did not have jurisdiction where the children lived and Muskingum County, where all parties reside, did not have jurisdiction over Perry County's order. The petitioner feared involving Perry County in this matter, as they did not help resolve any of these issues in divorce proceedings due to the attacks the petitioner, mother and children endured in the divorce hearing, as the petitioner felt a lot of important facts were ignored and the court favored the father against the weight of evidence and that an appeal was prevented due to restrictions from the COVID national emergency and filing time requirements. Despite all the Petitioner and her children have been forced to face and endure, the mother and children still hold a very strong bond. The Petitioner calls the children every day and still financially supports them by means of school events, clothing, gifts and food for their school lunches etc. on a daily basis. She visits them frequently on a weekly basis, still being deprived of parental rights and is forced to visit them based on the respondent's terms at the respondents home, who was convicted of violating a restraining order the mother and

children previously had in place to protect them for violent acts against them, with a convicted violation of T.P.O, which limits the Respondent to make sound decisions for the children and disturbing medically necessary care when it is not being provided by the respondent.

20.) The Petitioner filed an Opposition to in camera interview with the minor children and moved the court for oral hearing on the matter, Entry on May 10th, 2022, upon motion of the plaintiff for an in Camera interview with the minor child, to wit: C.A.P , as the interview would be unjust and an abuse of process which would cause irreparable harm to the minor children and the mother. A certified copy was mailed to Valerie Wiggings, attorney for plaintiff on June 22, 2022”.

21.) The trial court ignored the motion and continued with the order for an in camera interview with the minor child without proper procedure required in 3109.04(B)(1); 3109.04(B)(1)(2); where the trial court must first determine the reasoning ability to express the child’s wishes, and other factors, such as if the child’s parent has a history of using the children to harass or attack the other parent and the statements of the child would be concluded under duress. The court failed to establish any specified prerequisite had been met, prior to the videotaping of the minor child to make sure the minor child was competent to do the interview and ignoring the fact that the father. The respondent was controlling toward the child, a 16 year old female, as he was the petitioner during their marriage, that he had a history of using the children in actions to harass the mother and use them to try to gain advantages in litigation. The court ignored the fact that the mother notified them that the in Camera interview was dangerous for the children and they were under a tremendous amount of stress and subject to the father

forcing them to act on his behalf. The children were beyond stressed due to the court's actions to once again waste taking them away from the only love and affection they received from their mother with the attitude, they are doing it again (meaning their father and Perry County Court temporarily removing them again from their mother's care without cause after they had already readjusted to the first attempt).

22.) The in camera interview was being used to substantiate the trial court's actions of suspending the mother's parenting time without substantial evidence of abuse, a failure to investigate evidence prior to removal of children indicating malice and then was using the interview as a form of illegal search and seizure to fabricate a reason to justify actions already taken without just cause. The trial court's actions caused toxic stress on the children and trauma due to separation from their mother. The period of separation of the children from mother started April 28, 2022 and to date, February 14, 2022, (A total of ten months since the ex parte order was first filed) the mother's parental visitation has not been restored even though the trial court has no sufficient evidence to substantiate abuse to the children by the mother. This is an extreme wrongful interference with the parent child relationship. The court claims that they put the emergency ex parte on hold due to the respondents jurisdictional appeal on June 23, 2022, but the parent child relationship is a constitutional right and an attempt to remove a constitutional right such as an attempt to remove parental rights has a process that is mandatory to be followed governed by the rules of civil procedure. Such rights have a mandatory time limit to process due to the nature of temporarily removing civil rights of a person or persons and other court cases are not allowed to interfere with these time limits especially when the trial court has no evidence substantiating abuse. For example, the jurisdictional appeal is not related to a temporary

suspension of parenting rights when no evidence is submitted to substantiate a temporary removal of children and does not give the court permission to fail to act, or fail to return the mother's parenting time for a period of ten months with absolutely no legal basis or reason to keep the temporary order in place because they mentioned that the petitioner, mother filed a jurisdictional appeal, knowing the mother could not appeal a temporary order. This is extreme use of ex parte communications, improper procedure, wrongful seizure of children, seized children without evidence they were in danger, no factual or legal basis, no grounds and a fabrication of evidence in holding and withholding key information ignoring state and federal family law. The ten month time frame the children were removed from the mother's care without substantiation of evidence is excessive. The failure to act in reinstating the mother's parenting rights, only due to leave of court which is not permitted in emergency termination of parental rights attempts, in order to keep the alienation from the mother an illegal separation of parent and child is both statutorily and constitutionally unlawful and the court had plenty of time to make a decision prior to the appeal. Obtained evidence on the respondent's behalf establishes improper ex parte communications and discovery abuse in violation of T.R. 65(B) and rule 3.5(b) of the rules of professional conduct as well as Ohio administrative code 5101:2-42-04, in regards to authority to assume and retain custody of a child. The Respondent submitted no evidence to support the claim and the order was issued without any required reasonable grounds and the claims were not true based on majority of evidence.

23.) On June 23, 2022, the night before the child was scheduled to testify in the in camera interview, Perry County common Pleas continued the in camera interview with the minor child pending an appeal On June 22, 2022, by the defendant, Petitioner, but not before it causes

physical and mental harm to the minor child. No prerequisite screening was conducted to see if the minor child was competent and physically able to do the in camera interview, no factors were considered by the court presented by the petitioner that of forceful testimony, duress or may be factors or any the process of law as previously mentioned above. The pressure of the in camera interview caused the minor child a tremendous amount of stress leading her to take THC inhibited gummy bears the night before the in camera interview under the father's care. The conclusion is that the child would have been forced to testify with THC in her system, with undue influence by the father and the trial court creating a tremendous amount of stress on the minor child in attempts to remove parental rights of the mother, Petitioner. These actions lead to physical and mental harm to the minor child as well as negligent personal injury to the mother and minor children as discussed below.

24.) On June 24, 2022, at 12:55 pm, Minor child, C.A.P, age 16 and subject to force of testifying in an in camera interview the same day at 3:00 pm, was rushed to the emergency room via ambulance and had a first ever seizure induced by traumatic stress forced on her by father and the negligence of Perry County Common Pleas. Symptoms included: seizure, nausea, vomiting, dizziness, light-headedness, headaches, sleep disturbances, appetite change and activity change. In addition to the seizure, the minor child, age 16, (a previous straight A student) under the father's care tested positive for THC (marijuana) during the test run in the emergency visit. The father is not providing proper or any treatment to the minor child for the issue of THC found in her system.

- a.) She is not being tested for further use of THC since the incident.
- b.) Parental actions are not being taken to prevent or monitor further use.



- c.) The father laughed about the issue of THC in the child's system. The father is not providing proper medical treatment to the child in follow-up for the minor child's treatment in the care of the seizure and recommendations of doctors.
- d.) The minor child had a follow up appointment at children's hospital in Columbus, Ohio on August 26, 2022 for a head scan. The father did not take the minor child to this appointment.
- e.) The father allowed the child to drive against doctors orders, placing the child and others in further danger.
- f.) Actions and follow up appointments to draw blood have not been set monitoring high lactate components found in the child's bloodstream, caused by impaired tissue oxygenation, by decreased oxygen delivery or a defect in mitochondrial oxygen utilization. The minor child is asthmatic and the presence of this condition can lead to hyperlactatemia, and can be severe enough to cause muscular weakness, rapid breathing, nausea, vomiting, sweating and even coma.
- g.) The father is not relaying proper information to health care providers that would directly affect the child's care and treatment. The father lied to the emergency room and family doctor when asked if the child was under any stress, (stress is the number one cause of seizures), telling them she was not under stress in efforts to cover up his actions, when in fact she was under a tremendous amount of stress induced by the father and Perry County Common Pleas Court in forcing the minor child to testify in an in court interview on June 24, 2022, at 3:00pm. The 16 year old child was rushed by ambulance to Genesis Hospital on June 24, 2022 at 12:55pm, the day she was being forced to do the in camera interview.
- h.) The minor child's mother, plaintiff, attempted to make the minor child a doctor's appointment to have additional blood tests and exams on the child, but the father refused to let the minor child attend the appointments. The father, defendant, stated in a text message, "Anything like that will

go through him”, meaning that he was in control of her doctor’s scheduling and the mother had no right to do so. The father was against court orders in not allowing the mother to schedule doctors appointments for the child and putting the child at risk and in danger of possibly trying to cover up further discovery of THC in her system and not allowing her to be checked out in a life threatening situation.

25.) The Petitioner filed an emergency ex parte motion in Perry County Common Pleas regarding issues mentioned above, on February 2, 2023, the court has yet to review the Petitioner's ex parte pleading as of February 14, 2023, pursuant to section R.C. 2151, of the revised code. The Petitioner has also filed two motions for sanctions one under civil rule 11 and R.C. 2323.51, and R.C 11 and O.R.C. 2323.52, on February 03,2023, the court has not responded to the actions to date. The Petitioner attempted to file an ex parte in Muskingum County, Ohio, the county of the Petitioner, mother, minor children and father resided, prior to the filing in Perry County Common Pleas Court where Muskingum County Claimed they did not have jurisdiction to take the pleading due to Perry County claiming to have subject matter jurisdiction. The minor child, C.A.P., doctor’s records stated that she had suffered a tonic-clonic seizure in bed with eyes closed and gurgling sound from her mouth that lasted 20 seconds, no prior seizures. She was not responsive. Symptoms included, positive for activity change, appetite change, nausea, vomiting, light-headedness, headaches and sleep disturbance. THC was also detected in the child’s system under her father’s care. The night before and the day the court was to force her to do an in camera interview with no mandatory pre screening and ignorance of the mother’s warnings that the child was in danger through multiple court pleadings. The court has demonstrated extreme discrimination against the petitioner. First, because the petitioner is a female, the court acted as if

her standing with her minor children was not of importance and placed the father on higher ground than the mother, not reviewing substantial evidence presented by the mother and not placing both parents on equal footing. The court has substantially interfered in the mother's right to parent her children in not granting her custody rights in the divorce due to an accusation that the mother had a mental illness, no finding of fact, proven untrue, and not providing the mother a clear path to appeal. The court has substantially interfered with the mother's parenting time to benefit the father in actions of removing the children with no cause for long periods of time and not providing a way or means by temporary orders to appeal which placed the minor children in direct danger ignoring substantial evidence and having no regard for the safety of the minor children. The court failed to return the children to the mother when it was found that no emergency cause existed to separate the mother and children. The court failed to issue an emergency order against the father, respondent when it was found that an emergency cause did exist placing the children in immediate danger. The minor child had a chemical substance in her system, contributing to a first time seizure under her father's care, the respondent failed to take her to important medical appointments and failed to take her to required follow up appointments, he failed to allow the mother to provide or have access to these medical appointments in attempts to cover up damages cause to the child. The court took actions to prevent the mother, Petitioner, from appealing the actions through extreme temporary orders. They tried to cover up and dilute the fact that the minor child had suffered physical harm. The court did not grant an emergency order, they refused to have a hearing on the matter, only reviewing in a NON oral hearing and using a magistrate to make the decision to further delay appeal.

**BASIS FOR WHICH THE PETITIONER SEEKS RELIEF**

26.) In Order to be entitled to a writ of Habeas Corpus, a petitioner must show that they are being unlawfully retained of his liberty, prove he has this liberty and that he is entitled to immediate relief from confinement or detention of liberties, R.C. 2725.01, under Chapter 2725 of the revised code and Article 32 and article 226, of the U.S. Constitution. Petitioner asserts that she is entitled to extraordinary relief under Chapter 2725 of the revised code and article 226, in this petition for writ of Habeas Corpus where no plain, speedy and adequate remedy is available and an emergency exists where minor children were physically injured, resulting from a failure to comply with procedural requirements. The petitioner asserts that this petition for writ of Habeas Corpus, is pursuant to R.C. 2505.02(B)(1), An order that affects a substantial right in an action that in effect determines the action and prevents a judgment, a substantial right in an action in effect, 2505.02(A)(3), suppression of evidence, 2505.02(B)(4)(b), the appealing party would not be afforded a meaningful or effective remedy by an appeal following a final judgment as to all proceedings, issues, claims, and parties in the action, 2505.02(B), if the defendant in an action challenges and has challenged through many objections and filings through several pleadings in court proceedings, the adequacy of the prima-facie evidence of the exposed person's physical impairment as provided in this section, the court shall determine from all the evidence submitted whether the proffered prima-facie evidence meets the minimum requirement of the revised code, and the court shall resolve the issue of whether the plaintiff has made the prima-facie showing required by Ohio Juvenile Rule 13(B)(3). The Supreme Court of Ohio has jurisdiction under Rule 12. Whereas, the petitioner formally provides an adequate cause and prejudice in the following showing of a fundamental miscarriage of justice in focus on the

legality of confinement in detaining three minor children for an extended amount of time without complying to mandatory time restrictions, as detailed below, from the petitioner's right to custody, part of constitutional right under Article 1, section 8 of the U.S. Constitution.

27.) Petitioner asserts that this is an applicable proceeding pursuant to R.C. 2505.02(A)(1), 2505.02(A)(3), 2505.02(B)(1), 2505.02(B)(2), 2505.02(B)(4)(a) and 2505.02(B)(4)(b). The Supreme Court of Ohio has Jurisdiction under rule 12. Where the Petitioner's three minor children, hereon referred to as, C.A.P, age 17, C.W.P, age 12 and C.D.P, age 8, are being unlawfully restrained by the Perry County Common Pleas Court, Perry County, Ohio, by magistrate Jamie Farmer and Judge Tina Boyer through excessive emergency temporary action with no relief in ten months or proper process for Petitioner, as a final order has been prevented. There are no final orders to support an appeal and an excessive amount of time duration with no final order in actions by the court preventing a final order.

28.) An order, even if temporary by emergency ex parte motions, is an appealable order if it meets the requirements of section 2505.02 of the Ohio code. Substantial right, means a right the United States Constitution, the Ohio Constitution, a statute, the common law or a rule of procedure entitles a person to enforce or protect, R.C. 2505.02(A)(1), a legal right to be enforced and protected by law. (2) "Special proceeding" means an action or proceeding that is specially created by statute and that prior to 1853 was not denoted as an action at law or a suit in equity. (3) "Provisional remedy" means a proceeding ancillary to an action, including, but not limited to, a proceeding for a preliminary injunction, attachment, discovery of privileged matter, suppression of evidence, a prima-facie showing pursuant to section 2307.85 or 2307.86 of the

Revised Code, a prima-facie showing pursuant to section 2307.92 of the Revised Code, or a finding made pursuant to division (A)(3) of section 2307.93 of the Revised Code. The respondent's filing of the emergency ex parte order on 04/28/2022, alleged, prima-facie, that the petitioner did not take action to submit a behavioral evaluation per divorce decree order. On 05/09/2022, the court temporarily suspended petitioner's court ordered parenting time, a proceeding for a preliminary injunction, asserting this prima-facie accusation was true per this emergency filing until she submitted to a behavioral evaluation, discovery of privileged matter that was only ordered per divorce decree to be placed on the courts file for review, not disclosed to the respondent. The petitioner submitted proof that this document was submitted to the court via email, on May 17, 2020 and the behavioral evaluation and the petitioner did not in fact have a mental illness that affected her ability to parent her children. The court also allowed the petitioner to submit other court documents to the same email address during the final divorce hearing held on Zoom in 2020, during the COVID national emergency and submitted a document showing that the court's website during this time stating that digital filings were acceptable during the COVID crises (during this time you were not allowed to enter court). The petitioner submitted another copy to the court on May 19, 2022, two years later per the court's request of court via suspension of petitioner's suspension of parental rights via temporary ex parte order claiming the petitioner failed to do so. This evidence was suppressed by the court without request of the petitioner or the respondent and the court failed to comply with mandatory time requirements required to hear the case, described in more detail below, emergency ex parte orders temporarily removing custody of children. A full hearing did not occur in a time period of almost 10 months. The petitioner's petition meets the requirements of e term "Provisional remedy". The trial court failed to include this pleading and the submission of the defendant's,

Petitioner's behavior evaluation, that mental illness was not a factor, as mitigating factors when considering an order for an in camera interview and when considering the unlawful detainment of those three minor children from their mother, U.S.C. 2254(d)(1). A fundamental procedural right, which could have a significant impact on the likelihood of accurate conviction. The statement that the respondent had a mental illness, when not fact, improperly influenced the court. In addition, there was no adequate basis to issue an emergency order, the trial court failed to provide for a speedy trial or hearing per mandatory requirements required by section 2151.314 of the revised code. A prima-facie, at first sight, showing must meet all the components in order to prove that the defendant, petitioner committed that violation, the respondents filing for emergency ex parte did not meet those requirements, as detailed further below. (B) An order is a final order that may be reviewed, affirmed, modified, or reversed, with or without retrial, when it is one of the following: (1) An order that affects a substantial right in an action that in effect determines the action and prevents a judgment. The order entered by the court on 05/09/2022 suspending petitioner's, defendant's parenting time issued by court order per the final divorce decree in 2020, affects the petitioner's substantial right.

29.) The defendant and Petitioner, Stacy Sheppard, is the biological mother of three minor children C.A.P., C.W. P and C.D.P. and was granted court ordered visitation rights to the three minor children per a divorce decree issued by Perry County Common Pleas final on April 30, 2020 stating, mother shall have parenting time Monday after school or 9am when school is not in session until Wednesday when the children return to school or 5pm when school is not in session and every other weekend from Friday at 6pm to Sunday at 6pm coordinating so she does not have the children on the weekend where she works Saturday. If she works on a weekend where she works Saturday, the father shall exercise parenting time while mother is working. The

writ of habeas corpus is a fundamental right in the constitution that protects against unlawful and indefinite imprisonment or unlawful detention. In the petitioner's case this unlawful detention was due to prosecutorial misconduct in not complying with required time law mandates and required procedural laws, preventing an appealable judgment for an extended amount of time and not restoring the petitioner's rights when it was discovered that the claim that temporarily removed the petitioner's rights was not factual, as discussed in more detail in further pleadings below. Habeas Corpus, is pursuant to R.C. 2505.02(B)(1), An order that affects a substantial right in an action that in effect determines the action and prevents a judgment, a substantial right in an action in effect, 2505.02(A)(3), suppression of evidence, 2505.02(B)(4)(b), the appealing party would not be afforded a meaningful or effective remedy by an appeal following a final judgment as to all proceedings, issues, claims, and parties in the action, 2505.02(B), due to the court not reviewing the prior and present submission of behavior evaluation and the results of the evaluation. A parent's right to the care and companionship of his or her children are so fundamental as to be guaranteed by the First, Ninth and 14th Amendment of the United States Constitution, the Petitioner has every right for these fundamental rights to be enforced. "A parent who is deprived of custody of his or her child, even though temporarily, suffers thereby grievous loss and such loss deserves extensive due process protection", In the interest of Cooper, 621 P 2d 584, (1980). Article 32, Supreme court can issue if it is proved that a petitioner's fundamental right has been infringed whereas, the detention of the three minor children by the court is proved to be illegal and without authority of law. The process and evidence of the actions to be illegal, in violation of law, and without authority are more detailed below in the petition. Article 226 is part three, this article empowers the high court to issue writs to enforce ordinary rights. The petitioner



meets the substantial right requirement in which a substantial right in an action that in effect determines the action and prevents a judgment.

(2) An order that affects a substantial right made in a special proceeding or upon a summary application in an action after judgment;

(3) An order that vacates or sets aside a judgment or grants a new trial;

(4) An order that grants or denies a provisional remedy and to which both of the following apply:

(a) The order in effect determines the action with respect to the provisional remedy and prevents a judgment in the action in favor of the appealing party with respect to the provisional remedy.

Provisional remedies include attachment, garnishment, replevin, receivership, notice of pendency, and temporary injunctions such as temporary restraining orders or preliminary injunctions. The Due Process clauses of the Constitution apply to provisional remedies, because they cause deprivation of liberty or property. The court issued a temporary order suspending the petitioner's parental rights and failed to comply with mandatory time requirements and procedures for emergency ex parte orders with no extensions filed, in regards to temporarily removing parental rights, as detailed with laws and procedures below. This failure of the court to comply with mandatory law, prevented a timely judgment for the petitioner to appeal resulting in an unlawful separation of parent and child. The court also prevented a final judgment by way of having the magistrate conduct and perform all duties in which the court did not review upon pleadings in court objections of the petitioner, whereas the magistrate denied the objections herself preventing review of a family court judge and preventing a final appealable order. The petitioner's petition meets the requirement that the order in effect determines the action with

respect to the provisional remedy and prevents a judgment in the action in favor of the appealing party with respect to the provisional remedy.

(b) The appealing party would not be afforded a meaningful or effective remedy by an appeal following final judgment as to all proceedings, issues, claims, and parties in the action. This petition reflects the petitioner's unlawful detention of her children for almost ten months, without filed extensions, that was due to prosecutorial misconduct in not complying with required time law mandates and required procedural laws which prevented an appealable judgment for an extended amount of time in a special proceeding and not restoring the petitioner's rights when it was discovered that the claim that temporarily removed the petitioner's rights had no factual basis. Even if a final judgment is rendered in the near future, the petitioner would not be afforded a meaningful or effective remedy for the extended temporary detention of her three minor children through an appeal following final judgment as to all proceedings, issues, claims and parties to the action. The petitioner's rights were violated when the court did not hold a full hearing on the matter within mandatory time restrictions allowing the petitioner to defend herself and the defendant's rights were violated when the court failed to include evidence as to the petitioner's innocence, the petitioner's rights were violated when the court failed to promptly return the children when the petitioner submitted this evidence of innocence for discovery. The defendant's rights were also violated when the court refused to answer a show cause filed by the petitioner in pleadings to the court inquiring why the children were still being detained from the mother, as the petitioner has every right to know why her children are being held by the court with no apparent cause. These issues would be left out on an appeal that would only test the validity of a judge's abuse of discretion rather than all the factors and process that lead to the final decision or order and the extended detention of the children from their mother would not be

a factor in the determination in reference to an appealed order (detailed further below). The petitioner's petition meets this requirement that the appealing party would not be afforded a meaningful or effective remedy by an appeal following final judgment as to all proceedings, issues, claims, and parties in the action.

c.) A Matter of Emergency exist: The emergency exists that the court has failed to protect minor children in its duty in the care causing physical and emotional damage to the three minor children in the following ways causing the following damages:

- 1.) The court failed to act in the children's best interest by unreasonably or irresponsibly failing to discharge its duties in determining to commence the emergency ex parte order to temporarily suspend petitioner's parental rights against the weight of evidence and failed to release the children upon the evidence that the ex parte motion entered on 05/09/2022, was not fact finding for probable cause, as imminent danger was not evident. Taking the children and not releasing them was unlawful because the petitioner, defendant posed no risk of harm to the children that the removal was necessary.
- 2.) The court failed to act in the children's best interest and Petitioner's mandatory right to hearing in failing to hold a full hearing within mandatory time limitations required in emergency ex parte procedure, where both the plaintiff and defendant can present evidence and testimony and failed to file required extensions on the matter.
- 3.) The court failed to act in the children's best interest and negligently placed the children in danger when they failed to comply with required preliminary requirements for in camera interviews and suppressed evidence when they failed to comply or address

several pleadings by the petitioner, the defendant, warning the court that the in camera interview would be dangerous to the minor children, the court showing malice. These actions in process caused the oldest child C.A.P, to be rushed to the hospital by ambulance the day the in camera interview was to take place with a first ever seizure and a discovery of THC in her system under her father's care as already described and further discussed below.

4.) The court failed to act in the best interest of the children and to comply with required standard of proof when they placed the children in the respondent's, father's care in divorce proceedings based on the fact that the mother potentially could have a mental illness without cause or evidence to come to that conclusion and suppressing and ignoring important evidence presented by the petitioner, defendant, during divorce proceedings that the respondent had been a danger to the respondent and children, negligently placing the children in further danger, suppressing evidence, whereas the respondent had previously been charged with breaching a restraining order in place preventing him from corresponding with the mother and children in Muskingum County, Ohio. This misrepresentation to the court by the respondent and his attorney was misleading to the outcome in the finding of fact to place custody of children in respondent's care. The court did not comply with the standard of proof required in finding a fact for the placement of children. The petitioner was unable to appeal final divorce due to hearing by the magistrate and not being a final order due to additional requirements to turn in a behavioral evaluation, in which was timely submitted.

5.) The court failed to act in the best interest of the children and standard of care when granting the respondent custody and legal custodian, leading to the events that a minor child was found to have THC in her system under her father's care, the father refused to seek proper medical treatment for the child and refused to let the petitioner, mother, seek proper treatment for the child. The court failed to comply with reasonable immediate standards of care for the children in failing to act when this discovery was made.

6.) The court failed to act in the best interest of the minor children and to comply with required process of law when in fact, the petitioner filed an emergency motion to suspend respondent, father's parenting time, verified, on 02/02/2023, requesting temporary custody addressing these very serious facts based on legitimate evidence the petitioner pleaded in the form of doctor reports and medical records against the respondent. The court failed to act at all on this pleading, not even to grant or deny, placing the children in further danger. The court failed to act, in the process of emergency ex parte procedure in protecting the children when real danger exists and failed to dismiss motion when danger did not exist, like removing children for allegedly not turning in a mental evaluation two years prior in divorce decree requirements, that had been timely submitted and showed no reflection of mental illness affecting ability to parent.

7.) The emergency stands that a minor child in the care of the respondent is in immediate need of medical care regarding this seizure incurred and issue of THC found in her system under her father's care, the respondent is not properly providing care required. This minor child is in need of further actions to insure the child is no longer using THC, the respondent, father thinks the issue is funny and refuses to address the issue, whereas

the petitioner, mother, feels that it is not appropriate for a sixteen year old girl to ingest THC, in her father's care, that may have been an underlying factor in the seizure and current medical condition placing her in danger in addition to the traumatic stress. The traumatic stress the respondents were placing on her to testify that a mother who has properly cared and nurtured the child the duration of her life, taught her children values, as not to lie, would force this child to testify in an in camera interview that her mother attacked her on five months prior to the filing, "but didn't physically harm her", with no reason, no police reports, no agency filings, and the child knew the accusations not to be accurate, was being forced under duress to do the in camera interview, in turn causing her to resort to the use of THC, and inducing traumatic stress, the number one cause of a first time seizure. The court did not comply with procedures or requirements of law, failed to protect and suppressed evidence in which minor children's immediate health was in danger.

8.) The respondent and the minor children have and continue to have incurred damages due to the court's failure to act and failure to comply with the process of law. The Petitioner prays a dismissal of this petition is not warranted due to the danger involved in the duty of care of minor children and is of dier emergency that they are properly addressed and the petitioner has no other options of appeal to protect her children due to actions being taken by the court completely through temporary form.

## GROUNDS FOR RELIEF

30.) The petitioner has been unlawfully detained from the custody of her three minor children, U.S.C. 2254(d), in actions non-compliant with law. for an extended amount of time not permitted by law where unlawful delay prevented a final judgment. Where the Petitioner has a superior legal right to custody and visitation of the three minor children, referred to as, C.A.P, age 17, C.W.P, age 12 and C.D.P, age 8, are being unlawfully restrained by the Perry County Common Pleas Court, Perry County, Ohio, by magistrate Jamie Farmer and Judge Tina Boyer through excessive emergency temporary action with no relief in ten months or proper process for Petitioner, as a final order has been prevented. There are no final orders to support an appeal and an excessive amount of time duration with no final order in actions by the court preventing a final order.

31.) The petitioner has been unlawfully deprived of due process, in actions non-compliant with law, in such a shocking display of the courts failure to comply with a multitude of fundamental procedural rights mandated by law, for an extended amount of time, which could have a significant impact on the likelihood of accurate outcomes in custody proceedings. The trial court failed to provide for a speedy trial or hearing per mandatory requirements required by section 2151.314 of the revised code. A more detailed list of due process violations is provided in further pleadings. The court's failure to comply with laws and mandates regarding due process caused the petitioner and children damages in that unnecessary orders were put in place restricting a parent child relationship and the court failed to take action to reunite the petitioner

and children in the absence of probable cause, when they were entitled to be reunited, without proper process of law. (see law violation codes and laws in below pleadings)

32.) The court caused damages in separating the Petitioner and children in holding the children for an extended amount of time without probable cause to do so in actions non-compliant with law, in assistance to the respondent to alienate the children from their mother against their will. The court has attempted this several times throughout the proceeding with no cause to do so and has proved difficult for them because the mother is a fit, loving and nurturing mother who supports, provides and has devoted her entire life to her children. The respondent has brought many past accusations meant to harass the petitioner in proceedings, such as, the mother hits the children, she doesn't feed them, she has a mental condition, all in which were undoubtedly proved false, by solid evidence the petitioner presents to the court in pleadings. The petitioner is a responsible mother who works and is providing a nice clean home for the children where they have their own bedrooms and playground. The petitioner takes the children on educational and fun trips and spends quality time with the children outdoors where they have taken an interest in fishing and hiking. The petitioner went to college for several years where she obtained dean's list and has undoubtedly the best support system through the children's grandparents and family. The petitioner grew up in the country, where her parents taught her values, honesty and a respect for law and justice. The petitioner has no issues with drug abuse, alcoholism or otherwise issues that would prove unfit to parent children. In addition, none of these accusations were alleged in seventeen years, the term of the relationship with respondent including marriage, until after the respondent decided to file for divorce three times and had an interest in not paying child support, which he did not have to pay I might add, due to claiming the petitioner had a mental illness, later proved false, a misleading of the court. The fact that the



court entertained these harassing actions, absent of probable cause and fact, has caused the petitioner and children severe damages. The minor children have lost half of their childhood due to the excessive harassing court proceedings removing the children from their mother's care and then giving them back causing a disturbance to the parent child relationship. From the first filing of the respondent for a divorce in Muskingum County, where the mother was awarded custody to present, Perry County Common Pleas awarded father custody, the petitioner and children have had to endure seven years of harassment through the courts, disturbing the petitioner and minor children's rights to live free from harassment and the right to live in peace. Perry County Common Pleas prematurely issuing random ex parte motions of the respondent to alienate minor children from a loving caring mother.

33.) The petitioner's constitutional and State rights were violated in actions non-compliant with law, when an order that affects a substantial right, such as an emergency ex parte order removing parental rights in an action that a court, in effect, determines the action and prevents a judgment, this is a substantial right in an action in effect, 2505.02(A)(3), whereas, the petitioner meets the substantial right requirement in an action that, in effect, the court intentionally prevents a final appealable judgment, by not holding a full mandatory time restricted hearing on the matter and bluntly and strategically ignoring filings applicable to determination of the action of the court to inhibit a final appealable order in fact prevents a judgment. If the court had entered a final order in the emergency ex parte hearing in a timely manner, the petitioner would have had the option to appeal the order. The court instead chose to ignore state and constitutional laws and be very careful not to grant a final appealable order as the court was mandated by law to render within a designated amount of time, to prevent the

petitioner from appealing. The court shows intent of malice when in fact it tried to carry out a whole custody proceeding based on an emergency custody order in which probable cause had not been established. The intent of the court to keep the “emergency” proceeding temporary in nature to avoid an appeal. The whole effort of this proceeding by the court was conducted by a magistrate, which also prevents an appealable order and that the court failed to overlook the effort to prevent magistrates proceeding even when objected by the petitioner in pleadings, also shows an intentional prevention of a final order. The court had plenty of opportunity to hold a full hearing and failed to do so; they instead chose to hold the petitioner's children for ten months ignoring state and Constitutional laws causing severe and unnecessary damages in the separation of mother and child. In addition, the final divorce entry was issued with stipulations, without probable cause or law, making the entry not subject to appeal, preventing the petitioner from appealing the terms of the divorce decree, do to it having stipulations is an intentional prevention of a final order where the petitioner had no way of resource of law to prevent. These planned tactics, adding unwarranted stipulations to divorce decrees pertaining to custody, are used as a way to dismiss appeals for issues of custody in appeals court due to the order not technically being a final order. The petitioner has noticed in case law that this tactic has been used to shut down an unsuspecting innocent parent’s right to custody of their children and their right to process of law when custody matters are unfairly displaced. This is an unfair and intentional act by the courts which intentionally prevents a final order.

34.) A petitioner’s fundamental right has been infringed in actions non-compliant with law, whereas, the detention of the three minor children by the court is proved to be illegal and without authority of law. The court did not comply with time requirements for ex parte

proceedings, absent extensions, when the mandatory time expired for the court to pursue the ex parte order, no extension was filed, the court continued to hold the children, refusing to state why they were holding the children and refusing to return the children with no basis to retain them and no authority of law to retain them. These actions cause irreversible harm to the minor children and petitioner. (See also grounds for relief under rule 12, jurisdictional authority) Pursuant to O.R.C. 2151.31, Section (E), If a judge or referee pursuant to section it shall order a child released into the child's parent or guardian. The order was made absent of emergency circumstances, a claim that a parent has violated a (D) of this section issues an ex parte emergency order for taking a child into custody, the court shall hold a hearing to determine whether there is probable cause existing order, concerning turning a document into the court, even if it were true, should not alone justify emergency custodial relief and no extensions were filed on the matter.

35.) The petitioner has been unlawfully deprived of civil rights in actions non-compliant with law when the court failed to comply with procedures of law when they suppressed evidence of the petitioner innocence, 2505.02(B)(4)(b), the appealing party would not be afforded a meaningful or effective remedy by an appeal following a final judgment as to all proceedings, issues, claims, and parties in the action pursuant to 2505.02(B). If the court would have held a full hearing and reviewed this evidence submitted by the petitioner months prior, the court would have avoided unnecessary extensive prolonging of an unjustified separation of mother and child, that caused severe damages to the minor children and mother in absence of their right to have a meaningful relationship without unjustifiable intervention of government or State.

36.) The petitioner and children have been unlawfully deprived of equal protection in the courts duty of care to protect the petitioner and minor children in actions non-compliant with law. A Matter of Emergency exists that the court has failed to protect minor children in its duty in the care causing physical and emotional damage to the three minor children in the following ways causing the following damage: When the respondent has a legitimate complaint for ex parte review, verified, where the children are actually in danger in the care of the respondent, where a minor child was found to have THC in her system under her father's care and he is not providing proper medical care for the child due to a seizure induced by trauma by his own actions, court will not even follow process of law to look into the situation, within the mandatory time frame, placing the children in harm's way and showing obvious bias against the mother and for the father. These actions are not in the best interest of the children and willfully place them in danger.

37.) The court failed to act in the children's best interest in actions non-compliant with law by unreasonably or irresponsibly failing to discharge its duties in determining to commence the emergency ex parte order to temporarily suspend petitioner's parental rights against the weight of evidence and failed to release the children upon the evidence that the ex parte motion entered on 05/09/2022, was not fact finding for probable cause, as imminent danger was not evident. Taking the children and not releasing them was unlawful because the petitioner, defendant posed no risk of harm to the children that the removal was necessary. These actions induced unnecessary traumatic mental anguish to the minor children in removing them from their mother's care, the only place they felt loved and nurtured. These actions caused the respondent, unnecessary loss of her right to parent her children, the natural emotional loss of her children,

loss of work in responding to court proceedings, a loss of the ability to live in peace without harassing interference. The court had no authority to assume and retain custody of the three minor children pursuant to Ohio Administrative code 5101:2-42-04. An extension of temporary order was not filed, in a duration of a damaging ten month span of temporary removal of children.

38.) The court failed to act in the children's best interest in actions non-compliant with law, in failing to hold a full hearing within mandatory time limitations required in emergency ex parte procedure, in actions non-compliant with law, where both the plaintiff and defendant can present evidence and testimony and failed to file required extensions on the matter causing an extended ten month period of unnecessary removal of the children from their mother's care and guidance in which was obviously needed by the children considering the oldest child, C.A.P., a previously straight "A" student, was found with THC in her system under her fathers guidance during this period of removal. The father's care of the children lacks any guidance, in some situations he lets the oldest child run wild, not knowing where she is, not checking on her when she stays over with friends, empowering the child to think she is her own boss at sixteen and leading the child to undermine her mother's authority, a mix of probable danger. In addition, the children do not hear the words, "I love you" from their father, a seemingly small complaint, but very important in teaching the children compassion, which will later be useful in their decision making capabilities. This fact also makes the children reserved, under the impression, that they are not allowed to show emotion or feel loved and cared for.

39.) The court failed to render the emergency ex parte a non emergency when an emergency did not exist in actions non-compliant with law. The court should have dismissed the ex parte filing of the father upon receipt of the complaint. The court was already aware that the mother did not have a mental illness and it was through their own mistake that they believed the petitioner had not followed court order to submit the document per divorce decree order. The mother submitted evidence that she in fact submitted this information to the court in 2020. The allegations that the mother was accused of having a mental illness, was tried in divorce proceedings and the court gave the mother visitation of the children after the final hearing without the request of a mental evaluation until after the divorce order was entered to the court, stating that the mother had no issues effecting her ability to parent the children. A failure to properly evaluate the proceedings, causing the father to obtain custody based on a "what if", with no probability or cause. In addition, an emergency ex parte is not the correct filing for this issue, this is a contempt filing, not an emergency order. These actions lead to damages of the petitioner and children in that a significant amount of parent and child time has been unwarranted and denied and the parent child relationship has been infringed by means of court intervention when no law supports the removal.

40.) The court failed to act in the children's best interest and compliance with law when they failed to comply with required preliminary requirements for in camera interviews and failed to address several pleadings by the petitioner, the defendant, warning the court that the in camera interview would be dangerous to the minor children, the court showing malice. These actions in process caused the oldest child C.A.P, to be rushed to the hospital by ambulance the day the in camera interview was to take place with a first ever seizure and a discovery of THC in her

system under her father's care. A combination of the courts placing the child in the father's care against the weight of evidence, which the court failed in its duty to protect the children, duress and the pressure the respondents and court were placing on the child to do an in camera interview, in attempts to generate a fabricated reason for probable cause, prior to having it, a failure to establish whether it was physically safe for the child to testify and that the child was competent to testify (the testimony would have occurred with THC in the child's system) or if there was a history of duress, mandatorily required by law.

41.) The court failed to act in the best interest of the children in actions non-compliant with law when they placed the children in the respondent's, father's care in divorce proceedings based on the fact that the mother potentially could have a mental illness without cause, evidence or finding of fact to come to that conclusion and suppressing and ignoring important evidence presented by the petitioner, defendant, during divorce proceedings that the respondent had been a danger to the respondent and children, placing the children in further danger whereas the respondent had previously been charged with breaching a restraining order in place preventing him from corresponding with the mother and children in Muskingum County, Ohio.

42.) The court failed to act in the best interest of the children in actions placing them in danger, non-compliant with law, in addition to abuse of discretion, as no reasonable mind would have come to this conclusion based on weight of evidence, when granting the respondent custody and legal custodian, leading to the events that a minor child was found to have THC in her system under her father's care, the father refused to seek proper medical treatment for the child and refused to let the petitioner, mother, seek proper treatment for the child. The petitioner

presented this evidence in pleadings, the court did not respond to pleadings of petitioner suppressing the issue without request from respondent showing intent and placing the children in harm's way. The fact that the court did not respond to a verified ex parte filing of the petitioner mother, within 72 hrs, or respond at all, with substantial evidence the children were in danger in the respondent's care in ignoring the pleading while excessively removing mother's parental rights with no cause when the father filed an ex parte with no evidence at all, shows bias. The court failed to act in protecting the minor children when evidence of medical records, signed notes from doctors regarding the refusal of the father to provide treatment for the child, included, shows a blatant disregard for the children's safety by the court placing the children in harm's way.

43.) The court failed to act in the best interest of the minor children in actions non-compliant with law when in fact, the petitioner filed an emergency motion to suspend respondent, father's parenting time, verified, on 02/02/2023, requesting temporary custody addressing these very serious facts based on legitimate evidence the petitioner pleaded in the form of doctor reports and medical records against the respondent. The court failed to act at all on this pleading within 72 hours as required by law, not even to grant or deny, placing the children in further danger. The court failed to act, in the process of emergency ex parte procedure in this situation, when a real emergency is at hand, not a manufactured emergency to generate a contempt or malicious reason for complete removal of parenting rights disguised as a modification placing the children in further danger by keeping them in the respondent's care.



44.) The emergency stands that the court failed to act in duty of care when a minor child in the care of the respondent is in immediate need of medical care regarding this seizure incurred, the respondent is not properly providing this care. This minor child is in need of further actions by her parent's to insure the child is no longer using THC, the respondent, father thinks the issue is funny and refuses to address the issue, whereas the petitioner, mother is more responsible in the since that it is not appropriate for a sixteen year old girl to ingest THC, in her father's care, that may have been an underlying factor in the seizure and current medical condition placing her in danger in addition to the traumatic stress. The traumatic stress the respondents were placing on her to testify that a mother who has properly cared and nurtured the child the duration of her life, taught her children values, as not to lie, would force this child to testify in an in camera interview that her mother attacked her on five months prior to the filing, "but didn't physically harm her", with no reason, no police reports, no agency filings, and the child knew the accusations not to be accurate, was being forced under duress to do the in camera interview, in turn causing her to resort to the use of THC, and inducing traumatic stress, the number one cause of a first time seizure. The petitioner went through proper channels in filing an emergency order to protect her children with no avail. The petitioner attempted to file an emergency ex parte motion in Muskingum County, where the children reside, their home county, Muskingum County informed the Petitioner to file in Perry County, where the initial divorce occurred. Petitioner filed a verified emergency ex parte in Perry County as instructed, Perry county refused to follow course of law in reviewing the emergency filing leaving petitioner with no resource in the protection of her children and a notable neglect of duty on the courts part in protecting the minor children from harm due to non compliance with laws and statutes.

45.) O.R.C. 2151.421, 2151.42.1, 2151.31, states that temporary orders expire in eight months in modification orders, and the court is still trying to enforce a void emergency ex parte order, duration ten months with no probable cause for detention and no full hearing, in non compliance of law, without notifying the petitioner of the cause, only meant for the duration of an emergency temporary period . Failure for the court to make specific findings in mandatory time periods, neither stating that the child has been abandoned or abused pursuant to Rule H.B. 695.32 or section 2151.031, or 2903.04, resulting in unlawful child separation/ in using the ex parte for entry for modification in custody and to disrupt the relationship of mother and child to benefit the plaintiff or respondent. The court has refused to answer a “show cause” motion by the petitioner on 06/23/2022, filed eight months to date.

46.) Under the doctrine of res judicata, a final judgment bars the defendant from raising and litigating in any proceeding, except an appeal from that judgment, any defense or any claimed lack of due process that was raised or could have been raised by the defendant at the trial which resulted in that judgment of conviction or on an appeal from that Judgment. The final judgment of the divorce decree entered a finding of fact on the merits of ex parte motions temporarily removing petitioner’s children in divorce proceedings claiming the mother had a mental instability and accusations that she abused the children, the exact same accusations by the same plaintiff and defendant as in this current claim for emergency ex parte in which the court ordered against the petitioner which resulted in the petitioner regaining visitation to her children even though a mental evaluation was not required to be submitted prior divorce hearing and the claim was proven not a material fact upon submission of this document, timely submitted, no

mental illness. The petitioner, mother, pleaded the doctrine of res judicata issue to the court through filed motions and objections.

47.) The respondent and the minor children have and continue to have incurred irreparable damages due to the court's failure to act and failure to comply with the mandated process of law. The petitioner fears that the children will be put in further danger and the current issues of danger are not addressed, if immediate and appropriate and warranted actions are not taken in regards to the respondent and courts actions causing irreparable harm to the petitioner and the petitioner's minor children. The father, respondent, is not a responsible caretaker for the minor children and has put the children in danger, the court has shown an intentional neglect. The petitioner is a responsible caretaker for the children, has been the main caretaker for the children their whole lives and will provide proper guidance and medical treatment the children require. The court is currently preventing the minor children from this proper care in efforts to unlawfully remove the children from the mother's care without cause.

48.) While the lack of an adequate remedy at law is generally a necessary element for the issuance of an extraordinary writ, the absence of an adequate legal remedy is not required when the lack of judicial authority to act is patent and unambiguous, if the trial court patently and unambiguously lacks jurisdiction over the pending case. entered by a court without jurisdiction, thus being void ab initio.' *Beard v. Williams Cty. Dept. Of Social Serv.* (1984), 12 Ohio St.3d 40, 41, 12 OBR 35, 36, 465 N.E.2d 397, 399; cf. *Reynolds v. Ross Cty. Children's Serv. Agency* (1983), 5 Ohio St.3d 27, 5 OBR 87, 448 N.E.2d 816." *Howard v. Catholic Social Services of Cuyahoga County, Inc.*, supra, 145. The petitioner did not possess an adequate remedy at law

through a direct appeal from the judgment and pleaded these facts in proceedings. The children resided and were present with their mother in Muskingum county, Ohio and had never been residents of Perry County Ohio prior to the respondent, father, filing for custody in Perry County, Ohio. Two of the children were born prior to marriage one child born of the marriage. The children still currently reside in Muskingum County, Ohio, not Perry County. In addition, prior proceedings were already determined in matters of custody for the minor children in Muskingum County and a prior charge in Muskingum County against the respondent for violating a restraining order in place keeping him from coming around or contacting the petitioner and minor children due to a domestic violence proceeding that occurred prior in Muskingum County. These facts and the following jurisdictional issues are evidence that the absence of an adequate legal remedy is not required when the lack of judicial authority to act is patent and unambiguous, if the trial court patently and unambiguously lacks jurisdiction over the pending case.

49.) The petitioner had no plain speedy and adequate remedy available through the appeal process, a final judgment had been prevented on the motion to dismiss for lack of jurisdiction and a temporary order suspending the petitioner's parenting rights was not a final appealable order, where a final judgment had been prevented in violation of mandatory time requirements in the absence of an extension. The magistrate denied orders regarding jurisdiction that were not adopted by the court, magistrate denied herself, in which the petitioner objected, not a final appealable order to appeal. The only appealable order standing was the order denying the petitioner's motion for change of venue which again, the magistrate denied herself orders regarding jurisdiction that were not adopted by the court leaving the matter unappealable. The court placed an unrequested stay on proceedings on 06/23/2022, due to the notice of appeal by

the petitioner, but not soon enough to prevent physical harm to the minor child, C.A.P. The petitioner was then unable to appeal due to the order entry by the magistrate, which was not formally adopted by the court denying opportunity for appeal or properly served to the petitioner to her knowledge.

50.) Section 3127.08 (A), Uniform Child Custody Jurisdiction and Enforcement Act, Immunity to personal Jurisdiction, states, a party to a child custody proceeding, including a modification proceeding, or a petitioner or respondent in a proceeding to enforce or register a child custody determination is not subject to personal jurisdiction in this state for any other proceeding or purpose solely by reason of having participated or of having been physically present for the purpose of participating, in the child custody proceeding. Any judgment rendered by a court without personal jurisdiction is void. It is a nullity, as previous custody determinations were made in Muskingum County, Ohio, where the mother, father and children resided during the course of the marriage. "Child custody determination" includes an order that allocates parental rights and responsibilities including a proceeding for divorce, temporary separation and guardianship parentage or protection from domestic violence.

51.) The respondent filed three divorces against the petitioner, the first filing in Muskingum County was a voluntary dismissal by the respondent, the second filing in Muskingum County was also a voluntary dismissal by the respondent. The Savings Statute, O. R.C., 2305.19, to refile the second dismissed divorce complaint by the respondent on May 22, 2015 in the Common Pleas Court of Muskingum County, Ohio with complaint number two for divorce against the same defendant. The savings statute can only be used once, because

otherwise, a plaintiff could indefinitely refile an action, and effectively eliminate statutes of limitations. Complaint number three for divorce against the defendant on December 16, 2017 in Perry County, Ohio was past the The Savings Statute limitation by well over a year from the date of entry dismissal from complaint number two on July 17, 2015, thus making complaint number three, Case number, 17-DV-00290, in the Common Pleas Court of Perry County, Ohio, a failure of plaintiff to serve second dismissed complaint within one year, resulting in a dismissal with prejudice, yet a third time. The Ohio savings statute set forth in O.R.C. 2305.19, Subsection A, makes it clear that the savings statute applies only to any claim asserted in any court by a defendant". The same defendant in all three divorce complaints, filed by the same plaintiff, allows the Ohio savings statute to apply for the current defendant in case number 17-DV-00290, in the Common Pleas Court of Perry County, Ohio.

52.) The original divorce proceedings for Perry County, Ohio, case number, 17-DV-00290, was never properly served upon the Petitioner, defendant, mother and the children were not a result of the marriage, two born prior to the marriage, giving the mother full custody according to section 3109.042 (A) An unmarried female who gives birth to a child is the sole residential parent and legal custodian of the child until a court of competent jurisdiction issues an order designating another person as the residential parent and legal custodian. The Respondent, Richard Pettit had a domestic record of abuse against the mother and minor children, which prohibited him from having temporary custody of the minor children according to, section 3109.04 2(h) of the revised code, resulting a charge of breaching a Civil Protection Order in unlawful contact with the children and mother in Muskingum County, Oh, case number CRB15000955, in which custody issues were addressed that the mother retained full custody of

the three minor children as a stipulation to the charges and sentencing in violation of the charges for the protection order.

- 1.) Ohio law provides venue to this case resides in Muskingum County due to claims of an Abuse, Neglect, or Dependency Proceeding: R.C. 215123.(A)(1) MATTER OF LAW. All parties involved in the initial case and the minor children are residents of Muskingum County, Ohio. Venue: General Rule: Once it is determined that (i) an Ohio Court has jurisdiction to make an initial child custody determination or to issue an initial child-support order and (ii) an Ohio Juvenile court has jurisdiction, the final question is what Ohio county is the proper county to file a complaint regarding those matters-i.e. What is the proper Ohio county where a hearing should take place. The answer to that question depends upon the nature of the complaint. Ohio has two different venue provisions A.) Abuse, Neglect, or Dependency Proceeding: R.C. 215123.(A)(1), If the complaint alleges the abuse, neglect, or dependency of a child, then the complaint must be filed in the county in which the child has a residence or legal settlement in which the violation, unruliness, abuse, neglect, or dependency occurred. Whereas, the defendant requested a change of venue from Perry County Common Pleas Court to the correct venue, Muskingum County Common Pleas court, domestic division, as a matter of law. The petitioner pleaded and objected in court and was denied by the magistrate, not having the ability to appeal a final order.
- 2.) Jurisdiction in Perry County Common Pleas Court does not conform with the Ohio Rules of Civil Procedure. (1) The court lacks subject matter law to resolve an instant motion, pursuant to domestic relations law, 76-a (l)(b), since neither the parties or the children resided in Perry County on the filing date or six months prior to same; and (2) the court

lacks subject matter jurisdiction because the children and mother, the defendant, had no significant connection to Perry County on the current filing date, 0511012022, in addition, substantial evidence is no longer available in Perry County, Ohio, concerning the child's care, protection, training and personal relationships. Defendant also moves, alternatively, for an order whereby the court declines jurisdiction over the instant custody visitation dispute on the grounds that Perry County is an inconvenient forum and a declaration that Muskingum County, Ohio is the appropriate forum to exercise jurisdiction over the controversy between the parties. Perry County does not retain personal jurisdiction over the parties. (b)2 a lack of personal jurisdiction. The petitioner pleaded and objected in court and was denied by the magistrate, not having the ability to appeal a final order.

- 3.) The court lacks exclusive, continuing jurisdiction. The UCCJEA adopted a rule of exclusive, continuing jurisdiction similar to that in the PKPA.<sup>57</sup> Under the UCCJEA, an original decree court that exercised jurisdiction consistent with the Act has exclusive, continuing jurisdiction to modify its decree until one of the following occurs: The original decree court loses significant connection jurisdiction. The original decree court loses significant connection jurisdiction. The original state who claims subject matter jurisdiction, will lose jurisdiction once that court determines that neither the child, or the child and one parent, has a significant connection with the state and there is no longer substantial evidence regarding the child's protection, care and personal relationships. No party to the case or the children reside in Perry County, Ohio, but all parties reside in Muskingum County, Ohio, leaving neither the child, or the child and one parent, has a significant connection with Perry County, Ohio and there is no longer substantial



evidence regarding the child's protection, care and personal relationships. The petitioner pleaded and objected to these issues in court and was denied by the magistrate, not having the ability to appeal a final order.

#### AFFIDAVIT IN SUPPORT

53.) Rule 12, determination and Judgment on appeal, Rule 12(B), When a court of appeals determines that the trial court committed error prejudicial to the appellant, and that the appellant is entitled to have judgment or a final order rendered in his favor, as a matter of law, the court of appeals shall reverse the judgment or final order of the trial court and render the judgment or final order that the trial court should have rendered, or remand the cause to the court with instructions to render such judgment or final order. In all other cases where the court of appeals determines that the judgment or final order of the trial court should be modified as a matter of law it shall render its judgment accordingly. The Petitioner was granted parental visitation rights of three minor children in the final divorce decree issued on April 30, 2020 in case number 17-DV-00290. The plaintiff and respondent, in case number 17-DV-00290, Richard Justin Pettit, through motion of counsel, filed an emergency ex parte order on April 28, 2022, to suspend mother, respondent's parenting time based on allegations that the mother physically attacked the oldest child, C.A.P, almost five months prior to the emergency filing, no exact date was given based on the allegations and a statement that the respondent, mother, didn't cause "any physical harm" to the child was directly noted in the complaint. No police reports were made, no reports of abuse were made and the certainty of specific times and dates of the alleged event was not established and not to mention the mother is innocent. The complaint also noted that the

respondent failed to abide by an order of the court to submit a behavioral evaluation required by the divorce decree on April 30, 2020 and that the mother's mental health condition was impairing her duty as a parent. On May 09, 2022, the court issued an entry appointing guardian ad Litem Jordan Meadows and an order suspending mother's visitation until she submitted to a mental evaluation to the court for the second time after this whole process was originally brought forth on the merits via final divorce decree the court was not compliant in regards to continually requiring the Petitioner to obtain costly mental evaluations, even though there is no cause for the moment and the results have already been submitted indicating there is no mental illness that would inhibit the petitioner's ability to parent her children, discovery abuse in violation of T.R. 65(B) and rule 3.5(b) of the rules of professional conduct as well as Ohio administrative code 5101:2-42-04.

54.) The petitioner asserts that the trial court had no emergency reason to issue the emergency ex parte order due to no need for immediate issuance in the best interest of the child required by Ohio juvenile rule 13 B(3). The court failed to hold the hearing, as of the petitioner's knowledge, within seventy-two hours of the order required by Rule 13 B(3) and failed to give written notice of the hearing by means reasonably likely in the party's receiving actual notice that included the date, time and location of the hearing, issues to be addressed at the hearing, a statement that every party to the hearing has a right to counsel and to court appointed counsel if indigent, number and address of person requesting order. Rule 65(b) provides, in pertinent part: "A temporary restraining order may be granted without written or oral notice to the adverse party or that party's attorney only if (1) it clearly appears from specific facts shown by affidavit or by the verified complaint that immediate and irreparable injury, loss or damage will result to the

applicant before the adverse party or that party's attorney can be heard in opposition, and (2) the applicant's attorney certifies to the court in writing the efforts, if any, which have been made to give notice and the reasons supporting his claim that notice should not be required. The verification of such affidavit or verified complaint shall be upon the affiant's own knowledge, information or belief; and so far as upon information and belief, shall state that he believes this information to be true. Every temporary restraining order granted without notice shall be filed forthwith in the clerk's office; shall define the injury and state why it is irreparable and why the order was granted without notice; and shall expire by its terms within such time after entry, not to exceed fourteen days, as the court fixes, unless within the time so fixed the order, for good cause shown, is extended for one like period or unless the party against whom the order is directed consents that it may be extended for a longer period. The reasons for the extension shall be set forth in the order of extension. In case a temporary restraining order is granted without notice, the motion for a preliminary injunction shall be set down for hearing at the earliest possible time and takes precedence over all matters except older matters of the same character. When the motion comes on for hearing the party who obtained the temporary restraining order shall proceed with the application for a preliminary injunction and, if he does not do so, the court shall dissolve the temporary restraining order. On two days' notice to the party who obtained the temporary restraining order without notice or on such shorter notice to that party as the court may prescribe, the adverse party may appear and move its dissolution or modification, and in that event the court shall proceed to hear and determine such motion as expeditiously as the ends of justice require. The trial court failed to abide by Rule 65 section B(1) and B(2). The trial court failed to establish that an emergency exist based on a rational persons reasonability standards, the facts that no police or children service report were made, the alleged physical attacked happened

five months prior to the actual filing of the ex parte order insinuating that it was not a matter of emergency, no specific dates and times were listed as to when exactly it occurred and the complaint stated that “no physical harm was done to the child. In addition, the actual temporary order issued on 05/09/2022 signed by magistrate Jamie Farmer, stated that, “Upon Ex Parte Motion of Plaintiff to Suspend Defendant's Time with the minor children, to wit: and for good cause shown, this court finds the Plaintiff's motion to be well-taken and hereby GRANTS same. It is therefore ORDERED that the Defendant's parenting time is suspended until she submits to a mental health evaluation, executes a release to submit the mental health evaluation to the court. Any visitation between the children and the Defendant, Stacy Rae Pettit, shall be supervised and shall occur at the Plaintiff's discretion until further order. The trial court to its own error didn't realize the Behavioral evaluation was already submitted by the petitioner, defendant, post divorce decree request amidst the National emergency in Ohio regarding COVID 19 and again on 5/19/2022 upon discovery of the ex parte being filed, and the issue of the mother, petitioner had already been tried in the divorce whereas the mother was already determined not to abuse her children and not to have a mental illness which would inhibit her ability to parent her children, the actual evidence the mother petitioner submitted twice in an actual behavioral evaluation indicating no mental illness. Both of these factors were already tried in previous divorce proceedings and timely admissions of behavioral evaluations were submitted by the petitioner as requested by the court showing no evidence of mental illness, the court should have known or reviewed these factors prior to issuing an emergency ex parte order. In addition, an order requiring a parent to turn in a document per court order is a motion for contempt, not a motion for emergency custody of a child. The court failed to prove and failed to establish an emergency actually existed in order to suspend the mother's parental rights via ex parte

proceedings according to the standard set forth in Rule 65 of the Ohio revised code. The temporary issuance of this order did not address the issues to be addressed at a hearing pursuant to Ohio Rule of juvenile procedure required by Rule 13(B)(b). The temporary order did not contain a statement that every party to the hearing has a right to counsel and to court appointed counsel, if the party is indigent required by Rule 65(B)(c). Even if the trial court did have cause to issue a temporary restraining order via ex parte, the court had no probable cause to issue an emergency order and the court proceeded with ex parte proceedings prior to establishing probable cause. A failure to answer motions and R.C. 2317.48, the petition must have sufficient facts to reveal a cause of action.

55.) The trial court failed to include this pleading and the submission of the defendant's, Petitioner's behavior evaluation, that mental illness was not a factor, as mitigating factors when considering an order for an in camera interview and when considering the unlawful detainment of those three minor children from their mother, U.S.C. 2254(d)(1). A fundamental procedural right, which could have a significant impact on the likelihood of accurate conviction. The statement improperly influenced the court. In addition, there was no adequate basis to issue an emergency order, the trial court failed to provide for a speedy trial or hearing per mandatory requirements required by section 2151.314 of the revised code.

56.) The order on 05/09/2022 to suspend petitioner's parenting time, was entered on the docket and was signed by magistrate Jamie Farmer. Magistrates Rule 53(4)(a), provides that a magistrate's decision is not effective unless adopted by the court. Rule 53(4)(b), provides that whether or not objections are timely filed, which objections were timely filed as stated above, a

court may adopt or reject a magistrate's decision in whole or part, with or without modification. A court may hear a previously-referred matter take additional evidence, or return a matter to the magistrate. Rule 53(4)(d), action on objections, provides if one or more objections to a magistrates decision is filed, the court shall rule on those objections. (The petitioner, defendant filed multiple timely objections as mentioned above), In ruling on objections, the court shall undertake an independent review as to the objected matters to ascertain that the magistrate has properly determined the factual issues and appropriately applied the law. Before ruling, the court may hear additional evidence but may refuse to do so unless the objecting party demonstrates that the party could not, with reasonable diligence, have produced that evidence for consideration for the magistrate. The Petitioner thus far has not been afforded a full hearing on the matter and could not with reasonable diligence have produced evidence for the magistrate. The court failed to abide by Rule 53(4)(d). Rule 53(4)(e), entry of judgment or interim order by court, provides that a court that adopts, rejects or modifies a magistrate's decision shall also enter a judgment or interim order. Rule 53(4)(i), provides The court may enter a judgment either during the fourteen days permitted by Civil Rule 53(4)(d)(3)(b)(i) for the filing of objections to a magistrate's decision or after the fourteen days have expired. If the court enters a judgment during the fourteen days permitted by Civil Rule 53(4)(d)(3)(b)(i) for the filing of objections to the magistrates decision shall operate as an automatic stay of execution of the judgment until the court disposes of those objections and vacates, modifies, or adheres to the judgment previously entered. The trial court failed to adhere to all mandatory requirements in Rule 53(4) though 53(4)(i). Rule 53(4)(ii), Interim order, states that the court may enter an interim order on the basis of a magistrate's decision without waiting for or ruling on timely objections by the parties where immediate relief is justified. The timely filing of objections does not stay the execution of

an interim order, but an interim order shall not extend more than twenty-eight days from the date of entry, subject to extension by the court in increments of twenty-eight additional days, for good cause shown. An interim order shall comply with Civ. Rule 54(A), be journalized pursuant pursuant to civil R. 58(A), and be served pursuant to Civ. Rule 58(B). The court failed to issue an interim order that shall not extend more than twenty-eight days from the date of entry, subject to extension by the court in increments of twenty-eight additional days, for good cause shown as required by rule 53(4)(ii), as the interim ordered via ex parte on 05/09/2022, as of date the temporary order has been is excess of the twenty-eight day requirement without a full hearing or extension. (the order date of the emergency order was on 5/09/2022, as of date 190 days not including weekends have passed without a full hearing or extension, almost 10 months). The petitioner requires extraordinary relief, as mentioned in above matters under Chapter 2725.01 of the revised code and Article 32 and article 226, whereas she is being unlawfully restrained of her liberty, or entitled to the custody of another, of which custody such person is unlawfully deprived, may prosecute a writ of habeas corpus, to enquire into the cause of such imprisonment, restraint, or deprivation.

57.) Pursuant to O.R.C. 2151.31, Section (E), If a judge or referee pursuant to section it shall order a child released into the child's parent or guardian. The order was made absent of emergency circumstances, a claim that a parent has violated a (D) of this section issues an ex parte emergency order for taking a child into custody, the court shall hold a hearing to determine whether there is probable cause existing order, concerning turning a document into the court, even if it were true, should not alone justify emergency custodial relief and no extensions were filed on the matter. This issue is addressed through the contempt process. In addition to the

emergency order, the hearing shall be held before the end of the next business day after the day on which the emergency order is issued, except that it shall not be held later than seventy-two hours after the emergency order is issued. If the court wanted to use the claim that the mother allegedly attacked the daughter five months prior to the filing of the ex parte order, but did not harm her, then they should have listed this in the ex parte order to suspend mothers parenting time and they did not. The claim only noted actions regarding a concern for contempt in not following a court order for submission of paperwork. This claim also has no emergency merit due to the fact the claim actually stated, “ the mother did not harm the child” and does not seem to be such an emergency if it allegedly happened approximately five months prior to the ex parte filing and no police reports were filed. The trial Court must follow T.R. 65(B) when petitioned for an ex parte order, otherwise, a violation in Canon 3B(8) of the Code of JUDicial Conduct prohibiting improper ex parte contacts, as well as Canon 1 and 2 of the code which require a Judicial to uphold the integrity and independence of the judiciary

58.) The court is required in Rule 13 (E), wherever possible, the court SHALL provide an opportunity for hearing before proceeding under division (D) of this rule. Where a court has proceeded without notice under division (D) of this rule, it shall give notice of action it has taken to the parties and any other affected person and provide them an opportunity for a hearing concerning the continuing effects of the action prior to assuming probable cause to do so. The court failed to abide by Rule 13 (E), Rule 13 (D) and concluded a probable cause without a full hearing to continue with the temporary suspension. Ohio Civil Rule 65 (A)(2) states, Every temporary restraining order granted without notice shall be filed forthwith in the clerk's office; shall define the injury and state why it is irreparable and why the order was granted without



notice; and shall expire by its terms within such time after entry, not to exceed fourteen days, as the court fixes, unless within the time so fixed the order, for good cause shown, is extended for one like period or unless the party against whom the order is directed consents that it may be extended for a longer period. The trial court failed to abide by Ohio Civil Rule 65(A)(2) in forcing the petitioner to abide by a temporary order in which clearly had a mandatory expiration by its terms within such time of entry which was, 05/09/2022, was not to exceed fourteen days where no extension was filed. On 05/10/2022, a notice by the court was issued that the ex parte review hearing was set for 06/15/2022, the petitioner had yet to be served with documents regarding any of these issues, but found out through the children's father that they were not allowed to attend visitation with the mother. The time period of 05/09/2022, date of entry to 06/15/2022, date of order for hearing consist of 28 days, not to exceed 14 days without where no extension was filed, and to date, February 14, 2023, a full hearing has not been held in reference to the emergency temporary ordered on 05/09/2022, a total of 10 months past mandatory time requirements. On 05/19/2022 (eight days after the entry to suspend mother's parenting time) , the defendant, Petitioner filed a Motion for oral hearing, a Motion to set aside magistrate's entry, a behavioral Health evaluation for the defendant, Petitioner and a motion to reinstate Defendant's parenting time/ opposition. The motion for hearing, stated that "the defendant respectfully requests a hearing on the following issues at hand. 1.) Motion of Plaintiff for an in Camera interview with minor child, entered May 10, 2022. 2.) Motion of Defendant for Change of Venue, Filed May 2022. 3.) Motion of Defendant to Appoint Guardian Ad Litem, entered May 9th, 2022. 4.) Motion of Defendant to reinstate defendant's parenting time, filed May 19, 2022, motions. A notice by the court was issued on 5/19/2022, that a NON-ORAL HEARING (emphasis added), in request for an oral hearing on the matter by the defendant, petitioner, was to

be set for June 3, 2022, whereas the petitioner was not permitted to attend the hearing to present evidence or facts as to her innocence in a matter where a full hearing is not subject to a judges discretion, but is mandatory requirement pursuant to Ohio juvenile rule 13 (E) and 13 (D) and Rule 13(B)(3). This action leads to a suppression of evidence in determining and inhibiting a probable cause finding. R.C. 2505.02(B)(1), An order that affects a substantial right in an action that in effect determines the action and prevents a judgment, a substantial right in an action in effect, 2505.02(A)(3), suppression of evidence, 2505.02(B)(4)(b), the appealing party would not be afforded a meaningful or effective remedy by an appeal following a final judgment as to all proceedings, issues, claims, and parties in the action, 2505.02(B), if the defendant in an action challenges the adequacy of the prima-facie evidence of the exposed person's physical impairment as provided in this section, the court shall determine from all the evidence submitted whether the proffered prima-facie evidence meets the minimum requirement of the revised code. No finding of fact or conclusion of law was issued regarding this non-oral hearing as required by Rule 52(2), for interlocutory Injunction. In granting or refusing an interlocutory injunction, the court must similarly state the findings of fact and conclusions that support its action, preventing the Petitioner, defendant from appealing, setting aside findings of fact, amend or additional findings or even a judgment on partial findings unfairly inhibiting the petitioners rights to a fair trial. Even in cases of Rule 52(C), whereas a judgment on partial findings is permitted, It is a requirement for a full hearing on the matter and the court finds against the party that issue, the court may enter judgment against a party on a claim or defense that, under controlling law, can be maintained or defeated only with a favorable finding on that issue. The court may however, decline any judgment on that issue until close of the evidence. A judgment on partial findings

that must be supported by findings of fact and conclusion of law as required by Rule 52(a).

“Where due process is denied, the case is void”, Johnson vs. Zerbst, 304 U.S. 458 S Ct. 1019.

59.) O.R.C. 2151.421, 2151.42.1, 2151.31, states that temporary orders expire in eight months in modification orders, and the court is still trying to enforce a void emergency ex parte order, without notifying the petitioner of the cause, only meant for the duration of an emergency temporary period . Failure for the court to make specific findings in mandatory time periods, neither stating that the child has been abandoned or abused pursuant to Rule H.B. 695.32 or section 2151.031, or 2903.04, resulting in unlawful child separation/ in using the ex parte for entry for modification in custody and to disrupt the relationship of mother and child to benefit the plaintiff or respondent. The court wrongfully separated the mother and three minor children for an unreasonable amount of time without opportunity to be heard. Deprivation of child custody or right to visitation is protected by code 278. The Bill of Right protects fundamental rights, including, special liberty interest to direct the education and upbringing of one’s children. The United States Supreme Court has recognized the right of parents to be an integral part of the children’s lives as, perhaps the oldest fundamental liberty interest recognized by the Supreme Court, *Troxel v. Granville*, 530 U.S. (U.S. 2000). The familial right of association is based on the “concept of liberty in Fourteenth Amendment. “ see *Kraft v Jacka*, 872 F. 2d 862, 871 (19th Cir. 1989). Issues making the modification not enough substantial change for a modification pursuant to Juvenile Rule 13 and Ohio Revised code 2151.33 and 3127.18(E)(1)(a), of minor children.

60.) The court may not proceed emergency ex parte proceedings without a probable cause finding and may not avoid a final judgment in the matter unfairly detaining minor children from

a parent with no cause and was not in compliance with section 2151.419 in determining reasonable efforts to return the child safely home, prevent removal or restore visitation rights to the petitioner. The court was not in compliance with 2151.31 or taking a child into custody pursuant to 2151.31.

61.) Juvenile rule 13 (F)(1), an order that the child's testimony be videotaped for preservation of the testimony for possible use in any other proceedings in the case, first, must establish a probable cause finding which is required prior to an order requiring an order that upon motion by the court child's testimony be videotaped for preservation of the testimony for possible use in any other proceedings in a case. In order to move forward with a probable cause finding and order a child's testimony be taped, Juvenile Rule 13(E), states that In addition to the procedures specified in division (B) of this rule and whenever possible, the court shall provide an opportunity for hearing before proceeding under division (D), Ex Parte Proceedings, of this rule. Where the court has proceeded without notice under division (D) of this rule, it shall give notice of the action it has taken to the parties and any other affected person and provide them an opportunity for a "full hearing" concerning the continuing effects of the matter. The court ordered an in camera interview with the oldest child, C.A.P., on 05/10/2022, prior to establishing probable cause prior to setting the date for the interview as required in Juvenile rule 13(E), in which an opportunity for a hearing was not yet had to invoke Juvenile Rule 13(D), ex parte proceedings, a required step prior to advancing the issue, therefore the court could not grant the in camera interview with the child, due to a non-conclusion of probable cause, prior to a full hearing yet to be had. In matters that should be considered first, before any other proceedings, an

emergency ex parte order has priority over other matters or mixed with other proceedings and prolonged without a finding that the accused is guilty or innocent in a conclusion finding of fact.

62.) The trial court held a partial hearing on the matter on 6/24/2022, forty-six days days after order for suspension of mother's parenting rights issued on 5/09/2022 (where the court temporarily suspended petitioner's parenting time though emergency ex parte proceedings for accusations that she did not follow a court order requiring her to do so in the divorce proceedings two years earlier). A motion for contempt had also been filed against the defendant for not submitting a behavioral evaluation as ordered and violating the court order for divorce decree in allegedly using physical discipline on the oldest child C.A.P, against court order. Petitioner, defendant, submitted evidence to her innocence, being a behavior evaluation determining that no mental illness exist, competent testimony at trial by witness and proof that she was not in contempt by evidence of record that she in fact submitted a behavioral evaluation within the time requirements of the divorce decree and no behavioral illness or treatment for such an illness was required. The behavior evaluation only advised that the mother and children be reunited through reunification counseling during the time period of the divorce (due to the court initiating ex parte hearings and displacing the children in the divorce, a prior action from this ex parte in question, also with question of proper proceedings) removing the children from the mother in the first initial divorce ex parte proceedings that left the current accusations and ex parte proceedings by the respondent moot, by res judicata. In addition, the plaintiff could not state a date or time when he alleged the mother violently attacked the oldest minor child, but stated that "NO physical harm was done to the child", how exactly is a child violently attacked, but no harm was done? No police reports or agency reports were made regarding the matter. The trial court had

absolutely no standing for a probable cause standing and yet failed to make a determination of finding of fact and conclusion of law, or to consider any of the petitioner's evidence in any conclusion whatsoever and continued to detain the children from the mother even though the court was certain the mother was no danger upon them. pursuant to R.C. 2505.02(B)(1), An order that affects a substantial right in an action that in effect determines the action and prevents a judgment, a substantial right in an action in effect, 2505.02(A)(3), suppression of evidence, 2505.02(B)(4)(b), the appealing party would not be afforded a meaningful or effective remedy by an appeal following a final judgment as to all proceedings, issues, claims, and parties in the action, 2505.02(B), if the defendant in an action challenges the adequacy of the prima-facie evidence of the exposed person's physical impairment as provided in this section, the court shall determine from all the evidence submitted whether the proffered prima-facie evidence meets the minimum requirement of the revised code, and the court shall resolve the issue of whether the plaintiff has made the prima-facie showing required by Ohio Juvenile Rule 13(B)(3). This hearing did not permit a full hearing on the matter, as the defendant, petitioner, was not allowed to submit full evidence as to innocence, was not permitted to cross examine the plaintiff or to testify on her own behalf. The court hearing was cut off abruptly with the issue that the defendant, petitioner, only has 5 min, when the plaintiff was allowed an ample amount of time to present a case. The hearing on detention or care section (A), Statutory timeline of 10 to 20 days, did not occur, a violation of section 2151.314-3127.18. A full sworn complaint hearing did not occur pursuant to division (E) and juvenile rules.

63.) Under the doctrine of res judicata, a final judgment bars the defendant from raising and litigating in any proceeding, except an appeal from that judgment, any defense or any

claimed lack of due process that was raised or could have been raised by the defendant at the trial which resulted in that judgment of conviction or on an appeal from that Judgment. The final judgment of the divorce decree entered a final judgment on the merits of actions claiming the mother had a mental instability and accusations that she abused the children, the same actions in this claim. The petitioner, mother, pleaded this issue to the court through filed motions and objections.

64.) Ex parte order, the child was not found to be an abused child, as an emergency was not established to satisfy rule 5101:-1-01, definitions of an abused child. The issue of whether or not the respondent turned in a document to court does not constitute an emergency by definition to issue an ex parte order. Even though the document was concerning a mental health question, the behavioral evaluation did not reflect a mental health issue. The trial court continued to suspend the mother's parenting rights relied on invalid evidence and failed to include petitioner's evidence in submitted behavioral health evaluation as a mitigating factor when the petitioner was being restrained from parenting as time with her children as required by 28 U.S.C. 2254(d)(1). Evidence at "partial" hearing did not reflect guilt of the Petitioner, a full hearing was never allowed. The definition of "partial in legal terms, not complete or entire as required by emergency ex parte proceeding requirements.

65.) Unlawful use of a temporary order on May 09, 2022 was used for contempt proceedings and a reason to modify parental rights. R.C. 2317.48. The court failed to establish any specified prerequisite had been met to make sure the minor child was competent to do the interview and ignoring the fact that the father, the plaintiff failed to satisfy R.C. 2317048, for

pretrial discovery in an implied attempt of fabrication or improper influence or motive, with no cause of action for relief, not merely plead one, by means of fishing for evidence to remove mother's parental rights, a failure to answer motions and R.C. 2317.48, the petition must have sufficient facts to reveal a cause of action. This left the claim of count 3 of the plaintiff, respondents' claim of contempt void, with no evidence to continue to withhold children from mother, pending on the in camera interview the court set for the oldest minor child. The plaintiff failed to satisfy R.C. 2317048, the petition failed to have sufficient facts to reveal a cause of action. In other words, the Respondent planned on using the in camera interview to force the oldest child to falsely testify that her mother hit her to generate fabricated evidence to justify a reason to remove mother's parenting rights and charge the mother with contempt. This leaves a daunting question as to whether the order in the divorce final decree, setting this matter up for future prosecution, against the mother, and the matter of issuing an in camera interview with the child is a matter of entrapment or an illegal search and seizure and definitely establishes intent of malice or fraud.

66.) The Respondents did not receive a favorable outcome to this hearing of 6/24/2022, as the hearing did not benefit the plaintiff in his claims, showing evidence that the court did not place both parents on equal standing as required by 3109.03. A rebuttal to a presumption of incompetence for example, the non-existence of mental incompetency, when the evidence presented is true and a reasonable person of average intelligence could conclude that the presumption of mental incompetency is no longer valid. Ex parte order, the child was not found to be an abused child, as an emergency was not established to satisfy rule 5101:-1-01, definitions of an abused child.



67.) Trial court's misuse of emergency Ex parte proceedings using an abuse of process by not holding a hearing on a temporary order with mandatory time limits to keep orders from being appealed, due to no final order. Case # 18-CA-00018)[Re: Z.S., 2019-Ohio 2859, Court took actions to keep parents from appealing actions by not granting final order or not proceeding per the rules of civil procedure in which caused an order to be moot due to errors in process in child custody.

68.) The trial court failed to make reasonable attempts to return the child home pursuant to section 2151.419 of the revised code in non-compliance with non compliance with the process of law.

69.) Section 3109.04(B)(1), mandates the trial court to interview the child if either party requests the interview, but does not imply that the court may not comply with required prerequisites in holding an in camera interview with a minor child, as absolutely mandated by Ohio Revised code section (B)(2)(b), in order to proceed with the interview. There is a difference if the court is interviewing a minor child on camera based on preference as to where the child wants to live, if the interview was coached or if the in camera interview is being conducted due to allegations of abuse, if the children were being subject to issues that falsely separated them from a parent in attempts to alienate the children from a parent, when factors apply they may influence the child's testimony. The court's interest in protecting a child from the trauma of testifying in an alleged child abuse case is sufficiently important. O.R.C. 3109.04(B)(2)(b), The court first "shall", emphasis added, determines the reasoning ability of the child. If the court

determines that the child does not have sufficient reasoning ability to express the child's wishes and concern with respect to the allocation of parental rights and responsibilities for the care of the child, it shall not determine the child's wishes and concerns with respect to the allocation. If the court determines that the child has sufficient reasoning ability to express the child's wishes or concerns with respect to the allocation, it then shall determine whether, because of special circumstances, it would not be in the best interest of the child to determine the child's wishes and concerns with respect to the allocation. If the court determines that, because of special circumstances, it would not be in the best interest of the child to determine the child's wishes and concerns with respect to the allocation, it shall not determine the child's wishes and concerns with respect to the allocation and shall enter its written findings of fact and opinion in the journal. If the court determines that it would be in the best interests of the child to determine the child's wishes and concerns with respect to the allocation, it shall proceed to make that determination. The court failed to determine that the minor child had special circumstances that would not be in the best interest of the child to participate in an in camera interview. The court did not comply with Ohio Revised code 3109.04 section (B)(2)(b), in order to proceed with the interview as findings on the matter of requirements mandated by 3109.04(B)(2)(b), have to be conducted. Even a claim of discretion or abuse of discretion would not apply in this situation, as the action has to be performed before we can establish discretion standards.

70.) The petitioner motioned for a hearing, on 5/19/2022, regarding the order the magistrate issued for the in camera interview for the minor child. Where the magistrate only granted a non-oral hearing when an oral hearing was requested and denied the orders in question herself on 06/15/2022, without review of the court pursuant to Rule 53(D)(4)(d), for magistrates

actions on objections requiring the court to review that the magistrate appropriately applied the law. The magistrate neglected to take in consideration a filing by the petitioner, defendant, on 5/19/2022, motion to set aside the magistrate's entry stating the defendant respectfully asks the court to Set Aside Entry on May 10th, 2022, upon motion of the plaintiff for an in Camera interview with the minor child, to wit: C.A.P, the interview would be unjust and an abuse of process which would cause irreparable harm to the minor children and the mother in addition to a memorandum in support of the history and current condition of the case, the entry was ignored by the magistrate. The petitioner also filed an opposition to an in camera interview explaining the dangers of the in camera interview with the minor child on 6/22/2022 that was ignored by the court and magistrate with evidence that the father had an extensive history of forcing the children to state that the mother abused them in some way, mother hit them, mother didn't feed them, which constantly harassed the mother and interfered with her parental rights, proof in which is evident in the findings of the final divorce order. The trial court failed to prove beyond a reasonable doubt by means the most stringent standard of proof, abuse and neglect. A full hearing was never held in a 10 month period, extensions were not filed. leaving any proof beyond a reasonable doubt moot . Juv. R. 40(D)(3)(a)(iii) now requires that the magistrate's decision be served on the parties or their attorneys no later than three days after the decision was filed. The former rule contained no specific time requirement.

71.) The trial court ignored the motion and continued with the order for an in camera interview with the minor child without proper procedure required in 3109.04(B)(1); 3109.04(B)(1)(2); where the trial court must first determine the reasoning ability to express the child's wishes, and other factors, such as if the child's parent has a history of using the children

to harass or attack the other parent and the statements of the child would be concluded under duress.

72.) The mother's temporary suspension of parenting rights relied on invalid evidence that the mother had a mental illness, absent evidence that the mother actually had a mental illness and that the mother violently attacked the oldest child but claimed "no physical harm was done to the child", absent of evidence, police report, agency report, inability to establish date or time of the incident, time period the incident allegedly occurred was approximately five months prior to filing and the fact that the very exact issues had already been tried during divorce proceedings evident with a final divorce decree and satisfied by compliance of the petitioners post divorce decree requirements which were based on unfactual claims of mental illness. The court failed to include petitioner's evidence in submitted behavioral health evaluation as a mitigating factor when the petitioner was being restrained from parenting as time with her children as required by 28 U.S.C. 2254(d)(1). Evidence at partial hearing did not reflect guilt of the Petitioner, a full hearing did not occur in order to establish probable cause in 10 months unabling probable cause to be established.

73.) Ex parte order, the child was not found to be an abused child, as an emergency was not established to satisfy rule 5101:-1-01, definitions of an abused child. The issue of whether or not the respondent turned in a document to court does not constitute an emergency by definition to issue an ex parte order. Even though the document was concerning a mental health question, the behavioral evaluation did not reflect a mental health issue. The trial court continued to suspend the mother's parenting rights relied on invalid evidence and failed to include petitioner's

evidence in submitted behavioral health evaluation as a mitigating factor when the petitioner was being restrained from parenting as time with her children as required by 28 U.S.C. 2254(d)(1). Evidence at partial hearing did not reflect guilt of the Petitioner, a full hearing has still not been attempted in 10 months, remember the prior hearing was only a partial hearing on the matter, as the defendant, petitioner was not allowed to submit full evidence as to innocence, was not permitted to cross examine the plaintiff or to testify on her own behalf behalf. The court hearing was cut off abruptly with the issue that the defendant, petitioner, only has 5 min, when the plaintiff was allowed an ample amount of time. An improper influence of the court Rules of Evidence 801, Hearsay, in an attempt of fabrication or improper influence or motive. A mere potential cause is not sufficient enough ground for a court to grant a compliant discovery under R.C. 2317.48, court error by granting emergency temporary order. The appellate division has ruled that Title 9 hearsay exceptions that are authorized for abuse and neglect investigations are not applicable to parental termination cases under title 30, you may not rely solely upon uncorroborated hearsay from children to support a termination of parental rights, which is what the court was attempting to do under improper procedure though ex parte motion in additional motion for modification. Title 9 hearsay does not extend the exception to trials involving the termination of parental rights and would violate due process. The trial Court must follow T.R. 65(B) when petitioned for an ex parte order, otherwise, a violation in Canon 3B(8) of the Code of Judicial Conduct prohibiting ex parte communications.

74.) In addition to assisting the respondent in ordering an in camera interview with the child without cause pursuant to R.C. 2317.48, the petition had no sufficient facts to reveal a cause of action to issue an in camera interview, as no cause of action was evident. The court

failed to go through the proper process to verify the oldest child was competent to testify in the in Camera interview and failed to respond to an opposition to in camera interview with a minor child filed by the mother on June 22, 2022. The opposition stated the following: “A motion was filed on April 28, 2022, by the plaintiff to conduct an in camera interview with the minor child to wit, C.A.P. The motion stated that the child is willing and able to openly discuss issues that concern her with the court and has requested this interview, a determination that the plaintiff and his counsel was not qualified to determine. This action would be unjust and an abuse of process for the following reasons:

- 1.) The defendant was not provided time to object to the motion or given a chance to be heard prior to the order.
- 2.) No person shall obtain or attempt to obtain from a child a written or recorded statement or affidavit setting forth the child's wishes and concerns to the allocation of parental rights and responsibilities for the care of a child, upon hearing a testimony of either parent and considering any mediation report filed pursuant to section 3109.052 of the revised code.
- 3.) The appellate division has ruled that Title 9 hearsay exceptions that are authorized for abuse and neglect investigations are not applicable to parental termination cases under title 30, you may not rely solely upon uncorroborated hearsay from children to support a termination of parental rights, which is what the court was attempting to do under improper procedure through ex parte motion in additional motion for modification. Title 9 hearsay does not extend the exception to trials involving the termination of parental rights and would violate due process.
- 4.) The court and the plaintiff are using this interview to fish for evidence, over investigating that is controlled by the plaintiff respondent beyond the scope of discovery, The respondent allowed all three of the children to visit the children unsupervised multiple times after the ex parte was

issued, at the petitioner's residence and even let the petitioner take the children on a 500 mile trip unsupervised.

5.) No emergency exist to justify a child to testify against a parent, as it is evident by the mental health evaluation that the mother is not mentally unstable and the claims made by the plaintiff that the mother was abusive to the children, was already tried in the divorce and proven untrue making the same current claims against the 5th Amendment, Double Jeopardy. (Refer to Behavioral health evaluation submitted by defendant)

9.) The Father has a history of domestic violence, which was ignored in the divorce hearing, Conviction of violation of T.P.O. order issued against him issued for protection of the mother and children to wit, in May of 2015 in Zanesville, ohio Municipal Court. This charge was NOT dismissed. A conviction of Assault, May 2002, in Zanesville municipal Court. A conviction of Disorderly Conduct, October 10, 1996, in Zanesville Municipal Court. (This evidence was suppressed during the divorce).

10.) The father has a history of using the children to tape record, spy, forcing them to make false statements about their mother as evidence provided in the divorce hearing. The plaintiff did this so often, The final divorce decree restrained him from doing so. Note, the father was forcing the children to tell the Ad litem Attorney, their mother hit them. The minor child, C.W.P., spoke up and stated, "My mom didn't hit me". The father was forcing the children to tell the ad litem attorney that their mother didn't feed them. The mother provided pictures and dates of meals the children consumed and pictures of the food in her residence. The father forced the children, mainly C.A.P., that the mother abused her, the mother provided pictures and dates to counteract each accusation and proved them to be untrue. The divorce determined the father was demeaning the mother in front of and to the children. A restraining order was put in place to stop the father

from trying to destroy the mother child relationship. This was determined and ordered by The Perry County common Plea Court. Yet, the court granted father custody to further damage the mother and children based on hearsay and fabricated accusations, such as, the mother has a mental illness. Motions by the Petitioner, mother were ignored that were important to the outcome of the case. The damage this caused the children was ignored and not of importance to the court. A testimony from C.A.P. could not be used as evidence for determination of parental rights as the testimony would be accomplished under duress by the father. Father has been denying court ordered visitation rights to the mother to C.A.P. since the summer of 2021, due to jealousy by the plaintiff of the mother and child building a relationship. The father has been limiting phone contact with C.A.P and mother to try to alienate mother from C.A.P's life. The mother feared to pursue court intervention on this matter due to the attacks the mother and children endured in the divorce hearing, as she felt a lot of important facts were ignored and the court favored the father against the weight of evidence.

75.) On June 24, 2022, at 12:55 pm, Minor child, C.A.P, age 16 and subject to force of testifying in an in camera interview the same day at 3:00 pm, was rushed to the emergency room via ambulance and had a first ever seizure induced by traumatic stress forced on her by father and the negligence of Perry County Common Pleas in ignoring warnings by the petitioner in court pleadings and not following the process of law. Symptoms included: seizure, nausea, vomiting, dizziness, light-headedness, headaches, sleep disturbances, appetite change and activity change. In addition to the seizure, the minor child, (a previous straight A student) under the father's care tested positive for THC (marijuana) during the test run in the emergency visit.



The father is not providing proper or any treatment to the minor child for the issue of THC found in her system.

- a.) She is not being tested for further use of THC since the incident.
- b.) Parental actions are not being taken to prevent or monitor further use.
- c.) The father laughed about the issue of THC in the child's system.

The father is not providing proper medical treatment to the child in follow-up for the minor child's treatment in the care of the seizure and recommendations of doctors.

- d.) The minor child had a follow up appointment at children's hospital in Columbus, Ohio on August 26, 2022 for a head scan. The father did not take the minor child to this appointment.
- e.) The father allowed the child to drive against doctors orders, placing the child and others in further danger.
- f.) Actions and follow up appointments to draw blood have not been set monitoring high lactate components found in the child's bloodstream, caused by impaired tissue oxygenation, by decreased oxygen delivery or a defect in mitochondrial oxygen utilization. The minor child is asthmatic and the presence of this condition can lead to hyperlactatemia, and can be severe enough to cause muscular weakness, rapid breathing, nausea, vomiting, sweating and even coma.
- g.) The father is not relaying proper information to health care providers that would directly affect the child's care and treatment. The father lied to the emergency room and family doctor when asked if the child was under any stress, (stress is the number one cause of seizures), telling them she was not under stress in efforts to cover up his actions, when in fact she was under a tremendous amount of stress induced by the father and Perry County Common Pleas Court in forcing the minor child to testify in an in court interview on June 24, 2022, at 3:00pm. The 16

year old child was rushed by ambulance to Genesis Hospital on June 24, 2022 at 12:55pm, the day she was being forced to do the in camera interview.

h.) The minor child's mother, plaintiff, attempted to make the minor child a doctor's appointment to have additional blood tests and exams on the child, but the father refused to let the minor child attend the appointments. The father, defendant, stated in a text message, "Anything like that will go through him", meaning that he was in control of her doctor's scheduling and the mother had no right to do so. The mother submitted a pleading from a doctor stating the father refused to let the child go to a doctor's appointment. The father was against court orders in not allowing the mother to schedule doctors appointments for the child and putting the child at risk and in danger of possibly trying to cover up further discovery of THC in her system and not allowing her to be checked out in a life threatening situation, in fact, showing malice.

76.) The Petitioner filed a verified emergency ex parte motion against the plaintiff regarding issues mentioned above, on February 2, 2023, the court has yet to review the Petitioner's ex parte pleading as of February 14, 2023, pursuant to section R.C. 2151, of the revised code. The Petitioner has also filed two motions for sanctions one under civil rule 11 and R.C. 2323.51, and R.C 11 and O.R.C. 2323.52, on February 03,2023, the court has not responded to the actions to date, in fact showing malice and breaching the court's duty of care with the children. In Perry County Common Pleas failing to address this emergency filing the court contributed to the unruliness or delinquency of a minor, (Evident that T.H.C. was found in the child's system under the father's care and she was not receiving proper treatment for her seizure, both which were induced by traumatic stress by actions of father and non actions and failure to follow the process of law). Section 2919.24(B), 2919.24(B)(1), 2919.24(B)(2) and

2919.24(B)(3), R.C. 2505.02(B)(1), An order that affects a substantial right in an action that in effect determines the action and prevents a judgment, a substantial right in an action in effect, 2505.02(A)(3), suppression of evidence, 2505.02(B)(4)(b), the appealing party would not be afforded a meaningful or effective remedy by an appeal following a final judgment as to all proceedings, issues, claims, and parties in the action, 2505.02(B),

77.) The court had no authority to assume and retain custody of the three minor children pursuant to Ohio Administrative code 5101:2-42-04. An extension of temporary order was not filed, in a duration of 10 months. Violation existed outside the normal scope of law, where due process is denied, the case is void, Johnson vs Zerbst, 304 U.S. 458 S ct. 1019. In violation of Ohio code of judicial conduct, Rule 2.2, ensuring the fairness and impartiality, rule 1.1, Compliance with the law, Rule 1.3, avoiding abuse of prestige in Judicial Office and rule 2.6, Ensuring the right to be heard. Whereas, the court violated the Petitioner and children's rights when the three minor children, C.A.P., C.W.P., and C.D.P, were temporarily seized from the petitioner's custody via emergency ex parte proceedings for an inexcusable extended amount of time without any evidence they were in any danger in the petitioner's, mother's, care and no factual or legal basis or grounds to seize the children resulting in an unfair and illegal separation of parents from children with non compliance pursuant to 18 U.S. Code 3509, 2905.03 and 2919.23 of the Revised Code. The court removed the three minor children from the Petitioner, mother, without procedures that violated constitutional rights. The court failed to protect the children when clear and convincing evidence existed, in an ex parte filing by the petitioner, that the children were in danger by the plaintiff, by not properly investigating them merely due to favorable bias against the petitioner resulting in non compliance with section 2919.24,

Interference with custody, section 2919.24, Contributing to the unruliness or delinquency of a minor, (Evident that T.H.C. was found in the child's system under the father's care) Section 2919.24(B), 2919.24(B)(1), 2919.24(B)(2) and 2919.24(B)(3) . The court used fabricated evidence (statements that the petitioner had a mental illness, when evidence presented by the petitioner via a behavioral evaluation performed by a licensed professional by the State of Ohio that no mental illness was present in the petitioner) while hiding and withholding key information creating false or misleading abuse allegations (the behavioral evaluation) ignoring state, federal and constitutional law. The court removed the children from their mother's care, when the mother had parental rights, without sufficient evidence substantiating abuse in a failure to comply with section 2919.23 of the revised code. The court performed illegal search and seizure (by court entry for in camera interview prior to a hearing or establishment of whether a modification was permitted based on the facts and to establish just cause or to perform required prerequisite screening of the child prior to the order) and fabricated evidence, no proof of abuse and failure to investigate evidence prior to removing the children shows malice, causing toxic stress and induced trauma due to the separation in which would cause irreparable injury to the respondent and her three minor children before compliance with the hearing order can be enforced pursuant to 65(A) of the rules of civil procedure.

## AFFIDAVIT IN SUPPORT OF JURISDICTION

78.) The petitioner, defendant filed a motion for change of venue on 05/19/2022 and a motion to dismiss for lack of jurisdiction on 06/03/2022. The court denied the motion for change of venue on 06/15/2022, but did not issue a final appealable order on the motion to dismiss for lack of jurisdiction filed by the petitioner on 06/03/2022. The petitioner, defendant filed a notice of appeal for the order denying the change of venue on 06/22/2022 and a notice of appeal regarding the temporary order issued suspending petitioner's parenting rights, appointing guardian ad litem and interviewing a minor child on 06/22/2022. The petitioner had no plain speedy and adequate remedy available through the appeal process, a final judgment had been prevented on the motion to dismiss for lack of jurisdiction and a temporary order suspending the petitioner's parenting rights was not a final appealable order, where a final judgment had been prevented in violation of mandatory time requirements in the absence of an extension. The only appealable order standing was the order denying the petitioner's motion for change of venue. The court placed an unrequested stay on proceedings on 06/23/2022, due to the notice of appeal by the petitioner, but not soon enough to prevent physical harm to the minor child, C.A.P. The petitioner was then unable to appeal the entry denying a change of venue due to the oldest minor child On June 24, 2022, at 12:55 pm, Minor child, C.A.P, age 16 and subject to force of testifying in an in camera interview the same day at 3:00 pm, with symptoms and conditions showing prior to the interview being placed on stay on 06/23/2022 only due to the petitioners notice of appeal, was rushed to the emergency room via ambulance and had a first ever seizure induced by traumatic stress forced on her by father and the negligence of Perry County Common Pleas in ignoring warnings by the petitioner in court pleadings and not following the process of

law. Symptoms included: seizure, nausea, vomiting, dizziness, light-headedness, headaches, sleep disturbances, appetite change and activity change. In addition to the seizure, the minor child, (a previous straight A student) under the father's care tested positive for THC (marijuana) during the test run in the emergency visit. The father is not providing proper or any treatment to the minor child for the issue of THC found in her system. These occurrences prevented the petitioner from appealing the motion to change venue in that the issue at hand held a higher priority and the appeal would not have granted a solution and was not the proper action in an emergency situation preventing the appeal. The petitioner filed an emergency ex parte in the county that the children resided and was sent back to Perry county common Pleas claiming that Perry County had jurisdiction, the petitioner was unable to file an emergency ex parte in Perry County Common Pleas due to the case being placed on stay.

79.) In *Sap*, it was concluded that because the court patently and unambiguously lacked jurisdiction, the realtor was entitled to both a peremptory writ of prohibition preventing the court from proceeding and a peremptory writ of mandamus compelling the court to dismiss the underlying case. A claim to dismiss this petition for writ of habeas due to the petition cannot lie because the petitioner has an adequate remedy by way of appeal, is foreclosed by *Sap*. State ex rel. *Sapp v Franklin Cty*. Court of appeals, 118 Ohio St. 3d 368, 2008-Ohio-2637, 889 N.E. 2d 223, 12 and the fact that a final appealable order was prevented, the proceedings were placed on stay prohibiting the petitioner from filing a notice or further actions.

80.) A writ of habeas corpus will lie in child custody matters if the custody order in dispute was entered by a court without jurisdiction, thus being void ab initio.' *Beard v. Williams*

*Cty. Dept. Of Social Serv.* (1984), 12 Ohio St.3d 40, 41, 12 OBR 35, 36, 465 N.E.2d 397, 399; cf. *Reynolds v. Ross Cty. Children's Serv. Agency* (1983), 5 Ohio St.3d 27, 5 OBR 87, 448 N.E.2d 816." *Howard v. Catholic Social Services of Cuyahoga County, Inc.*, supra, 145. The petitioner did not possess an adequate remedy at law through a direct appeal from the judgment due to Perry County's lack of cooperation and failure to respond when motions were filed for notice of appeal of the judgment during the Covid National Emergency, the court did not respond. The issue of void ab initio, was brought up in the trial court along with Civil rule, 3105.44 (B) (1), Collaborative family law process, visitation with respect to a child. Including an order that allocates parental rights and responsibilities and including permanent, temporary, initial, and modification orders. 2. Section 3127.08 (A), Uniform Child Custody Jurisdiction and Enforcement Act, Immunity to personal Jurisdiction, states, a party to a child custody proceeding, including a modification proceeding, or a petitioner or respondent in a proceeding to enforce or register a child custody determination is not subject to personal jurisdiction in this state for any other proceeding or purpose solely by reason of having participated or of having been physically present for the purpose of participating, in the child custody proceeding. Any judgment rendered by a court without personal jurisdiction is void. It is a nullity, as previous custody determinations were made in Muskingum County, Ohio, where the mother, father and children resided during the course of the marriage. "Child custody determination" includes an order that allocates parental rights and responsibilities including a proceeding for divorce, separation and guardianship parentage or protection from domestic violence.

81.) The respondent filed three divorces against the petitioner, the first filing in Muskingum County was a voluntary dismissal by the respondent, the second filing in Muskingum County

was also a voluntary dismissal by the respondent. The Savings Statute, O. R.C., 2305.19, to refile the second dismissed divorce complaint by the respondent on May 22, 2015 in the Common Pleas Court of Muskingum County, Ohio with complaint number two for divorce against the same defendant. The savings statute can only be used once, because otherwise, a plaintiff could indefinitely refile an action, and effectively eliminate statutes of limitations. Complaint number three for divorce against the defendant on December 16, 2017 was past the The Savings Statute limitation by well over a year from the date of entry dismissal from complaint number two on July 17, 2015, thus making complaint number three, Case number, 17-DV-00290, in the Common Pleas Court of Perry County, Ohio, a failure of plaintiff to serve second dismissed complaint within one year, resulting in a dismissal with prejudice, yet a third time. a. The Ohio savings statute set forth in O.R.C. 2305.19, Subsection A, makes it clear that the savings statute applies only to any claim asserted in any court by a defendant". The same defendant in all three divorce complaints, filed by the same plaintiff, allows the Ohio savings statute to apply for the current defendant in case number 17-DV-00290, in the Common Pleas Court of Perry County, Ohio. Again, the Petitioner, mother, brought up all these points in trial court, filed an appeal and a writ of mandamus, which were all blocked by the trial court. The whole trial was heard via temporary order, with stipulations, which prevented the Petitioner, mother from appealing the actions for lack of final order. Petitioner raised all these points in court proceedings.

82.) In addition, the original divorce proceedings for Perry County, Ohio, case number, 17-DV-00290, were never properly served upon the Petitioner, defendant, mother. The children were not of the marriage, two born prior to the marriage, one of the marriage, giving the mother custody according to section 3109.042 (A) An unmarried female who gives birth to a child is the



sole residential parent and legal custodian of the child until a court of competent jurisdiction issues an order designating another person as the residential parent and legal custodian. A court designating the residential parent and legal custodian of a child described in this section shall treat the mother and father as standing upon an equality when making the designation. Home State jurisdiction, Significant connection jurisdiction, belonged to Muskingum County, Ohio, where initial jurisdiction was established. An inconvenient forum or unjustifiable conduct was not established for Muskingum County to deny jurisdiction, as the children resided in Muskingum County with the mother, the County they lived in the majority of their lifespan. The children never had any connection at all with Perry County, Ohio, and it is not a more convenient forum as it has no connection to the parties, until the respondent filed a divorce there, whereas Perry County common pleas gave him temporary custody of the children, without noting that the respondent had a prior domestic record in Muskingum County and the respondent promptly moved back to Muskingum county, Ohio after he was granted temporary custody. These factors include whether domestic violence has occurred and, if so, which State can best protect the parties and child; how long the child has lived out of State; where the evidence is located; and which court is most familiar with the case. For example, the father was charged with a The Respondent, Richard Pettit had a domestic record of abuse against the mother and minor children, which prohibited him from having temporary custody of the minor children according to, section 3109.04 2(h) of the revised code, resulting a charge of breaching a protection order in unlawful contact with the children and mother in Muskingum County, Oh, case number CRB15000955.

83.) The respondent's motion to modify custody filed on April 28, 2022, as the does not comply with O.R.C. 3109.04(E) and (F). Section 3109.04(E)(1) provides that the court shall not modify a prior order allocating parental rights and responsibilities unless it finds that a change has occurred in the circumstances of the children or the children's residential parent since the time of the last order and that a change in residential parent is necessary to serve the best interest of the children. It is well-established law that before a court may consider the second prong of the statute, namely, the best interest standard, the court must first determine that a significant change has occurred in the circumstances of the children. Canon 1 and 2 of the code which require a Judicial to uphold the integrity and independence of the judiciary

84.) Ohio law provides venue to this case resides in Muskingum County due to claims of an Abuse. Neglect. or Dependency Proceeding: R.C. 215123.(A)(1) MATTER OF LAW. All parties involved in the initial case and the minor children are residents of Muskingum County, ohio. Venue: General Rule: Once it is determined that (i) an Ohio Court has jurisdiction to make an initial child custody determination or to issue an initial child-support order and (ii) an Ohio Juvenile court has jurisdiction, the final question is what Ohio county is the proper county to file a complaint regarding those matters-i.e What is the proper Ohio county where a hearing should take place. The answer to that question depends upon the nature of the complaint. Ohio has two different venue provisions A.) Abuse. Neglect. or Dependency Proceeding: R.C. 215123.(A)(1), If the complaint alleges the abuse, neglect, or dependency of a child, then the complaint must be filed in the county in which the child has a residence or legal settlement in which the violation, unruliness, abuse, neglect, or dependency occurred. Whereas, the defendant is requesting a

change of venue from Perry County Common Pleas Court to the correct venue, Muskingum County Common Pleas court, domestic division, for the above reasons and as a matter of law.

85.) Jurisdiction in Perry County Common Pleas Court does not conform with the Ohio Rules of Civil Procedure. (1) The court lacks subject matter law to resolve an instant motion, pursuant to domestic relations law, 76-a (1)(b), since neither the parties or the children resided in Perry County on the filing date or six months prior to same; and (2) the court lacks subject matter jurisdiction because the children and mother, the defendant, had no significant connection to Perry County on the current filing date, 0511012022, in addition, substantial evidence is no longer available in Perry County, Ohio, concerning the child's care, protection, training and personal relationships. Defendant also moves, alternatively, for an order whereby the court declines jurisdiction over the instant custody visitation dispute on the grounds that Perry County is an inconvenient forum and a declaration that Muskingum County, Ohio is the appropriate forum to exercise jurisdiction over the controversy between the parties. Perry County does not retain personal jurisdiction over the parties. (b)2 a lack of personal jurisdiction. These reasons for moving the court to dismiss for lack of jurisdiction for the following reasons below: 1.) The plaintiff and the defendant both are residents of Muskingum County, Ohio. 2.) The children to wit: C.A.P, C.W.P and C.D.P. are residents in Muskingum County, Ohio. Perry County is almost forty-five minutes away from the plaintiff, defendant and children to wit Making Perry County Venue not accessible, inconvenient, and unnecessarily costly to all parties involved. 3.) Perry County does not retain personal jurisdiction over the parties. (b) a lack of personal jurisdiction. 4.) Perry County Common Pleas is not able to conduct a fair and impartial trial to the defendant in which an action is pending. (Refer to motion filed by the defendant, Motion to Set Aside

Magistrate's Entry Appointing Guardian Ad Litem, as full text exhibit). 5.) The plaintiff filed a motion to Modify Parental Rights and Responsibilities on April 28, 2022, based on claims by the plaintiff that the mother is acting crazy and physically attacking C.A.P. and claims of abusive behavior toward the children. 6.) The claims by the plaintiff of alleged abusive behavior toward the children, even if they were true, would have occurred in Muskingum County, the place of the children's residence, plaintiff and defendant's residence, not Perry County. 7.) Ohio law provides venue to this case resides in Muskingum County due to claims of an Abuse. Neglect. or Dependency Proceeding; R.C. 215123.(A)(1), (b)(3) Improper venue, Ohio Rules of Civil Procedure. 8.) Lack of Subject matter jurisdiction, pursuant to domestic relations law, 76-a (1)(b). Therefore, subject matter, the final major division, refers to the type of court with the authority to hear a case. For example, a family law court has the authority to hear cases that involve custody and divorce determinations. A criminal court retaining personal jurisdiction, in which Perry County Common Pleas no longer obtains, by contrast, has the authority to handle cases in which a breach of the criminal code is alleged. Based on the allegations based on claims by the plaintiff that the mother is acting crazy and physically attacking C.A.P and claims of abusive behavior toward the children. The case would have to be tried in the venue where it occurred and the venue with personal jurisdiction over the parties. Whereas to legally make a valid decision, a court must have two types of jurisdiction; personal and subject matter. Under FRCP, rule 12, a defendant has 20 days after being served with a summons and complaint to file an answer to object to jurisdiction; the petitioner has not been served prior to objective pleadings . Further, Defendant has not been properly served with these motions according to, rule (b)(5), insufficient service of process: MATTER OF LAW Under FRCP, rule 12, a defendant has 20 days after being served with a summons and complaint to file an answer to object to jurisdiction. Venue: General

Rule: Once it is determined that (i) an Ohio Court has jurisdiction to make an initial child custody determination or to issue an initial child-support order and (ii) an Ohio Juvenile court has jurisdiction, the final question is what Ohio county is the proper county to file a complaint regarding those matters-i.e What is the proper Ohio county where a hearing should take place. The answer to that question depends upon the nature of the complaint. Ohio has two different venue provisions A.) Abuse, Neglect, or Dependency Proceeding: R.C. 215123.(A)(1), If the complaint alleges the abuse, neglect, or dependency of a child, then the complaint must be filed in the county in which the child has a residence or legal settlement in which the Violation, unruliness, abuse, neglect, or dependency occurred. Whereas, the defendant is requested and denied a change of venue from Perry County Common Pleas Court to the correct venue, Muskingum County Common Pleas court, domestic division, for the above reasons and as a matter of law. The defendant gave a disclaimer to the court not submitting to personal jurisdiction.

86.) Exclusive, continuing jurisdiction. The UCCJEA adopted a rule of exclusive, continuing jurisdiction similar to that in the PKPA.<sup>57</sup> Under the UCCJEA, an original decree court that exercised jurisdiction consistent with the Act has exclusive, continuing jurisdiction to modify its decree until one of the following occurs: The original decree court loses significant connection jurisdiction. The child, the child's parents, and any person acting as the child's parent no longer live in the State. Only the decree State may determine whether it has significant connection jurisdiction. That is, a sister State's court may not substitute its judgment on this issue for that of the decree State's court. By contrast, either State court may determine that all parties identified in the statute have left the State. Jurisdiction to modify determination. If an original

decree State has exclusive, continuing jurisdiction, no other State may modify the decree State's custody order—even if the child moves and establishes a new home State. (In such a scenario, the noncustodial parent usually remains in the original decree State.) A court in the child's new home State (or any other State) cannot modify the initial decree unless the original decree State loses exclusive, continuing jurisdiction or declines to exercise it on inconvenient forum grounds, and then only if the child's new home State has jurisdiction under the UCCJEA.<sup>58</sup> These requirements are intended to eliminate the practice under the UCCJA in which a child's original home State and new home State both assert modification jurisdiction, which is likely to result in conflicting custody orders and confusion as to which order takes precedence.<sup>59</sup> Conflicting orders have also caused many law enforcement officers to refuse help in enforcing an order because of uncertainty as to its validity. The original state who claims subject matter jurisdiction, will lose subject matter jurisdiction once that court determines that neither the child, or the child and one parent, has a significant connection with the state and there is no longer substantial evidence regarding the child's protection, care and personal relationships. No party to the case or the children reside in Perry County, Ohio, but all parties reside in Muskingum County, Ohio, leaving neither the child, or the child and one parent, has a significant connection with Perry County, Ohio and there is no longer substantial evidence regarding the child's protection, care and personal relationships. The petitioner pleaded and objected to these issues in court and was denied by the magistrate, not having the ability to appeal a final order.

87.) Rule 12, determination and Judgment on appeal, Rule 12(B), When a court of appeals determines that the trial court committed error prejudicial to the appellant, and that the appellant is entitled to have judgment or a final order rendered in his favor, as a matter of law,

the court of appeals shall reverse the judgment or final order of the trial court and render the judgment or final order that the trial court should have rendered, or remand the cause to the court with instructions to render such judgment or final order. In all other cases where the court of appeals determines that the judgment or final order of the trial court should be modified as a matter of law it shall render its judgment accordingly.

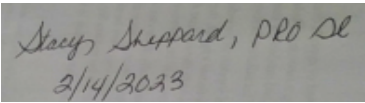
#### REMEDY AT LAW,

Therefore, the Petitioner respectfully demands:

- a.) To inquire into the legality of the ten month detention of her three minor children, C.A.P., C.W.P and C.D.P. via emergency ex parte order and seeks to release children from temporary custody.
- b.) That a writ of habeas corpus issue requiring the respondent to appear and produce the minor children before this court and to otherwise show cause why custody should not be restored to the Petitioner.
- c.) An Alternative writ of mandate to cease activity upon the issuance of said mandate.
- d.) Grant a writ of Habeas Corpus in prohibition ordering Judge Tina Boyer and magistrate Jamie Farmer to stop exercising jurisdiction over the underlying case.
- e.) Grant a reverse the judgment or final order of the trial court and render the judgment or final order that the trial court should have rendered, or remand the cause to the court with instructions to render such judgment or final order. In all other cases where the court of appeals determines that the judgment or final order of the trial court should be modified as a matter of law it shall render its judgment accordingly.

f.) Request for permission to qualify for statutory damages under the version of R.C. 149.43, The court failed to comply with obligation, duty or process and Procedural Code 335.1 (202), for personal injury claim based on negligence.

Respectfully submitted,

A rectangular area containing a handwritten signature in cursive that reads "Stacy Sheppard, PRO SE" and the date "2/14/2023" written below it.

/S Stacy Sheppard 02/14/2023

Stacy Sheppard, Pro se

P.O. Box 703 Zanesville, Ohio 43702

740-408-6758



IN THE SUPERIOR COURT OF STATE OF OHIO

Stacy Sheppard

Petitioner,

Civil Action No. \_\_\_\_\_

v. TINA Bayer  
Jamie Farmer  
Jordan M. Meadows  
Richard J. Pettit

Respondent (s)

VERIFICATION

Personally appeared before me, the undersigned notary public duly authorized in the State of Ohio to administer oaths, Stacy Sheppard,

Who after being duly sworn, deposes and states that she is the Petitioner in the foregoing action that the facts contained in her attached Petition for Writ of Habeas Corpus and Emergency Motion for Return of Child are true and correct to the best of her knowledge, information and belief and is competent to testify to all matters stated in the affidavit.

Stacy Sheppard

Petitioner pro se

Sworn and subscribed before me

This 8 day of March, 2023.

Kelly Griefenstine

Notary Public, State of Ohio



KELLY GRIEFENSTINE  
Notary Public  
State of Ohio  
My Comm. Expires  
March 14, 2025

My Commission Expires: 3/14/2025

